

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

954B0106

SENATE BILL NO. 99

Introduced by: Senators Nesiba, Foster, Heinert, Kennedy, and Wismer and Representatives Schoenfish, Chase, Finck, Healy, Johnson (David), Pischke, and Smith (Jamie)

1 FOR AN ACT ENTITLED, An Act to establish certain provisions regarding commercial
2 security deposits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 43-32 be amended by adding a NEW SECTION to read:

5 For the purposes of this section, the term, commercial premises, means any real property for
6 lease that does not consist of residential property, agricultural land, or any quantity of municipal
7 lots. A lessor of commercial premises shall, within sixty days after the termination of the
8 tenancy and receipt of the tenant's mailing address or delivery instructions, return any security
9 deposit to the tenant, or furnish to the tenant, a written statement showing the specific reason
10 for the withholding of the deposit or any portion thereof. The lessor may withhold from the
11 deposit only the amounts reasonably necessary to remedy tenant defaults in the payment of rent
12 or of other funds due to the landlord pursuant to an agreement or to restore the premises to their
13 condition at the commencement of the tenancy, ordinary wear and tear excepted. Within ninety
14 days after termination of the tenancy, upon request of the lessee, the lessor shall provide the



1 lessee with an itemized accounting of any deposit withheld.

2 Any lessor of a commercial premises who fails to comply with this section shall forfeit all
3 rights to withhold any portion of the deposit.

4 The bad faith retention of a deposit or any portion of a deposit by a lessor of commercial
5 premises in violation of this section, including failure to provide the written statement and
6 itemized accounting required by this section, shall subject the lessor to punitive damages not
7 to exceed two hundred dollars.