

Security Deposit Guarantee Program- Proposed Regulations

Pursuant to the authority provided under section 17b-802(g) of the Connecticut general Statutes, the department will operate under the following proposed regulations beginning October 1, 2012 and will continue to operate under these proposed regulations until the regulations are formally adopted.

Section 1. Sections 17b-802-1 to 17b-802-12, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 17b-802-1. Definitions

As used in sections 17b-802-1 to 17b-802-12, inclusive, of the Regulations of Connecticut State Agencies:

- (1) “Applicant” means a person aged eighteen or older who has completed, signed and submitted an application to the department or to any entity so designated under section 17b-802-5 of the Regulations of Connecticut State Agencies to obtain a security deposit guarantee or security deposit grant that, if approved, will allow the person to move into a dwelling unit;
- (2) “Application” means a form prescribed by the commissioner to be used by an applicant to apply for a security deposit guarantee or a security deposit grant. Such form shall contain information that the commissioner or the commissioner’s designee deems necessary to determine an applicant’s eligibility for a security deposit guarantee or security deposit grant;
- (3) “Administrative hearing” means a formal review of a decision of the Commissioner of Social Services pursuant to section 17b-60 of the Connecticut General Statutes;
- (4) “Catastrophic event” means a situation that arises due to a natural or manmade disaster that results in destruction or loss of housing, as determined by appropriate local or state officials or by the department;
- (5) “Commissioner” means the Commissioner of Social Services;
- (6) “Current income status” means the household’s gross income for, at a minimum, the 30 days immediately preceding the date of application;
- (7) “Department” means the Department of Social Services;
- (8) “Departmental review” means a desk review by the department of a reimbursement claim made by a landlord for damages if requested by the tenant in accordance with section 17b-802-7 of the Regulations of Connecticut State Agencies;
- (9) “Designee” means an individual appointed by the commissioner to act on behalf of the commissioner;

(10) “Dwelling unit” means any house or building, including a mobile manufactured home in a mobile manufactured home park, as such terms are defined in section 21-64 of the Connecticut General Statutes, or portion thereof, that is occupied, is designed to be occupied, or is rented, leased or hired out to be occupied as a home or residence of one or more persons;

(11) “Emergency housing” means a temporary residential facility, other than an emergency shelter, such as a state institution or shelter for victims of domestic violence. Emergency housing includes, but is not limited to, a hotel, motel or the private residence of a friend or relative that temporarily houses individuals or families displaced due to an eviction, catastrophic event or domestic violence;

(12) “Emergency shelter” means a privately or publicly supported structure designed to shelter homeless persons on a temporary basis pending relocation to permanent housing;

(13) “Eviction” means one of the following:

(A) an applicant is forced to relocate after receiving a legal notice to quit;

(B) an applicant is sharing a dwelling unit with a lessee and the lessee has received a legal notice to quit or has been evicted through court action;

(C) an applicant is an owner or a tenant of a dwelling unit and is being forced to relocate as a result of a foreclosure judgment in a foreclosure action completed in court; or

(D) an applicant is illegally locked out of a dwelling unit by the landlord and the applicant has filed a complaint with the police concerning such lockout;

(14) “Gross monthly income” means the total monthly income of all household members, before deductions, derived from earned and unearned income. Earned income includes any compensation payable by an employer to an employee for personal services and includes wages, salaries, tips, commissions, bonuses and earnings from self-employment or contractual agreements. Unearned income includes, but is not limited to: pensions, annuities, dividends, interest, rental income, estate or trust income, royalties, social security or supplemental security income, unemployment compensation, workers’ compensation, alimony, child support and cash assistance from federal or state funded assistance programs;

(15) “Household” means one or more individuals living together as a unit;

(16) “HUD” means the United States Department of Housing and Urban Development;

(17) “Landlord” means the owner of a dwelling unit. “Landlord” includes a licensee, permittee or any person who owns, operates or maintains a mobile manufactured home park, as such term is defined in section 21-64 of the Connecticut General Statutes. “Landlord” does not include a tenant who is a lessor or sublessor;

(18) “Lessee” means an individual who rents property from another;

(19) “Lessor” means an individual who rents property to another;

(20) “Recipient” means any individual or household that has received a security deposit guarantee or a security deposit grant by meeting the criteria set forth in section 17b-802-2 of the Regulations of Connecticut State Agencies;

(21) “Security deposit grant” means a security deposit, as defined in section 47a-21 of the Connecticut General Statutes, that is paid by the department on behalf of an eligible applicant to a landlord pursuant to subsection (e) of section 17b-802 of the Connecticut General Statutes;

(22) “Security deposit guarantee” means a written agreement between the commissioner, the commissioner’s designee or the department’s agent and a landlord that provides that the department will pay the landlord for damages up to the amount of the security deposit if the tenant fails to comply with the obligations in section 47a-21 of the Connecticut General Statutes;

(23) “Sublessor” means an individual who rents property from a lessor and leases that property to a third party; and

(24) “Tenant” means the lessee or person entitled under a rental agreement to occupy a dwelling unit or premises to the exclusion of others;

Sec. 17b-802-2. Eligibility Criteria

Before an applicant may participate in the security deposit guarantee or security deposit grant program, an applicant shall satisfy the department that all of the criteria established in this section are met:

(a) The applicant shall submit to the department a completed application packet that complies with the requirements of section 17b-802-4 of the Regulations of Connecticut State Agencies.

(b) The applicant shall meet one of the following requirements of financial eligibility:

(1) The applicant is a current recipient of temporary family assistance (TFA), state-administered general assistance (SAGA) or state supplement program benefits; or

(2) the gross annual income of the applicant and the applicant’s household does not exceed 150% of the federal poverty income guidelines as established by the United States Department of Health and Human Services.

(c) The applicant shall meet one of the following requirements of categorical eligibility:

(1) The applicant holds a federal Section 8 housing choice voucher or holds a certificate from the Rental Assistance Program, the Transitional Rental Assistance Program or any other rental assistance program operated by the department;

(2) the applicant is currently residing in emergency housing or an emergency shelter in Connecticut;

(3) the applicant has been served a writ, summons and complaint in a summary process action instituted pursuant to chapter 832 of the Connecticut General Statutes; or

(4) the applicant cannot remain in permanent housing due to any reason specified in subsection (a) of section 17b-808 of the Connecticut General Statutes.

(d) (1) The dwelling unit shall be located in the state of Connecticut, meet all applicable local, state and federal housing code requirements, and be occupied by the applicant as permanent housing.

(2) Prior to the applicant moving into the dwelling unit, the landlord shall verify compliance with subdivision (1) of this subsection by providing the department with a copy of the certificate of occupancy required in section 47a-5 of the Connecticut General Statutes, and, if available, any Housing Quality Standards report issued by the United States Department of Housing and Urban Development to the landlord for the dwelling unit pursuant to 24 CFR 982.401.

(e) The landlord and the applicant shall conduct an inspection of the dwelling unit together and shall complete a form documenting the condition of the dwelling unit prior to the applicant moving into the dwelling unit. The department may require that a dwelling unit also be inspected by a department designee prior to the applicant moving into the dwelling unit.

(f) The department shall determine that the applicant's household can reasonably be expected to afford the monthly rental charge of the dwelling unit.

(g) The department shall determine whether the applicant is precluded from occupying the otherwise affordable dwelling unit due to a security deposit requirement that is beyond the current financial means of the applicant.

(h) If the applicant is applying for a security deposit grant, the commissioner shall determine, at the commissioner's discretion, whether emergency circumstances exist that threaten the health, safety or welfare of a child that lives with the applicant in order for the applicant to be eligible for a security deposit grant.

Sec. 17b-802-3. Verification of Eligibility

(a) An applicant seeking eligibility for a security deposit guarantee or a security deposit grant based on financial need pursuant to subdivision (2) of subsection (b) of section 17b-802-2 of the Regulations of Connecticut State Agencies shall verify the household's monthly income in a manner that is acceptable to the department. Acceptable forms of verification include, but are not limited to:

(1) Current wage stubs;

(2) a completed department form W-35 for disclosure of gross wages, salary or commission paid; or

(3) a copy of a Social Security check or any other benefit check.

(b) The department may require an applicant seeking a security deposit guarantee or security deposit grant to provide documentation that demonstrates that the applicant meets the categorical eligibility requirements of section 17b-802-2 of the Regulations of Connecticut State Agencies.

Sec. 17b-802-4. Elements of Application

A completed application requesting the equivalent of up to two month's rent as a security deposit guarantee, or the equivalent of up to one month's rent as a security deposit grant and up to one month's rent as a security deposit guarantee shall include:

(a) A completed application form signed by the applicant. The application form shall stipulate that the applicant agrees to notify the department no more than ten days after vacating the dwelling unit for which payment is being requested;

(b) any documents that the department determines are necessary to verify eligibility;

(c) a written agreement between the department and the prospective landlord that shall include one or both of the following:

(1) a written security deposit guarantee agreement signed by the prospective landlord. Such agreement shall stipulate that the department shall pay the landlord for any damages suffered by the landlord due to the tenant's failure to comply with the tenant's obligations, as such term is defined in section 47a-21 of the Connecticut General Statutes, provided the amount of any such payment shall not exceed the amount of the security deposit guarantee; or

(2) in the case of a security deposit grant, a waiver form completed and signed by the prospective landlord. The waiver form shall stipulate that if the tenant for whom a security deposit payment is made vacates the dwelling unit, any return of the security deposit or accrued interest to which the tenant is entitled shall be paid directly to the department.

Sec. 17b-802-5. Application Filing

Completed applications for security deposit guarantees or security deposit grants shall be made in person either to the department at one of its regional offices or to any entity under contract with the department to administer the Security Deposit Guarantee program.

Sec. 17b-802-6. Application Review and Notification

The department shall review the completed application and shall send the applicant written notice of the applicant's eligibility status not more than ten days from the date the department receives the completed security deposit guarantee or security deposit grant application form as set forth in section 17b-802-4 of the Regulations of Connecticut State Agencies. If an application for a security deposit guarantee or security deposit grant is denied at this stage, the department shall include in the written notice an explanation of the reason for the denial and of the applicant's right to request an administrative hearing from the department.

Sec. 17b-802-7. Security Deposit Guarantee and Claim for Damages

(a) In order to be reimbursed by the Security Deposit Guarantee program for damages caused by the tenant under a security deposit guarantee agreement, the landlord shall comply with all of the provisions of section 47a-21 of the Connecticut General Statutes and subsection (b) of this section. Any notice that the landlord or the landlord's agent sends to the department regarding a request for reimbursement under a security deposit guarantee agreement shall also be sent to the tenant on the same day.

(b) In order to receive reimbursement for a claim for damages, the landlord shall, not later than forty-five days after the date of the termination of the tenancy, submit to the department a written claim that includes receipts for repairs made. The department shall only pay reimbursements for claims that include receipts for repairs made. No claim shall be paid for an apartment from which a tenant vacated because substandard conditions made the apartment uninhabitable, as determined by a local, state or federal regulatory agency.

(c) The department reserves the right to refuse payment for a claim for damages to a dwelling unit if any local, state or federal regulatory agency has cited the landlord for any violations of any law, regulation or ordinance pertaining to such dwelling unit and such violations were not timely remediated.

(d) The department may inspect the dwelling unit to determine the extent of any damages.

(e) When the department receives a claim for damages, the department shall send written notice of such claim to the tenant not later than five days after the date the department receives the claim. Such notice shall include the opportunity for the tenant to request a departmental review to dispute the claim.

(f) A request for a departmental review shall be made by the tenant in writing and received by the department not later than fourteen days after the date on the department's notice to the tenant

regarding the landlord's claim for damages. Upon receipt of a timely request for departmental review, the department shall withhold payment to the landlord pending such review.

(g) The department shall conduct a departmental review within a reasonable amount of time after receiving the tenant's request and the landlord's submission of the written claim with receipts. The reviewer shall issue a written decision and mail a copy of the decision to the tenant and the landlord.

(h) The decision made by the department reviewer shall be based on all the information presented to the reviewer prior to or at the time of the scheduled review. Such information may include, but is not limited to, documentation of any post-tenancy inspection done by the tenant and the landlord, and receipts for repairs made. The decision of the reviewer shall be final.

Sec. 17b-802-8. Security Deposit Grants, Claim for Damages and Refund

(a) Not later than thirty days after the date of the termination of a tenancy for which the department has provided a security deposit grant, the landlord shall submit to the department the balance of such security deposit grant, plus accrued interest, after deduction for any damages suffered by the landlord due to the tenant's failure to comply with the tenant's obligations, as such term is defined in section 47a-21 of the Connecticut General Statutes.

(b) If the landlord claims the right to withhold any portion of any security deposit grant that the department has paid directly to the landlord on the recipient's behalf, the landlord shall comply with all of the provisions of section 47a-21 of the Connecticut General Statutes and subsection (b) of section 17b-802-7 of the Regulations of Connecticut State Agencies. Any notice regarding any claim against a security deposit grant that the landlord or the landlord's agent sends to the tenant shall also be sent to the department on the same day.

(c) The department reserves the right to refuse payment for a claim for damages to a dwelling unit if any local, state or federal regulatory agency has cited the landlord for any violations of any law, regulation or ordinance pertaining to such dwelling unit and such violations were not timely remediated.

(d) If the landlord does not return the balance of the security deposit grant within thirty days after the termination of the tenancy, and legal action is necessary to collect the balance, the landlord shall pay the costs associated with such legal action and shall be liable for twice the amount or value of the security deposit grant pursuant to section 47a-21 of the Connecticut General Statutes.

(e) The department may inspect the dwelling unit to determine the extent of any damages.

(f) The rights of the tenant to the refund of the security deposit grant shall be subrogated to the department.

Sec. 17b-802-9. Assistance Limitations

(a) The department shall consider completed security deposit guarantee applications and security deposit grant applications in the order in which the department receives the applications. The approval of applications is subject to the availability of funds. In the absence of funds, the department may close the program and refuse to accept applications.

(b) For security deposit guarantee and security deposit grant recipients aged sixty-two years of age or older, the department shall limit assistance to the equivalent of one month's rent pursuant to subdivision (2) of subsection (b) of section 47a-21 of the Connecticut General Statutes.

(c) Security deposit guarantees for recipients under the age of sixty-two shall be limited to the equivalent of two months' rent, except if the commissioner has determined that the health, safety or welfare of a child who resides with an applicant is threatened due to an emergency, in which case the security deposit guarantee shall be limited to the equivalent of one month's rent combined with a security deposit grant that is limited to the equivalent of one month's rent.

(d) The department shall approve and sign the contract with the landlord before the applicant moves into the dwelling unit.

(e) The department may deny eligibility for the security deposit guarantee program to an applicant for whom the department has paid two claims by landlords.

(f) The commissioner may establish priorities based on funding availability for allocating security deposit guarantees between eligible persons described in subsection (b) of section 17b-802-2 of the Regulations of Connecticut State Agencies.

Sec. 17b-802-10. Subsequent Security Deposit Guarantees

(a) A person shall be eligible for a second or subsequent security deposit guarantee if, at the time of re-application, the person meets the criteria for eligibility as set forth in section 17b-802-2 of the Regulations of Connecticut State Agencies.

(b) A person shall be eligible for a subsequent security deposit guarantee only once within an eighteen calendar month period, except for the circumstance identified in subsection (c) of this section.

(c) A person who applies for a second or subsequent security deposit guarantee within eighteen calendar months of the date of completion of an application for a previous security deposit guarantee or security deposit grant that was approved shall obtain authorization from the commissioner for a second or subsequent security deposit guarantee. For a person who applies for a second or subsequent security deposit guarantee within eighteen calendar months of the date of any payment to a landlord for damages claimed to have been caused by the person, the amount of the second or subsequent security deposit guarantee shall be reduced by:

(1) the amount of any previous security deposit grant that has not been returned to the department pursuant to section 47a-21 of the Connecticut General Statutes; and

(2) the amount of any payments made under a security deposit guarantee by the department to the landlord for a tenant's failure to comply with the tenant's obligations, as defined in subsection (a) of section 47a-21 of the Connecticut General Statutes.

(d) Any person with income exceeding one hundred fifty percent of the federal poverty level, who is eligible to receive a security deposit guarantee and for whom the department has paid a claim by a landlord, shall contribute five per cent of one month's rent to the payment of the security deposit. The commissioner may waive such payment for good cause.

Sec. 17b-802-11. Landlord Participation

(a) A landlord who engages in program fraud, misrepresentation or a violation of any aspect of the landlord's written agreement with the department shall be subject to civil or criminal penalties to the extent authorized by the law.

(b) The commissioner may decline to enter into an agreement with a landlord under the security deposit guarantee or grant program for any reason, including, but not limited to: noncompliance with provisions of the security deposit guarantee or grant program, prior misrepresentation of the extent of damages or costs for repairs, failure to remediate housing code violations, or if the landlord has been cited by any local, state or federal regulatory agency for violating any housing law, regulation or ordinance.

(c) The landlord shall notify the department not later than three days after the lease commencement date if the tenant has not moved into the dwelling unit by such date. Failure to notify the department may result in the termination of the agreement with the landlord and the denial of any subsequent security deposit guarantee or grant applications made by applicants for dwelling units owned by the landlord.

Sec. 17b-802-12. Administrative Hearings

The department shall give a person aggrieved by a denial or reduction of a security deposit guarantee an opportunity for an administrative hearing.

Statement of Purpose: The purpose of this regulation is to conform to Public Act 00-2 of the June Special Session, Public Act 01-2 of the June Special Session, Public Act 02-79, Public Act 04-76, Public Act 05-280, Public Act 05-3 of the June Special Session, and Public Act 11-44. The amendments propose a change in the language to include individuals receiving benefits from the state supplement program as individuals who are categorically eligible; to amend categorical eligibility requirements, including replacing the receipt of a notice to quit requirement with a service of a writ, summons and complaint in a summary process action requirement; to add language that permits the commissioner to establish priorities for allocating security deposit

guarantees; to add language regarding the provision of security deposit grants; to clarify the timing and procedure for landlords' claims for damages; to add language requiring an eligible person with income over 150% of the federal poverty level to contribute five percent of one month's rent to the payment of the security deposit; to clarify program definitions; and to make technical changes.