

Proposed Renters Choice Security Deposit Insurance

**Recommendations Submitted To Cleveland City Council
At the Request of Council Members Blaine Griffin and Anthony Brancatelli
Prepared by the Vacant and Abandoned Property Action Council (VAPAC)
5/17/21**

1. There is a need to reduce barriers to quality affordable rental housing.
2. A security deposit represents one of those barriers, particularly for tenants with limited income and financial assets.
3. Alternatives that reduce the security deposit burden for tenants should be explored, such as paying deposits in installments and/or creating a government or philanthropic sponsored assistance fund.
4. It may not be appropriate for government to endorse a program that offers tenants the option of purchasing a surety bond masquerading as deposit insurance.
5. It may not be appropriate for government to endorse a security deposit insurance program that leaves a tenant subject to collection after the insurance has paid the landlord for an arrearage.
6. It is inappropriate for government to endorse a security deposit product or program that takes away a tenant's right guaranteed under the Ohio landlord tenant law to challenge a wrongful claim for damages, or wrongful withholding of a security deposit (current law provides for double damages and attorneys fees for violations of these rights).
7. Consideration should be given to combining legislative action addressing security deposit burdens with legislative action to address tenant protections and other tenant insecurity issues, such as landlord discrimination based on the tenant's source of income, or proceeding with eviction even when a tenant can make full payment (pay to stay).

For additional information: Renters Choice Security Deposit Insurance Power Point Presentation.
<https://www.dropbox.com/s/7k8alv1u5eelomu/Renters%20Choice%20draft%204-13-21.pptx?dl=0>

Contact:

Frank Ford, VAPAC Chair

Senior Policy Advisor

Western Reserve Land Conservancy

fford@wrlandconservancy.org

1-216-407-4156

Renters Choice Security Deposit Insurance

**Renters Choice Working Group
Vacant and Abandoned Property Action Council
Working Draft 4-13-21**

Lobbying Campaigns

- Companies that offer security deposit insurance are lobbying municipalities around the country to enact ordinances that would **require landlords to offer their “security deposit insurance” product** as an alternative to a cash security deposit.
- Cities have been receptive to exploring alternatives due to recent concerns over COVID-19 hardships on tenants.

Rhino Insurance Agency

320 E. 46th St., 24F, New York City, New York, 10017

Cleveland City Council has been approached by Rhino Insurance Agency to enact an ordinance requiring landlords to offer their “Renters Choice” Security Deposit Alternative.

VAPAC has been asked to review the program.

How It Works

- Example: Rent is \$1,000 and the Security Deposit is \$1,000.
- Renters Choice Alternative: Pay \$10/month fee to Rhino for “*security deposit insurance*”.

Claimed Benefit For Tenants And Communities

- Less up-front cost for tenant, making rental more affordable.
- Tenant has cash for other purposes.
- The companies promoting the ordinances claim that **\$45 billion** is tied up in cash deposits.
- It is asserted that freeing up this cash for consumers would be an economic stimulus for local economies.

Benefit For Rhino Insurance Agency

- Rhino was founded in 2017.
- As a result of ordinances requiring landlords to offer security deposit insurance, Rhino was able to announce in November 2020 that it had 1 million customers with revenue of \$21 million, a 21-fold increase over the \$1 million revenue it had 18 months earlier.
- *Source: “Security Deposit Alternatives: The Misleading Marketing of ‘Renter’s Choice’”, Shelterforce, December 2020.*

Claimed Benefit For Landlords

- Attract more tenants, by offering a lease with no security deposit.
- Lease-up faster. They don't have to collect a security deposit from their tenant at lease-up. *(Is that faster? Wouldn't processing the Rhino contracts and forms take longer than collecting a deposit from the tenant?)*
- They don't have to worry about having money to make repairs. *(Is that a benefit? If they were holding the security deposit they would have the money anyway.)*

Downside For Landlords

- They are not holding the **\$45 billion** referenced above.
- Example: landlord has 10 units x \$1,000 security deposit = \$10,000 cash the landlord has at their disposal to use or invest as they see fit.
- The landlord loses this asset if all tenants were to opt for Renters Choice.

False Advertising

- Renters Choice is Not Insurance -

Insurance

- Pay a monthly premium of \$10
- Insured against claims up to \$1,000
- A \$500 claim is made
- Insurance company pays the claim
- The insured individual has no further liability other than to keep paying monthly premiums

Surety Bond

- Pay a monthly premium of \$10
- Guarantor company promises to pay against claims up to \$1,000
- A \$500 claim is made
- Guarantor company pays the claim
- The “insured” tenant has to reimburse the guarantor for the \$500 – and keep paying monthly premiums

Rhino's Website – Conflicting, Misleading Information

- *“What does Rhino cover? When renters enroll with Rhino, we protect their unit the way a security deposit does. Renters are still responsible in the case of excessive damage or unpaid rent.”*
- This suggests the tenant is only responsible if the damage is “excessive”.
- But a tenant must reimburse Rhino for any damage Rhino has to pay for.

Conflicting, Misleading Information

- The website (the public face of Rhino) promotes the product as “insurance”, not a surety bond.
- Tenants familiar with auto and medical insurance assume that insurance pays the claim and they will be covered.
- But the fine print in the two Rhino contract documents say the product is a surety bond, and tenants have to reimburse Rhino.
- *Will tenants read, and understand, the full detail in these legal documents?*

Rhino Promotes Itself as a Housing Advocate

- 12/8/20: Rhino released a policy paper **“Common Ground: Addressing America’s Housing Challenges”**.
- *“America today is facing an unprecedented housing crisis. Millions of our neighbors are confronting rising rent costs, a shortage of affordable housing and potential eviction. We cannot wait to find solutions to this problem - we must act now.”*
- *“Nearly 40 million Americans are at risk of being evicted as a result of the COVID-19 pandemic.”*

The Policy Paper Advocates For Solutions Familiar To Housing Advocates

- Zero interest loans for rehab
- Zoning reforms
- Tax credits
- Eviction diversion strategies
- Rent assistance

- AND the paper advocates for “Renters Choice Legislation, *“such as low-cost insurance programs like Rhino’s”*”

**Examples of Cities
That Have Enacted
Renters Choice Legislation**

Philadelphia

- Landlord must offer a tenant three security deposit options:
 - Security deposit insurance, or
 - Payment of a security deposit over no less than 6 monthly installments, or
 - One-time payment of the full security deposit.
- The insurance must permit tenant to pay premiums on a monthly basis
- The security deposit insurance company must be licensed by the Pennsylvania Department of Insurance.

Columbus

- Landlords with **5 or more units** must offer a tenant **two** security deposit options:
 - Payment of a security deposit over no less than 3 (or no less than 6) monthly installments, or
 - One-time payment of the full security deposit.
 - ***Note: there is no requirement that a landlord offer security deposit insurance.***
- The insurance must permit tenant to pay premiums on a monthly basis
- The security deposit insurance company must be licensed by the Ohio Department of Insurance.

Cincinnati

- Landlords with more than 25 units, must offer a tenant three security deposit alternatives:
 - Security deposit insurance, or
 - Payment of a security deposit over no less than 6 monthly installments, or
 - One-time payment of a reduced security deposit in an amount no more than 50% of the monthly rent.
- The insurance must permit tenant to pay premiums on a monthly basis
- The security deposit insurance company must be licensed by the Ohio Department of Insurance.

Cincinnati

- Has not seen many tenants choose the insurance when they are given two other options, either pay the deposit over time or pay a one-time reduced deposit.
- Landlords prefer to have the deposit in their hand, rather than a promise from a guarantor that a claim will be paid.
- *“The best legislation is one that doesn’t even go down this road”*. – an attorney who worked on the Cincinnati ordinance.

Concerns

- Because the product is not considered a security deposit under Ohio law, the tenant does not have security deposit protections.
 - With a security deposit, a tenant can dispute a deduction the landlord makes, and go to court.
 - This right is taken away with Rhino “insurance”.
 - Although Rhino requires the landlord to provide evidence of a valid claim (photos, etc.) the tenant is out of the loop – the Rhino contract and bond document make no provision for the tenant to challenge a claim or defend themselves.
 - Failure to reimburse Rhino for an unjustified claim could end up on a tenant’s credit report, making it harder to rent in the future.

Concerns, continued

- Cincinnati – landlords were not pushing for this. The push came from Rhino.
- Same reason cited earlier for lack of landlord interest: if a landlord has 10 rental units, at \$1,000/rent, they can be holding \$10,000 in security deposits – to use and invest as they see fit, no strings attached.
- If those 10 tenants all bought Renters Choice, the landlord no longer has that \$10,000 liquid asset.

Concerns, continued

- In order to induce the landlord industry to support this, Cincinnati had to limit its scope to landlords with more than 25 units.
- But most low income tenants rent from smaller “mom and pop” landlords.
- Is this really benefitting the market segment most in need of affordable housing options?

Concerns, continued

- Rhino's public materials induce a Tenant to believe they are "insured" and "covered", but the fine print in the (two) contract documents make it clear this is not traditional insurance, but rather a surety bond.
- And....the tenant must still reimburse Rhino for any damage claim, which can lead to an unexpected financial hardship.
- When a city enacts an ordinance authorizing Renters Choice, is it providing legal cover for an exploitive practice?

Is There A Better Approach?

- If it is determined that this is beneficial, is there a better approach than providing a lucrative opportunity to a private company?

Could Government and Philanthropy Fill This Need?

- Could this be accomplished as genuine “insurance”, without requiring the tenant to reimburse the claim?
- Or, would it be worth exploring whether the County could be the surety, with local foundations putting money on deposit for this purpose?

If reducing security deposit burdens is the goal....

- Progress could be achieved without the hidden risk posed by surety bond reimbursement:
 - Require landlords to offer payment of a security deposit in **monthly installments** (Philadelphia, Columbus and Cincinnati), and
 - Cap a one-time **security deposit at 50%** of the monthly rental amount (Cincinnati).
- *Are these measures pre-empted by state Landlord-Tenant Law? The law suggests that municipalities cannot “regulate the rights and obligations...regulated by this chapter”, ORC 5321.19. But chapter 5321 does not purport to regulate the amount of a security deposit, or the manner in which it is paid. Capping the amount of a deposit, and permitting installment payments, does not appear to conflict with any provision of Ohio Law pertaining to security deposits (ORC 5321.16).*

Proposed VAPAC Findings and Recommendations

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Proposed VAPAC Findings and Recommendations, continued

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Proposed VAPAC Findings and Recommendations, continued

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