

STATEWIDE TENANT/LANDLORD LAW CHANGES

SB 179 with Changes Proposed for Senate Housing and Insurance Committee Substitute Amendment 1

Senate Substitute Amendment 1 is here (dated 9/5/3013)

http://docs.legis.wisconsin.gov/2013/related/amendments/sb179/ssa1_sb179.pdf

1. New rights of landlord to have vehicles towed on private property (Wis. Stats. 349.13) – Landlords can tow a tenant’s vehicle (or their guest’s vehicle) at the tenant’s expense as long as one of the following apply: The property was posted with signs stating that unauthorized vehicles would be towed, *or* in the absence of such posting if the vehicle has been issued a citation or there is a prepossession judgment. The citation can be issued by anyone. If the tenant doesn’t pay within 30 days or make arrangements, the vehicle will be considered abandoned. The department of transportation will determine what fees will be reasonable. The owner can get personal property out of the vehicle during regular business hours. The towing company will be required to notify the local law enforcement agency of the make, model VIN number and license plate number of the vehicle and tell them where they are taking the vehicle or they will not be able to charge for the removal of the vehicle. If the vehicle has been reported stolen, the towing company may not remove the car. The law enforcement agency will have to keep a record of all notifications as well as identification of the towing company involved. Municipalities can require the towing company to add up to \$35 to the bill of the person who was towed and the towing company can pay that monthly to the municipality. Rules about what the signs look like or how to notify law enforcement will be decided administratively later.

2. New rights of landlord to dispose of property left behind, including property left behind in an eviction (Wis. Stats. 799.45(2) & (3) and Wis. Stats. 704.05(5)) – Unless there’s a different agreement in writing, if a tenant is evicted the landlord may notify the sheriff that they wish to oversee the removal and disposal of any property left behind. The landlord, not the sheriff, will now determine if the property is trash. This option does not require the landlord to move and store the property or notify the tenant. ~~Additionally, in the absence of a written agreement to the contrary, the landlord will now be able to notify the tenant at any time during the lease that they will not remove or store property left behind, including property left behind at the normal end of a lease, instead of having to tell the tenant what they plan to do at the time they sign the lease.~~ Landlord may notify the tenant in writing that they will not move and store the property either when they sign lease or at renewal.

~~**3. Landlord does not have to disclose uncorrected building code violations they have actual knowledge of at the time a tenant enters a rental agreement unless those violations were cited (Wis. Stats. 704.07(2)(bm) and ATCP 134.04)**~~ – Even if the landlord has actual knowledge of the violations, they are not required to disclose this to the tenant unless a building inspector has officially cited them.

4. Tenant to pay for bed bug/cockroach/ants and other pest infestations by default (Wis. Stats. 704.07(2) & (3)) – In multi-unit buildings, it is often hard to figure out where the pests came from, and thus who should be responsible for the cost of the repair. This cost is determined by the landlord and “presumed reasonable unless proved otherwise by the tenant.” Now, if a tenant fails to assist in the treatment or the landlord thinks the tenant brought in the pests, the tenant will, by default, have to pay for the treatment or fix it themselves.

5. Check-in sheets (Wis. Stats. 704.08) – Landlords no longer have to fill in the check-in sheets with an itemized description of the rental property. Landlords must only give tenants a check-in sheet to fill in, and the tenant only has 7 days to complete it and turn it in.

6. Making it easier for a landlord to charge extra fees and fines in a NONSTANDARD RENTAL PROVISION (Wis. Stats. 704.28) – When a landlord wants the tenant to waive their rights and allow the landlord to take extra fees and charges out of a security deposit, the landlord no longer has to separately discuss these rights with the tenant. They must still list these on a separate piece of paper titled NONSTANDARD RENTAL PROVISIONS and have the tenant sign or initial each one.

7. Landlord has more time to return security deposit after eviction (Wis. Stats. 704.28(4) and ATCP 134.06(2)) – After an eviction, the landlord could now keep a security deposit for up to 21 days after they re-rent the apartment or the lease ends, not 21 days after the writ of restitution is executed or the landlord learns that the tenant has vacated.

8. Commercial leases don’t have to follow rules about returning a security deposit (Wis. Stats. 704.28).

9. Rental agreements no longer void and unenforceable for certain provision (Wis. Stats. 704.44(9)) – The law used to state that a rental agreement was void and unenforceable if the landlord included a rule holding the tenant responsible for criminal activity committed on the rental property which was beyond the tenant's control. Replacement language says that a lease cannot have a clause that is contrary to state fair housing law or the Safe Housing Act for victims of domestic violence, child abuse or stalking. **Leases are void if clauses about criminal activity.** Leases are void if they allow someone to be terminated from the lease for being a victim of a crime or if it allows a tenant to be terminated based on a crime if it does not have the Notice of Domestic Abuse Protections.

10. Double damages in Wis. Stats. 704 are only for security deposit issues or illegal lease clauses (704.95).

Previously, any violation of Chapter 704 was an unfair trade practice under Wis. Stats. 100.20 and could be entitled to double damages.

11. Faster return date for eviction actions (799.20(4)) – In small claims actions, the return date (court date) has to be set 8 – 30 days after it is issued. In eviction actions, it is 5 to 30 days. This law changes the return date for eviction actions to 5 to ~~14~~ 25 days.

12. Agents of the landlord no longer practicing law without a license (Wis. Stats. 799.06(2)) – Employees, agents of the member, and members of landlord companies can now start an eviction action and represent the landlord legally in eviction actions and in small claims court. Language slightly modified in amended version.

13. No personal service for summons and complain in eviction actions (Wis. Stats. 799.12(2)) – Courts can allow service of the summons by mail. This service must be by certified mail that goes to each defendant. The service is considered complete upon mailing unless it is returned to the court unopened prior to the return date.

14. Speeding up the hearing date in eviction actions (Wis. Stats. 799.206(3)) – If the residential eviction will be contested, the courts must schedule, hold and complete the eviction court or jury trial on the issue of possession of the property hearings within ~~20~~ 30 days of the return date of the summons. Previously, this was “as soon as possible.” The order for judgment and writ must then be “immediately” issued.

15. Changes to acceptance of rent or other payment in an eviction action (Wis. Stats. 799.40) – After initiating an eviction action, if a landlord accepts rent or any payment from the tenant, they may still pursue the eviction. Previously the law just stated this for acceptance of rent.

~~**16. Court must issue writ of restitution within 5 days of the determination of eviction (Wis. Stats. 799.44).**~~
Previously this was 10 days from the judgment of eviction.

17. Sheriff is no longer required to be involved in the eviction action regarding removal of property if the landlords doesn't want to use them (Wis. Stats. 799.45) – Landlords have no checks and balances from the sheriff in removing property illegally.

19. Landlords can't be held liable for references they give about previous tenants. – This new law will state that landlords are assumed to be acting in good faith when giving references and will not be liable, unless tenant can prove otherwise by clear and convincing evidence.

20. Preemptions may revoke local control governing required landlord communication, expenses and fees in the lease, and other ordinances. This bill would make it so that no city, village, town, or county may enact an ordinance that: 1. Limits a tenant's responsibility, or a landlord's right to recover expenses, fees, or damages due under the contract (e.g. limits on late fees or liability for pest infestations); 2. Requires a landlord to communicate to tenants or local government any information that is not required to be communicated under federal or state law (e.g. landlord registries and chronic nuisance citations). If the information is solely information required by local government that allows a person to contact the owner, or their agent if that is what the owner wants, then it is allowed.

21. Mobile Home Owners and titled vehicle owners have additional protections for property left behind – the same as if they were evicted, requiring the landlord to notify the owner before the dispose of the mobile home or property left behind.

22. Safe Housing Act is amended to include the entire mobile home. Multiple definitions were also added to the law.

23. Effective dates of several pieces of the ordinance were changed, the bill would go into effect the 1st day of the 3rd month after publishing.

24. Leases (or addendums) must contain a Notice of Domestic Abuse Protections. This notice tells the tenant they may be able to stop an eviction if the landlord knew they were a victim of domestic violence, sexual assault or stalking and the eviction was based on that status. The notice must also tell them they can break their lease. It tells people to contact a local victim service provider if they have questions. If this notice is not in the lease, a landlord cannot evict someone for crime committed on the property.

26. Effective Dates. The effective dates of when the law goes into effect for insect infestations, return of security deposit after eviction, security deposit provisions, violations of unfair trade practices, references by landlords, non-storage of property, void rental agreement, termination of tenancy in manufactured homes, several eviction provisions and notice of protections all go into effect on the effective date of the law instead of the 1st day of the 3rd month after it goes into effect.

**For more information contact Tenant Resource Center
1202 Williamson Street, Madison, WI Monday – Friday 9 – 6 (walk-in) or
608-257-0143 or asktrc@tenantresourcecenter.com**