The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.1010 of the statutes is created to read:

66.1010 Moratorium on evictions. (1) In this section, “political subdivision” has the meaning given in s. 66.1011 (1m) (e).

(2) A political subdivision may not enact or enforce an ordinance that imposes a moratorium on a landlord from pursuing an eviction action under ch. 799 against a tenant of the landlord’s residential or commercial property.

(3) If a political subdivision has in effect on the effective date of this subsection [...] [LRB inserts date], an ordinance that is inconsistent with sub. (2), the ordinance does not apply and may not be enforced.

SECTION 2. 321.62 (15) (a) of the statutes is amended to read:

321.62 (15) (a) Notwithstanding ss. 704.05 (5) (a) and 704.90, no person may enforce a lien for storage of any household goods, furniture, or personal effects of a service member during the period in which the service member is in state active duty and for 90 days after the member’s completion of state active duty, except as permitted by a court order under par. (b).

SECTION 3. 704.02 of the statutes is created to read:

704.02 Severability of rental agreement provisions. The provisions of a rental agreement are severable. If any provision of a rental agreement is rendered void or unenforceable by reason of any statute, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does not affect other provisions of the rental agreement that can be given effect without the invalid provision.

SECTION 4. 704.03 (1) of the statutes is amended to read:

704.03 (1) Original agreement. A lease for more than a year, or a contract to make such a lease, is not enforceable unless it meets the requirements of s. 706.02 and in addition sets forth the amount of rent or other consideration, the time of commencement and expiration of the lease, and a reasonably definite description of the premises, or unless a writing, including by means of electronic mail or facsimile trans-
mission, signed by the landlord and the tenant sets forth the amount of rent or other consideration, the duration of the lease, and a reasonably definite description of the premises and the commencement date is established by entry of the tenant into possession under the writing. Sections 704.05 and 704.07 govern as to matters within the scope of such sections and not provided for in such written lease or contract.

Section 5. 704.05 (1) of the statutes is amended to read:

704.05 (1) When section applicable. So far as applicable, this section governs the rights and duties of the landlord and tenant in the absence of any inconsistent provision in writing signed by both the landlord and the tenant. This except as otherwise provided in this section, this section applies to any tenancy.

Section 6. 704.05 (5) (title) of the statutes is amended to read:

704.05 (5) (title) Storage or Disposition Disposition of Personality Left by Tenant.

Section 7. 704.05 (5) (a) (title) of the statutes is repealed and recreated to read:

704.05 (5) (a) (title) At the landlord's discretion.

Section 8. 704.05 (5) (a) (intro.) and 1. of the statutes are consolidated, renumbered 704.05 (5) (a) 1. and amended to read:

704.05 (5) (a) 1. If a tenant removes from the premises and leaves personal property, the landlord may do all of the following: 1. Store the personal property on or off the premises, with a lien on the personal property for the actual and reasonable cost of removal and storage or, if stored by the landlord, for the actual and reasonable value of storage. The landlord shall give written notice of the storage to the tenant within 10 days after the charges begin. The landlord shall give the notice either personally or by ordinary mail addressed to the tenant's last-known address and shall state the daily charges for storage. The landlord may not include the cost of damages to the premises or past or future rent due in the amount demanded for satisfaction of the lien. The landlord may not include rent charged for the premises in calculating the cost of storage. Medicine and medical equipment are not subject to the lien under this subdivision, and presume, in the absence of a written agreement between the landlord shall promptly return them to and the tenant upon request to the contrary, that the tenant has abandoned the personal property and may, subject to par. (am), dispose of the abandoned personal property in any manner that the landlord, in its sole discretion, determines is appropriate.

Section 9. 704.05 (5) (a) 2. of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

704.05 (5) (a) 2. Give the tenant notice, personally or by ordinary mail addressed to the tenant's last-known address, of the landlord's intent to dispose of the personal property by sale or other appropriate means if the property is not repossessed by the tenant. If the tenant fails to repossess the property within 30 days after the date of personal service or the date of mailing of the notice, If the landlord may dispose of the property by private or public sale or any other appropriate means. The landlord may deduct the proceeds of the sale minus any costs of sale and any storage charges if the landlord has first stored the personality under subd. 4. If the proceeds minus the costs of sale and minus any storage charges are not claimed within 60 days after the date of sale of the personality, the landlord is not accountable to the tenant for any of the proceeds of the sale or the value of the property. The landlord shall send the proceeds of the sale minus the costs of sale and minus any storage charges to the department of administration for deposit in the appropriation under s. 20.505 (7) (b).

Section 10. 704.05 (5) (a) 3. of the statutes is repealed.

Section 11. 704.05 (5) (am) of the statutes is created to read:

704.05 (5) (am) Exception for medical items. If the personal property that the tenant leaves behind is prescription medication or prescription medical equipment, the landlord shall hold the property for 7 days from the date on which the landlord discovers the property. After that time, the landlord may dispose of the property in the manner that the landlord determines is appropriate, but shall promptly return the property to the tenant if the landlord receives a request for its return before the landlord disposes of it.

Section 12. 704.05 (5) (b) of the statutes is created to read:

704.05 (5) (b) Notice required if property is a manufactured or mobile home or a vehicle. 1. In this paragraph:

a. “Manufactured home” has the meaning given in s. 101.91 (2).

b. “Mobile home” has the meaning given in s. 101.91 (10), but does not include a recreational vehicle, as defined in s. 340.01 (48r).

c. “Titled vehicle” means a vehicle, as defined in s. 340.01 (74), for which a certificate of title has been issued by any agency of this state or another state.

2. If the abandoned personal property is a manufactured home, mobile home, or titled vehicle, before disposing of the abandoned property the landlord shall give notice of the landlord’s intent to dispose of the property by sale or other appropriate means to all of the following:

a. The tenant, personally or by regular or certified mail addressed to the tenant’s last-known address.

b. Any secured party of which the landlord has actual notice, personally or by regular or certified mail addressed to the secured party’s last-known address.

Section 12f. 704.05 (5) (bf) of the statutes is created to read:
Notice that landlord will not store property. If the landlord does not intend to store personal property left behind by a tenant, except as provided in par. (am), the landlord shall provide written notice to a tenant when the tenant enters into, and when the tenant renews, a rental agreement that the landlord will not store any items of personal property that the tenant leaves behind when the tenant removes from the premises, except as provided in par. (am). Notwithstanding pars. (a), (am), and (b), if the landlord does not provide to a tenant the notice required under this paragraph, the landlord shall comply with s. 704.05, 2009 stats., with respect to any personal property left behind by the tenant when the tenant removes from the premises.

Section 13. 704.05 (5) (c) of the statutes is amended to read:

704.05 (5) (c) Rights of 3rd persons. The landlord's lien and power to dispose as provided by this subsection applies to any property left on the premises by the tenant, whether owned by the tenant or by others. That lien has priority over any ownership or security interest, and the power to dispose under this subsection applies notwithstanding any rights of others existing under any claim of ownership or security interest, but is subject to s. 321.62. The tenant or any secured party has the right to redeem the property at any time before the landlord has disposed of it or entered into a contract for its disposition by payment of the landlord's charges under par. (a) for removal, storage, disposition and arranging for the sale any expenses that the landlord has incurred with respect to the disposition of the property.

Section 14. 704.05 (5) (cm) of the statutes is created to read:

704.05 (5) (cm) Inapplicability to self-storage facilities. This subsection does not apply to a lessee of a self-storage unit or space within a self-storage facility under s. 704.90.

Section 15. 704.05 (5) (d) of the statutes is repealed.

Section 16. 704.07 (1) of the statutes is amended to read:

704.07 (1) APPLICATION OF SECTION. This section applies to any nonresidential tenancy if there is no contrary provision in writing signed by both parties and to all residential tenancies. An agreement to waive the requirements of this section in a residential tenancy, including an agreement in a rental agreement, is void. Nothing in this section is intended to affect rights and duties arising under other provisions of the statutes.

Section 17. 704.07 (2) (bm) of the statutes is created to read:

704.07 (2) (bm) A landlord shall disclose to a prospective tenant, before entering into a rental agreement with or accepting any earnest money or security deposit from the prospective tenant, any building code or housing code violation to which all of the following apply:

1. The landlord has actual knowledge of the violation.
2. The violation affects the dwelling unit that is the subject of the prospective rental agreement or a common area of the premises.
3. The violation presents a significant threat to the prospective tenant's health or safety.
4. The violation has not been corrected.

Section 18. 704.08 of the statutes is created to read:

704.08 Information check-in sheet. A landlord shall provide to a new residential tenant when the tenant commences his or her occupancy of the premises a standardized information check-in sheet that contains an itemized description of the condition of the premises at the time of check-in. The tenant shall be given 7 days from the date the tenant commences his or her occupancy to complete the check-in sheet and return it to the landlord. The landlord is not required to provide the information check-in sheet to a tenant upon renewal of a rental agreement. This section does not apply to the rental of a plot of ground on which a manufactured home, as defined in s. 704.05 (5) (b) 1. a., or a mobile home, as defined in s. 704.05 (5) (b) 1. b., may be located.

Section 19. 704.11 of the statutes is amended to read:

704.11 Lien of landlord. Except as provided in ss. 704.05 (5), 704.90 and 779.43 or by express agreement of the parties, the landlord has no right to a lien on the property of the tenant; the common-law right of a landlord to distrain for rent is abolished.

Section 20. 704.17 (2) (d) of the statutes is created to read:

704.17 (2) (d) This subsection does not apply to week-to-week or month-to-month tenants.

Section 21. 704.27 of the statutes is amended to read:

704.27 Damages for failure of tenant to vacate at end of lease or after notice. If a tenant remains in possession without consent of the tenant's landlord after expiration of a lease or termination of a tenancy by notice given by either the landlord or the tenant, or after termination by valid agreement of the parties, the landlord may shall, at the landlord's discretion, recover from the tenant damages suffered by the landlord because of the failure of the tenant to vacate within the time required. In absence of proof of greater damages, the landlord may shall recover as-minimum damages twice the rental value apportioned on a daily basis for the time the tenant remains in possession. As used in this section, rental value means the amount for which the premises might reasonably have been rented, but not less than the amount actually paid or payable by the tenant for the prior rental period, and includes the money equivalent of any obligations undertaken by the tenant as part of the rental agreement, such as payment of taxes, insurance and repairs.
Nothing in this section prevents a landlord from seeking and recovering any other damages to which the landlord may be entitled.

Section 22. 704.28 of the statutes is created to read:

704.28 Withholding from and return of security deposits.  (1) Standard Withholding Provisions. When a landlord returns a security deposit to a tenant after the tenant vacates the premises, the landlord may withhold from the full amount of the security deposit only amounts reasonably necessary to pay for any of the following:

(a) Except as provided in sub. (3), tenant damage, waste, or neglect of the premises.

(b) Unpaid rent for which the tenant is legally responsible, subject to s. 704.29.

(c) Payment that the tenant owes under the rental agreement for utility service provided by the landlord but not included in the rent.

(d) Payment that the tenant owes for direct utility service provided by a government-owned utility, to the extent that the landlord becomes liable for the tenant’s nonpayment.

(e) Unpaid monthly municipal permit fees assessed against the tenant by a local unit of government under s. 66.0435 (3), to the extent that the landlord becomes liable for the tenant’s nonpayment.

(f) Any other payment for a reason provided in a nonstandard rental provision document described in sub. (2).

(2) Nonstandard Rental Provisions. Except as provided in sub. (3), a rental agreement may include one or more nonstandard rental provisions that authorize the landlord to withhold amounts from the tenant’s security deposit for reasons not specified in sub. (1) (a) to (e). Any such nonstandard rental provisions shall be provided to the tenant in a separate written document entitled “NONSTANDARD RENTAL PROVISIONS.” The landlord shall specifically identify and discuss each nonstandard rental provision with the tenant before the tenant enters into a rental agreement with the landlord. If the tenant signs a nonstandard rental provision, it is rebuttably presumed that the landlord has specifically identified and discussed the nonstandard rental provision with the tenant and that the tenant has agreed to it.

(3) Normal Wear and Tear. This section does not authorize a landlord to withhold any amount from a security deposit for normal wear and tear, or for other damages or losses for which the tenant cannot reasonably be held responsible under applicable law.

(4) Timing for Return. A landlord shall deliver or mail to a tenant the full amount of any security deposit paid by the tenant, less any amounts that may be withheld under subs. (1) and (2), within 21 days after any of the following:

(a) If the tenant vacates the premises on the termination date of the rental agreement, the date on which the rental agreement terminates.

(b) If the tenant vacates the premises before the termination date of the rental agreement, the date on which the tenant’s rental agreement terminates or, if the landlord reenters the premises before the tenant’s rental agreement terminates, the date on which the new tenant’s tenancy begins.

(c) If the tenant vacates the premises after the termination date of the rental agreement, the date on which the landlord learns that the tenant has vacated the premises.

(d) If the tenant is evicted, the date on which a writ of restitution is executed or the date on which the landlord learns that the tenant has vacated the premises, whichever occurs first.

Section 23. 704.44 (intro.) of the statutes is amended to read:

704.44 Rental Residential rental agreement that restricts access to contains certain services provisions is void. (intro.) A Notwithstanding s. 704.02, a residential rental agreement is void and unenforceable if it allows does any of the following:

(1m) Allows a landlord in a residential tenancy to do any of the following because a tenant has contacted an entity for law enforcement services, health services, or safety services:

Section 24. 704.44 (1) of the statutes is renumbered 704.44 (1m) (a).

Section 25. 704.44 (2) of the statutes is renumbered 704.44 (1m) (b).

Section 26. 704.44 (2m) of the statutes is created to read:

704.44 (2m) Authorizes the eviction or exclusion of a tenant from the premises, other than by judicial eviction procedures as provided under ch. 799.

Section 27. 704.44 (3) of the statutes is renumbered 704.44 (1m) (c).

Section 28. 704.44 (3m) of the statutes is created to read:

704.44 (3m) Provides for an acceleration of rent payments in the event of tenant default or breach of obligations under the rental agreement, or otherwise waives the landlord’s obligation to mitigate damages as provided in s. 704.29.

Section 29. 704.44 (4) of the statutes is renumbered 704.44 (1m) (d).

Section 30. 704.44 (4m) of the statutes is created to read:

704.44 (4m) Requires payment by the tenant of attorney fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement. This subsection does not prevent a landlord or tenant from recovering costs or attorney fees under a court order under ch. 799 or 814.

Section 31. 704.44 (5) of the statutes is renumbered 704.44 (1m) (e) and amended to read:
704.44 (1m) (e) Threaten to take any action under subs. (1) to (4) pars. (a) to (d).

SECTION 32. 704.44 (5m) of the statutes is created to read:

704.44 (5m) Authorizes the landlord or an agent of the landlord to confess judgment against the tenant in any action arising under the rental agreement.

SECTION 33. 704.44 (6) of the statutes is created to read:

704.44 (6) States that the landlord is not liable for property damage or personal injury caused by negligent acts or omissions of the landlord. This subsection does not affect ordinary maintenance obligations of a tenant under s. 704.07 or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

SECTION 34. 704.44 (7) of the statutes is created to read:

704.44 (7) Imposes liability on a tenant for any of the following:

(a) Personal injury arising from causes clearly beyond the tenant's control.

(b) Property damage caused by natural disasters or by persons other than the tenant or the tenant's guests or invitees. This paragraph does not affect ordinary maintenance obligations of a tenant under s. 704.07 or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

SECTION 35. 704.44 (8) of the statutes is created to read:

704.44 (8) Waives any statutory or other legal obligation on the part of the landlord to deliver the premises in a fit or habitable condition or to maintain the premises during the tenant's tenancy.

SECTION 35m. 704.44 (9) of the statutes is created to read:

704.44 (9) Allows the landlord to terminate the tenancy of a tenant if a crime is committed in or on the rental property, even if the tenant could not reasonably have prevented the crime.

SECTION 36. 704.95 of the statutes is created to read:

704.95 Practices regulated by the department of agriculture, trade and consumer protection. Practices in violation of this chapter may also constitute unfair methods of competition or unfair trade practices under s. 100.20. However, the department of agriculture, trade and consumer protection may not issue an order or pro-mulgate a rule under s. 100.20 that changes any right or duty arising under this chapter.

SECTION 37. 799.40 (1m) of the statutes is created to read:

799.40 (1m) ACCEPTANCE OF RENT. If a landlord commences an action under this section against a tenant whose tenancy has been terminated for failure to pay rent, the action under this section may not be dismissed solely because the landlord accepts past due rent from the tenant after the termination of the tenant's tenancy.

SECTION 38. Initial applicability.

(1) DISPOSAL OF PROPERTY.

(a) At landlord's discretion. The treatment of sections 321.62 (15) (a), 704.05 (5) (title), (a) (title), (intro.), 1., 2., and 3., (am), (b), (c), and (d), and 704.11 of the statutes first applies to property left behind by a tenant on the effective date of this paragraph.

(b) Notice that property will not be stored. The treatment of section 704.05 (5) (bf) of the statutes first applies to property left behind by a tenant under a rental agreement entered into or renewed on the effective date of this paragraph.

(2) DAMAGES FOR FAILURE TO VACATE. The treatment of section 704.27 of the statutes first applies to actions for damages, including eviction actions, that are commenced on the effective date of this subsection.

(3) RETURN OF SECURITY DEPOSITS.

(a) Timing for return. Except as provided in paragraph (b), the treatment of section 704.28 (4) (b) of the statutes first applies to tenants vacating before the termination date of a rental agreement who vacate the premises on the effective date of this paragraph.

(b) Inconsistent provision. If a rental agreement that is in effect on the effective date of this paragraph contains a provision that is inconsistent with the treatment of section 704.28 (4) (b) of the statutes, the treatment of section 704.28 (4) (b) of the statutes first applies to that rental agreement with respect to the timing of returning a security deposit upon renewal.

(4) SEVERABILITY OF PROVISIONS. The treatment of section 704.02 of the statutes first applies to rental agreements that are entered into or renewed on the effective date of this subsection.

(5) RENTAL AGREEMENT VOID IF TENANCY MAY BE TERMINATED FOR CRIME. The treatment of section 704.44 (9) of the statutes first applies to rental agreements that are entered into or renewed on the effective date of this subsection.
CHAPTER 704

LANDLORD AND TENANT

704.01 Definitions. In this chapter, unless the context indicates otherwise:

(1) “Lease” means an agreement, whether oral or written, for transfer of possession of real property, or both real and personal property, for a definite period of time. A lease is for a definite period of time if it has a fixed commencement date and a fixed expiration date or if the commencement and expiration can be ascertained by reference to some event, such as completion of a building. A lease is included within this chapter even though it may also be treated as a conveyance under ch. 706. An agreement for transfer of possession of only personal property is not a lease.

(2) “Periodic tenant” means a tenant who holds possession without a valid lease and pays rent on a periodic basis. It includes a tenant from day-to-day, week-to-week, month-to-month, year-to-year or other recurring interval of time, the period being determined by the intent of the parties under the circumstances, with the interval between rent-paying dates normally evidencing that intent.

(3) “Premises” mean the property covered by the lease, including not only the realty and fixtures, but also any personal property furnished with the realty.

(3m) “Rental agreement” means an oral or written agreement between a landlord and tenant, for the rental or lease of a specific dwelling unit or premises, in which the landlord and tenant agree on the essential terms of the tenancy, such as rent. “Rental agreement” includes a lease. “Rental agreement” does not include an agreement to enter into a rental agreement in the future.

(4) “Tenancy” includes a tenancy under a lease, a periodic tenancy or a tenancy at will.

(5) “Tenant at will” means any tenant holding with the permission of the tenant’s landlord without a valid lease and under circumstances not involving periodic payment of rent; but a person holding possession of real property under a contract of purchase or an employment contract is not a tenant under this chapter.


704.02 Severability of rental agreement provisions. The provisions of a rental agreement are severable. If any provision of a rental agreement is rendered void or unenforceable by reason of any statute, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does not affect other provisions of the rental agreement that can be given effect without the invalid provision.

History: 2011 a. 143.

704.03 Requirement of writing for rental agreements and termination. (1) ORIGINAL AGREEMENT. Notwithstanding s. 704.02, a lease for more than a year, or a contract to make such a lease, is not enforceable unless it meets the requirements of s. 706.02 and in addition sets forth the amount of rent or other consideration, the time of commencement and expiration of the lease, and a reasonably definite description of the premises, or unless a writing, including by means of electronic mail or facsimile transmission, signed by the landlord and the tenant sets forth the amount of rent or other consideration, the time of commencement and expiration of the lease, and a reasonably definite description of the premises and the commencement date is established by entry of the tenant into possession under the writing. Sections 704.05 and 704.07 govern as to matters within the scope of such sections and not provided for in such written lease or contract.

(2) ENTRY UNDER UNENFORCEABLE LEASE. If a tenant enters into possession under a lease for more than one year which does not meet the requirements of sub. (1), and the tenant pays rent on a periodic basis, the tenant becomes a periodic tenant. If the premises in such case are used for residential purposes and the rent is payable monthly, the tenant becomes a month-to-month tenant; but if the use is agricultural or nonresidential, the tenant becomes a year-to-year tenant without regard to the rent-payment periods. Except for duration of the tenancy and matters within the scope of ss. 704.05 and 704.07, the tenancy is governed by the terms and conditions agreed upon. Notice as provided in s. 704.19 is necessary to terminate such a periodic tenancy.

(3) ASSIGNMENT. An assignment by the tenant of a leasehold interest which has an unexpired period of more than one year is not enforceable against the assignor unless the assignment is in writing reasonably identifying the lease and signed by the assignor; and any agreement to assume the obligations of the original lease which has an unexpired period of more than one year is not enforceable unless in writing signed by the assignee.

(4) TERMINATION OF WRITTEN LEASE PRIOR TO NORMAL EXPIRATION DATE. An agreement to terminate a tenancy more than one year prior to the expiration date specified in a valid written lease is not enforceable unless it is in writing signed by both parties. Any other agreement between the landlord and tenant to terminate a lease prior to its normal expiration date, or to terminate a periodic tenancy or tenancy at will without the statutory notice...
704.03 LANDLORD AND TENANT

required by s. 704.19 may be either oral or written. Nothing herein prevents surrender by operation of law.

(5) PROOF. In any case where a lease or agreement is not in writing signed by both parties but is enforceable under this section, the lease or agreement must be proved by clear and convincing evidence.


If there is no written lease, section 704.07 applies to the obligation to make repairs. For there to be a remedy for a breach of a duty to repair other than that provided in s. 704.07, the obligation must be in a written lease signed by both parties. Halverson v. River Falls Youth Hockey Association, 226 Wis. 2d 103, 593 N.W.2d 893 (Ct. App. 1999), 98-2445.

704.05 Rights and duties of landlord and tenant in absence of written agreement to contrary. (1) WHEN SECTION APPLICABLE. So far as applicable, this section governs the rights and duties of the landlord and tenant in the absence of any inconsistent provision in writing signed by both the landlord and the tenant. Except as otherwise provided in this section, this section applies to any tenancy.

(2) POSSESSION OF TENANT AND ACCESS BY LANDLORD. Until the expiration date specified in the lease, or the termination of a period tenancy or tenancy at will, so long as the tenant is in default, the tenant has the right to exclusive possession of the premises, except as hereafter provided. The landlord may upon advance notice and at reasonable times inspect the premises, make repairs and show the premises to prospective tenants or purchasers; and if the tenant is absent from the premises and the landlord reasonably believes that entry is necessary to preserve or protect the premises, the landlord may enter without notice and with such force as appears necessary.

(3) USE OF PREMISES, ADDITIONS OR ALTERATIONS BY TENANT. The tenant can make no physical changes in the nature of the premises, including decorating, removing, altering or adding to the structures thereon, without prior consent of the landlord. The tenant cannot use the premises for any unlawful purpose nor in such a manner as to interfere unreasonably with use by another occupant of the same building or group of buildings.

(4) TENANT’S FIXTURES. At the termination of the tenancy, the tenant may remove any fixtures installed by the tenant if the tenant either restores the premises to their condition prior to the installation or pays to the landlord the cost of such restoration. Where such fixtures were installed to replace similar fixtures which were part of the premises at the time of the commencement of the tenancy, or where the original fixtures cannot be restored, the tenant may remove fixtures installed by the tenant only if the tenant replaces them with fixtures at least comparable in condition and value to the original fixtures. The tenant’s right to remove fixtures is not lost by an extension or renewal of a lease without reservation of such right to remove. This subsection applies to any fixtures added by the tenant for convenience as well as those added for purposes of trade, agriculture or business; but this subsection does not govern the rights of parties other than the landlord and tenant.

(5) DISPOSITION OF PERSONAL PROPERTY LEFT BY TENANT. (a) At the landlord’s discretion. 1. If a tenant removes from the premises and leaves personal property, the landlord may presume, in the absence of a written agreement between the landlord and the tenant to the contrary, that the tenant has abandoned the personal property which may, subject to para. (am), dispose of the abandoned personal property in any manner that the landlord, in its sole discretion, determines is appropriate.

2. If the landlord disposes of the property by private or public sale, the landlord may sell the proceeds of the sale minus any costs of sale and any storage charges if the landlord has first stored the personal property to the department of administration for deposit in the appropriation under s. 20.505 (7) (h).

(c) Exception for medical items. If the personal property that the tenant leaves behind is prescription medication or prescription medical equipment, the landlord shall hold the property for 7 days from the date on which the landlord discovers the property. After that time, the landlord may dispose of the property in the manner that the landlord determines is appropriate, but shall promptly return the property to the tenant if the landlord receives a request for its return before the landlord disposes of it.

(b) Notice required if property is a manufactured or mobile home or a vehicle. 1. In this paragraph:

a. “Manufactured home” has the meaning given in s. 101.91 (2).

b. “Mobile home” has the meaning given in s. 101.91 (10), but does not include a recreational vehicle, as defined in s. 340.01 (48r).

c. “Titled vehicle” means a vehicle, as defined in s. 340.01 (74), for which a certificate of title has been issued by any agency of this state or another state.

2. If the abandoned personal property is a manufactured home, mobile home, or titled vehicle, before disposing of the abandoned property the landlord shall give notice of the landlord’s intent to dispose of the property by sale or other appropriate means to all of the following:

a. The tenant, personally or by regular or certified mail addressed to the tenant’s last-known address.

b. Any secured party of which the landlord has actual notice, personally or by regular or certified mail addressed to the secured party’s last-known address.

(bf) Notice that landlord will not store property. If the landlord does not intend to store personal property left behind by a tenant, except as provided in par. (am), the landlord shall provide written notice to a tenant when the tenant enters into, and when the tenant renews, a rental agreement that the landlord will not store any items of personal property that the tenant leaves behind when the tenant removes from the premises, except as provided in par. (am). Notwithstanding paras. (a), (am), and (bf), if the landlord does not provide to a tenant the notice required under this paragraph, the landlord shall comply with s. 704.05, 2009 stats., with respect to any personal property left behind by the tenant when the tenant removes from the premises.

c. Rights of 3rd persons. The landlord’s power to dispose as provided by this subsection applies to any property left on the premises by the tenant, whether owned by the tenant or by others. The power to dispose under this subsection applies notwithstanding any rights of others existing under any claim of ownership or security interest, but is subject to s. 321.62. The tenant or any secured party has the right to redeem the property at any time before the landlord has disposed of it or entered into a contract for its disposition by payment of any expenses that the landlord has incurred with respect to the disposition of the property.

(cm) Inapplicability to self-storage facilities. This subsection does not apply to a lessee of a self-storage unit or space within a self-storage facility under s. 704.90.


Any act of the landlord that interferes with the tenant’s enjoyment or possession of the premises as to render them unfit for occupancy for the purposes for which they were leased is an eviction releasing the tenant from the obligation to pay rent. First Wisconsin Trust Co. v. L. Wiemann Co., 93 Wis. 2d 258, 266 N.W.2d 360 (1980).

An allegation in a lessee’s complaint that the premises were undamaged did not relieve the lessee of the burden to prove damages. Rivera v. Eisenberg, 95 Wis. 2d 384, 290 N.W.2d 539 (Ct. App. 1980).


704.06 Water heater thermostat settings. A landlord of premises which are subject to a residential tenancy and served by a water heater serving only that premises shall set the thermostat of that water heater at no higher than 125 degrees Fahrenheit before any new tenant occupies that premises or at the minimum setting of that water heater if the minimum setting is higher than 125 degrees Fahrenheit.

History: 1987 a. 102.

704.07 Repairs; untenantability. (1) APPLICATION OF SECTION. This section applies to any nonresidential tenancy if there is no contrary provision in writing signed by both parties and to all residential tenancies. An agreement to waive the requirements

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of this section in a residential tenancy, including an agreement in a
rental agreement, is void. Nothing in this section is intended to
affect rights and duties arising under other provisions of the
statute.

(2) DUTY OF LANDLORD. (a) Except for repairs made neces-
sary by the negligence of, or improper use of the premises by, the
tenant, the landlord has a duty to do all of the following:
1. Keep in a reasonable state of repair portions of the premises
over which the landlord maintains control.
2. Keep in a reasonable state of repair all equipment under
the landlord's control necessary to supply services that the landlord
has expressly or impliedly agreed to furnish to the tenant, such as
heat, water, elevator, or air conditioning.
3. Make all necessary structural repairs.
4. Except for residential premises subject to a local housing
code, and except as provided in sub. (3) (b), repair or replace any
plumbing, electrical wiring, machinery, or equipment furnished
with the premises and no longer in reasonable working condition.
5. For a residential tenancy, comply with any local housing
code applicable to the premises.

(b) If the premises are part of a building, other parts of which
are occupied by one or more other tenants, negligence or improper
use by one tenant does not relieve the landlord from the landlord's
duty as to the other tenants to make repairs as provided in par. (a).

(bm) A landlord shall disclose to a prospective tenant, before
entering into a rental agreement with or accepting any earnest
money or security deposit from the prospective tenant, any build-
ing code or housing code violation to which all of the following apply:
1. The landlord has actual knowledge of the violation.
2. The violation affects the dwelling unit that is the subject of
the prospective rental agreement or a common area of the prem-
ises.
3. The violation presents a significant threat to the prospective
tenant's health or safety.
4. The violation has not been corrected.

(c) If the premises are damaged by fire, water or other casualty,
nor the result of the negligence or intentional act of the landlord,
this subsection is inapplicable and either sub. (3) (c) or (4) governs.

(3) DUTY OF TENANT. (a) If the premises are damaged by the
negligence or improper use of the premises by the tenant, the ten-
ant must repair the damage and restore the appearance of the
premises by redecorating. However, the landlord may elect to
undertake the repair or redecoration, and in such case the tenant
must reimburse the landlord for the reasonable cost thereof; the
cost to the landlord is presumed reasonable unless proved other-
wise by the tenant.

(b) Except for residential premises subject to a local housing
code, the tenant is also under a duty to keep plumbing, electrical
wiring, machinery and equipment furnished with the premises in
reasonable working order if repair can be made at cost which is
minor in relation to the rent.

(c) A tenant in a residential tenancy shall comply with a local
housing code applicable to the premises.

(4) UN TENANTABILITY. If the premises become untenantable
because of damage by fire, water or other casualty or because of
any condition hazardous to health, or if there is a substantial viola-
tion of sub. (2) materially affecting the health or safety of the ten-
ant, the tenant may remove from the premises unless the landlord
proceeds promptly to repair or rebuild or eliminate the health haz-
ard or the substantial violation of sub. (2) materially affecting the
health or safety of the tenant; or the tenant may remove if the in-
convenience to the tenant by reason of the nature and period of
repair, rebuilding or elimination would impose undue hardship on
the tenant. If the tenant remains in possession, rent abates to the
current rent is deprived of the full normal use of the premises.
This section does not authorize rent to be withheld in full, if the

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party of any contractual obligations under the lease, except in the
special situation governed by s. 704.25 (5).

(3) COVENANTS WHICH APPLY TO TRANSFERRERS. All covenants
and provisions in a lease which are not either expressly or by nec-
nessary implication personal to the original parties are enforceable
by or against the successors in interest of any party to the lease.
However, a successor in interest is liable in damages, or entitled
to recover damages, only for a breach which occurs during the
period when the successor holds his or her interest, unless the suc-
cessor has by contract assumed greater liability; a personal repre-
sentative may also recover damages for a breach for which the per-
sonal representative's decedent could have recovered.

(4) SAME PROCEDURAL REMEDIES. The remedies available
between the original landlord and tenant are also available to or
against any successor in interest to either party.

(5) CONSENT AS AFFECTING SUBSEQUENT TRANSFERS. If a lease
restricts transfer, consent to a transfer or waiver of a breach of the
restriction is not a consent or waiver as to any subsequent trans-
fer.

History: 1971 c. 211 s. 126; 1993 a. 486.

704.11 Lien of landlord. Except as provided in ss. 704.90
and 779.43 or by express agreement of the parties, the landlord has
no right to a lien on the property of the tenant; the common-law
right of a landlord to distrain for rent is abolished.

History: 1979 c. 32 s. 92 (9); 1987 a. 23 s. 2; 2011 a. 143.

704.13 Acts of tenant not to affect rights of landlord.
No act of a tenant in acknowledging as landlord a person other
than the tenant's original landlord or the latter's successors
in interest can prejudice the right of the original landlord or the origi-
nal landlord's successors to possession of the premises.

History: 1993 a. 486.

704.15 Requirement that landlord notify tenant of automatic
renewal clause. A provision in a lease of residen-
tial property that the lease shall be automatically renewed or
extended for a specified period unless the tenant or either party
gives notice to the contrary prior to the end of the lease is not
enforceable against the tenant unless the lessor, at least 15 days
but not more than 30 days prior to the time specified for the giving
of such notice to the lessor, gives to the tenant written notice in
the same manner as specified in s. 704.21 calling the attention of
the tenant to the existence of the provision in the lease for automatic
renewal or extension.

History: 1993 a. 486.

704.16 Termination of tenancy for imminent threat of seri-
ous physical harm; changing locks. (1) TERMINATING
TENANCY BY TENANT. A residential tenant may terminate his or her
tenancy and remove from the premises if both of the following
apply:

(a) The tenant or a child of the tenant faces an imminent threat
of serious physical harm from another person if the tenant remains
on the premises.

(b) The tenant provides the landlord with notice in the manner
provided under s. 704.21 and with a certified copy of any of the
following:

1. An injunction order under s. 813.12 (4) protecting the ten-
ant from the person.

2. An injunction order under s. 813.122 protecting a child of
the tenant from the person.

3. An injunction order under s. 813.125 (4) protecting the ten-
ant or a child of the tenant from the person, based on the person's
engaging in an act that would constitute sexual assault under s.
940.225, 948.02, or 948.025, or stalking under s. 940.32, or
attempts or threatening to do the same.

4. A condition of release under ch. 969 ordering the person
not to contact the tenant.

5. A criminal complaint alleging that the person sexually
assaulted the tenant or a child of the tenant under s. 940.225,
948.02, or 948.025.

6. A criminal complaint alleging that the person stalked the
tenant or a child of the tenant under s. 940.32.

7. A criminal complaint that was filed against the person as
a result of the person being arrested for committing a domestic
abuse offense against the tenant under s. 968.075.

(2) NOT LIABLE FOR RENT. If a residential tenant removes
from the premises because of a threat of serious physical harm to
the tenant or to a child of the tenant from another person and provides
the landlord with a certified copy specified under sub. (1) and with
notice that complies with s. 704.21, the tenant shall not be liable
for any rent after the end of the month following the month in
which he or she provides the notice or removes from the premises,
whichever is later. The tenant's liability for rent under this subsec-
tion is subject to the landlord's duty to mitigate damages as pro-
vided in s. 704.29 (2).

(3) TERMINATION OF TENANCY BY LANDLORD. (a) In this
subsection, "offending tenant" is a tenant whose tenancy is being ter-
iminated under this subsection.

(b) A landlord may terminate the tenancy of an offending ten-
ant if all of the following apply:

1. The offending tenant commits one or more acts, including
verbal threats, that cause another tenant, or a child of that other
tenant, who occupies a dwelling unit in the same single-family
residential unit, multiunit dwelling, or apartment complex as
the offending tenant to face an imminent threat of serious physical
harm from the offending tenant if the offending tenant remains
on the premises.

2. The offending tenant is the named offender in any of the
following:

a. An injunction order under s. 813.12 (4) protecting the other
tenant from the offending tenant.

b. An injunction order under s. 813.122 protecting the child
of the other tenant from the offending tenant.

c. An injunction order under s. 813.125 (4) protecting the
other tenant or the child of the other tenant from the offending
tenant, based on the offending tenant's engaging in an act that
would constitute sexual assault under s. 940.225, 948.02, or
948.025, or stalking under s. 940.32, or attempting or threatening to do
the same.

d. A condition of release under ch. 969 ordering the offending
tenant not to contact the other tenant.

e. A criminal complaint alleging that the offending tenant
sexual assaulted the other tenant or the child of the other tenant
under s. 940.225, 948.02, or 948.025.

f. A criminal complaint alleging that the offending tenant
stalked the other tenant or the child of the other tenant under s.
940.32.

g. A criminal complaint that was filed against the offending
tenant as a result of the offending tenant being arrested for com-
mitting a domestic abuse offense against the other tenant under s.
968.075.

3. The landlord gives the offending tenant written notice that
complies with s. 704.21 requiring the offending tenant to vacate
on or before a date that is at least 5 days after the giving of the
notice. The notice shall state the basis for its issuance and the right
of the offending tenant to contest the termination of tenancy in an
eviction action under ch. 799. If the offending tenant contests the
termination of tenancy, the tenancy may not be terminated without
proof by the landlord by the greater preponderance of the credible
allegations against the offending tenant.

(4) CHANGING LOCKS. (a) Subject to pars. (b) and (c), regard-
less of whether sub. (1) applies, at the request of a residential ten-
ant who provides the landlord with a certified copy of a document
specified in sub. (1) (b) 1. to 7., a landlord shall change the locks
to the tenant's premises.
(b) A landlord shall have the locks changed, or may give the tenant permission to change the locks, within 48 hours after receiving a request and certified copy of a request under par. (a). The tenant shall be responsible for the cost of changing the locks. If the landlord gives the tenant permission to change the locks, within a reasonable time after any lock has been changed the tenant shall provide the landlord with a key for the changed lock.

(c) 1. If the person who is the subject of the document provided to the landlord under par. (a) is also a tenant of the specific premises for which the locks are requested to be changed, the landlord is not required to change the locks under this subsection unless the document provided by the tenant requesting that the locks be changed is any of the following:

   a. A document specified in sub. (1) (b) 1., 2., or 3., that directs the tenant who is the subject of the document to avoid the residence of the tenant requesting that the locks be changed.

   b. A document specified in sub. (1) (b) 4. that orders the tenant who is the subject of the document not to contact the tenant requesting that the locks be changed.

2. Nothing in this subsection shall be construed to relieve a tenant who is the subject of the document provided to the landlord under par. (a) of any obligation under a rental agreement or any other liability to the landlord.

(d) A landlord is not liable for civil damages for any action taken to comply with this subsection.

History: 2007 a. 184; 2009 a. 117.

704.165 Termination of tenancy at death of tenant. (1) Except as provided in par. (b), if a residential tenant dies, his or her tenancy is terminated on the earlier of the following:

1. Sixty days after the landlord receives notice, is advised, or otherwise becomes aware of the tenant's death.

2. The expiration of the term of the rental agreement.

(b) Notwithstanding s. 704.19, in the case of the death of a residential periodic tenant or tenant at will, the tenancy is terminated 60 days after the landlord receives notice, is advised, or otherwise becomes aware of the tenant's death.

(2) The deceased tenant or his or her estate is not liable for any rent after the termination of his or her tenancy. Any liability of the deceased tenant or his or her estate for rent under this subsection is subject to the landlord's duty to mitigate damages as provided in s. 704.29 (2).

(3) Nothing in this section relieves another adult tenant of the deceased tenant's premises from any obligation under a rental agreement or any other liability to the landlord.

(4) A landlord under this section may not contact or communicate with a member of the deceased tenant's family for the purpose of obtaining from the family member rent for which the family member has no liability.

History: 2009 a. 323.

704.17 Notice terminating tenancies for failure to pay rent or other breach by tenant. (1) MONTH-TO-MONTH AND WEEK-TO-WEEK TENANCIES. (a) If a month-to-month tenant or a week-to-week tenant fails to pay rent when due, the tenant's tenancy is terminated if the landlord gives the tenant notice requiring the tenant to pay rent or vacate on or before a date at least 5 days after the giving of the notice and if the tenant fails to pay according. A month-to-month tenancy is terminated if the landlord, while the tenant is in default in payment of rent, gives the tenant notice requiring the tenant to vacate on or before a date at least 14 days after the giving of the notice.

(b) If a month-to-month tenant commits waste or a material violation of s. 704.07 (3) or breaches any covenant or condition of the tenant's agreement, other than for payment of rent, the tenancy can be terminated and the tenant given 14 days to cure the breach. The landlord may terminate the tenancy by giving the tenant notice requiring the tenant to vacate on or before a date at least 14 days after the giving of the notice.

(c) A property owner may terminate the tenancy of a week-to-week, month-to-month, or year-to-year tenant if the property owner receives written notice from a law enforcement agency, as defined in s. 165.83 (1) (b), or from the office of the district attorney, that a nuisance under s. 823.113 (1) (1m) (b) exists in that tenant's rental unit or was caused by that tenant on the property owner's property and if the property owner gives the tenant written notice requiring the tenant to vacate on or before a date at least 5 days after the giving of the notice. The notice shall state the basis for its issuance and the right of the tenant to contest the termination of tenancy in an eviction action under ch. 799. If the tenant contests the termination of tenancy, the tenancy may not be terminated without proof by the property owner by the greater preponderance of the credible evidence of the allegation in the notice from the law enforcement agency or the office of the district attorney that a nuisance under s. 823.113 (1) (1m) (b) exists in that tenant's rental unit or was caused by that tenant.

(c) A property owner may terminate the tenancy of a week-to-week, month-to-month, or year-to-year tenant if the property owner receives written notice from a law enforcement agency, as defined in s. 165.83 (1) (b), or from the office of the district attorney, that a nuisance under s. 823.113 (1) (1m) (b) exists in that tenant's rental unit or was caused by that tenant on the property owner's property and if the property owner gives the tenant written notice requiring the tenant to vacate on or before a date at least 5 days after the giving of the notice. The notice shall state the basis for its issuance and the right of the tenant to contest the termination of tenancy in an eviction action under ch. 799. If the tenant contests the termination of tenancy, the tenancy may not be terminated without proof by the property owner by the greater preponderance of the credible evidence of the allegation in the notice from the law enforcement agency or the office of the district attorney that a nuisance under s. 823.113 (1) (1m) (b) exists in that tenant's rental unit or was caused by that tenant.
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(d) This subsection does not apply to week-to-week or month-to-month tenancies.

(3) LEASE FOR MORE THAN ONE YEAR. (a) If a tenant under a lease for more than one year fails to pay rent when due or commits waste, or breaches any other covenant or condition of the tenant’s lease, the tenancy is terminated if the landlord gives the tenant notice requiring the tenant to pay the rent, repair the waste, or otherwise comply with the lease on or before a date at least 30 days after the giving of the notice, and if the tenant fails to comply with the notice. A tenant is deemed to be complying with the notice if promptly after the receipt of the notice the tenant takes reasonable steps to remedy the default and proceeds with reasonable diligence, or if damages are adequate protection for the landlord and the tenant makes a bona fide and reasonable offer to pay the landlord all damages for the tenant’s breach; but in case of failure to pay rent, all rent due must be paid on or before the date specified in the notice.

(b) A property owner may terminate the tenancy of a tenant who is under a lease for a term of more than one year if the property owner receives written notice from a law enforcement agency, as defined in s. 165.83 (1) (b), or from the office of the district attorney, that a nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant’s rental unit or was caused by that tenant on the property owner’s property and if the property owner gives the tenant written notice to vacate on or before a date at least 5 days after the giving of the notice. The notice shall state the basis for its issuance and the right of the tenant to contest the termination of tenancy in an eviction action under ch. 799. If the tenant contests the termination of tenancy, the tenancy may not be terminated without proof by the property owner by the greater preponderance of the credible evidence of the allegation in the notice from the law enforcement agency or the office of the district attorney that a nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant’s rental unit or was caused by that tenant.

(4) FORM OF NOTICE AND MANNER OF GIVING. Notice must be in writing and given as specified in s. 704.21. If so given, the tenant is not entitled to possession or occupancy of the premises after the date of termination specified in the notice.

(5) CONTRARY PROVISION IN THE LEASE. Provisions in the lease or rental agreement for termination contrary to this section are invalid except in leases for more than one year.


Only a limited number of defenses may be raised in an eviction action, including defenses as to the landlord’s title to the premises and whether the eviction was in retaliation for the tenant’s reporting housing violations, but not including violations of federal antitrust and state franchise laws—as well as public policy defenses. Clark Oil & Refining Co. v. Lietzow, 69 Wis. 2d 226, 230 N.W.2d 376 (1975).

Absent notice of termination, the violation of the terms of a lease that required landlord permission for long-term guests did not result in the tenants losing their rights to possession of the property. Consequently the tenants’ guests were on the premises with the legal possessor’s permission and were not trespassers. Johnson v. Blackburn, 220 Wis. 2d 260, 582 N.W.2d 488 (Ct. App., 1998), 97-1414.

704.19 Notice necessary to terminate periodic tenancies and tenancies at will. (1) SCOPE OF SECTION. The following types of tenancies, however created, are subject to this section:

(a) A periodic tenancy, whether a tenancy from year-to-year, from month-to-month, or for any other periodic basis according to which rent is regularly payable; and

(b) A tenancy at will.

(2) REQUIREMENT OF NOTICE. (a) A periodic tenancy or a tenancy at will can be terminated by either the landlord or the tenant only by giving to the other party written notice complying with this section, unless any of the following conditions is met:

1. The parties have agreed expressly upon another method of termination and the parties’ agreement is established by clear and convincing proof.

2. Termination has been effected by a surrender of the premises.

3. Subsection (6) applies.

(b) 1. A periodic tenancy can be terminated by notice under this section only at the end of a rental period. In the case of a tenancy from year-to-year the end of the rental period is the end of the rental year even though rent is payable on a more frequent basis.

2. Notwithstanding subd. 1, nothing in this section prevents termination of a tenancy before the end of a rental period because of an imminent threat of serious physical harm, as provided in s. 704.16, or for nonpayment of rent or breach of any other condition of the tenancy, as provided in s. 704.17.

(3) LENGTH OF NOTICE. At least 28 days’ notice must be given except in the following cases: If rent is payable on a basis less than monthly, notice at least equal to the rent-paying period is sufficient; all agricultural tenancies from year-to-year require at least 90 days’ notice.

(4) CONTENTS OF NOTICE. Notice must be in writing, formal or informal, and substantially inform the other party to the landlord-tenant relation of the intent to terminate the tenancy and the date of termination. A notice is not invalid because of errors in the notice which do not mislead, including omission of the name of one of several landlords or tenants.

(5) EFFECT OF INACCURATE TERMINATION DATE IN NOTICE. If a notice provides that a periodic tenancy is to terminate on the first day of a succeeding rental period rather than the last day of a rental period, and the notice was given in sufficient time to terminate the tenancy at the end of the rental period, the notice is valid; if the notice was given by the tenant, the landlord may require the tenant to remove on the last day of the rental period, but if the notice was given by the landlord the tenant may remove on the last day specified in the notice. If a notice specified any other inaccurate termination date, because it does not allow the length of time required under sub. (3) or because it does not correspond to the end of the rental period in the case of a periodic tenancy, the notice is valid but not effective until the first date which could have been properly specified in such notice subsequent to the date specified in the notice, but the party to whom the notice is given may elect to treat the date specified in the notice as the legally effective date. If a notice by a tenant fails to specify any termination date, the notice is valid but not effective until the first date which could have been properly specified in such notice as of the date the notice is given.

(6) TENANT MOVING OUT WITHOUT NOTICE. If any periodic tenant vacates the premises without notice to the landlord and fails to pay rent when due for any period, such tenancy is terminated as of the first date on which it would have terminated had the landlord been given proper notice on the day the landlord learns of the removal.

(7) WHEN NOTICE GIVEN. Notice is given on the day specified below, which is counted as the first day of the notice period:

(a) The day of giving or leaving under s. 704.21 (1) (a) and (2) (a) and (b).

(b) The day of giving or affixing a copy of the notice of default and the day of mailing, whichever is later, under s. 704.21 (1) (b) and (c).

(c) The 2nd day after the day of mailing if the mail is addressed to a point within the state, and the 5th day after the day of mailing in all other cases, under s. 704.21 (1) (d) and (2) (c).

(d) The day of service under s. 704.21 (1) (e) and (2) (d).

(e) The day of actual receipt by the other party under s. 704.21 (5).

(8) EFFECT OF NOTICE. If a notice is given as required by this section, the tenant is not entitled to possession or occupancy of the premises after the date of termination as specified in the notice.


A landlord cannot evict a tenant solely because the tenant has reported building code violations. Dickhut v. Norton, 45 Wis. 2d 389, 173 N.W.2d 297 (1970).

Retaliatory eviction as a defense. 54 MLR 329.


704.21 Manner of giving notice. (1) NOTICE BY LANDLORD. Notice by the landlord or a person in the landlord’s behalf must be given under this chapter by one of the following methods:
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704.23 Removal of tenant on termination of tenancy. If a tenant remains in possession without consent of the tenant's landlord after termination of the tenant's tenancy, the landlord may in every case proceed in any manner permitted by law to remove the tenant and recover damages for such holding over.

History: 1993 s. 486.

704.25 Effect of holding over after expiration of lease; removal of tenant. (1) REMOVAL AND RECOVERY OF DAMAGES. If a tenant holds over after expiration of a lease, the landlord may in every case proceed in any manner permitted by law to remove the tenant and recover damages for such holding over.

(2) CREATION OF PERIODIC TENANCY BY HOLDING OVER. (a) Nonresidential leases for a year or longer. If premises are leased for a year or longer primarily for other than private residential purposes, and the tenant holds over after expiration of the lease, the landlord may elect to hold the tenant on a year-to-year basis.

(b) All other leases. If premises are leased for less than a year for any use, or if leased for any period primarily for private residential purposes, and the tenant holds over after expiration of the lease, the landlord may elect to hold the tenant on a month-to-month basis, but if such lease provides for a weekly or daily rental, the landlord may hold the tenant only on the periodic basis on which rent is computed.

(c) When election takes place. Acceptance of rent for any period after expiration of a lease or other conduct manifesting the landlord's intent to allow the tenant to remain in possession after the expiration date constitutes an election by the landlord under this section unless the landlord has already commenced proceedings to remove the tenant.

(3) TERMS OF TENANCY CREATED BY HOLDING OVER. A periodic tenancy arising under this section is upon the same terms and conditions as those of the original lease except that any right of the tenant to renew or extend the lease, or to purchase the premises, or any restriction on the power of the landlord to sell without first offering to sell the premises to the tenant, does not carry over to such a tenancy.

(4) EFFECT OF CONTRARY AGREEMENT. This section governs except as the parties agree otherwise either by the terms of the lease itself or by an agreement at any subsequent time.

(5) HOLDOVER BY ASSIGNEE OR SUBTENANT. If an assignee or subtenant holds over after the expiration of the lease, the landlord may either elect to:

(a) Hold the assignee or subtenant or, if he or she participated in the holding over, the original tenant as a periodic tenant under sub. (2); or

(b) Remove any person in possession and recover damages from the assignee or subtenant or, if the landlord has not been accepting rent directly from the assignee or subtenant, from the original tenant.

(6) NOTICE TERMINATING A TENANCY CREATED BY HOLDING OVER. Any tenancy created pursuant to this section is terminable under s. 704.19.

History: 1983 s. 36.

Upon the landlord's acceptance of a holdover tenant's monthly rent payment, both parties were bound to a one-year tenancy, on the same terms and conditions as set forth in the expired lease. The existence of a one-year holdover tenancy does not mean, however, that the landlord could not subsequently accept a surrender of the premises from the tenant and release the tenant from his or her obligations as a holdover tenant. Vander Wielen v. Van Astor, 2005 WI App 220, 247 Wis. 2d 726, 606 N.W.2d 123, 04–1788.

704.27 Damages for failure of tenant to vacate at end of lease or after notice. If a tenant remains in possession without consent of the tenant's landlord after expiration of a lease or termination of a tenancy by notice given by either the landlord or the tenant, or after termination by valid agreement of the parties, the landlord shall, at the landlord's discretion, recover from the tenant damages suffered by the landlord because of the failure of the tenant to vacate within the time required. In absence of proof of greater damages, the landlord shall recover as minimum damages twice the rental value apportioned on a daily basis for the

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time the tenant remains in possession. As used in this section, rental value means the amount for which the premises might reasonably be paid or payable by the tenant for the prior rental period, and includes the money equivalent of any obligations undertaken by the tenant as part of the rental agreement, such as payment of taxes, insurance and repairs. Nothing in this section prevents a landlord from seeking and recovering any other damages to which the landlord may be entitled.

History: 1993 s. 486; 2011 a. 143.

This section requires a minimum award of double rent when greater damages have not been proved. Vincent v. Stewart, 107 Wis. 2d 691, 321 N.W.2d 340 (Cl. App. 1982).

"Rental value" includes only those obligations that the tenant is required to pay during a tenant's period of occupancy, whether or not the tenant actually makes payment. Univein Corp. v. General Split Corp., 148 Wis. 2d 29, 435 N.W.2d 234 (1989).

704.28 Withholding from and return of security deposit. (1) STANDARD WITHHOLDING PROVISIONS. When a landlord returns a security deposit to a tenant after the tenant vacates the premises, the landlord may withhold from the full amount of the security deposit only amounts reasonably necessary to pay for any of the following:

(a) Except as provided in sub. (3), tenant damage, waste, or neglect of the premises.

(b) Unpaid rent for which the tenant is legally responsible, subject to s. 704.29.

(c) Payment that the tenant owes under the rental agreement for utility service provided by the landlord but not included in the rent.

(d) Payment that the tenant owes for direct utility service provided by a government--owned utility, to the extent that the landlord becomes liable for the tenant's nonpayment.

(e) Unpaid monthly municipal permit fees assessed against the tenant by a local unit of government under s. 66.0435 (3), to the extent that the landlord becomes liable for the tenant's nonpayment.

(f) Any other payment for a reason provided in a nonstandard rental provision document described in sub. (2).

(2) NONSTANDARD RENTAL PROVISIONS. Except as provided in sub. (3), a rental agreement may include one or more nonstandard rental provisions that authorize the landlord to withhold amounts from the tenant's security deposit for reasons not specified in sub. (1) (a) to (e). Any such nonstandard rental provisions shall be provided in the tenant in a written document entitled "NONSTANDARD RENTAL PROVISIONS." The landlord shall specifically identify and discuss each nonstandard rental provision with the tenant before the tenant enters into a rental agreement with the landlord. If the tenant signs a nonstandard rental provision, it is rebuttably presumed that the landlord has specifically identified and discussed the nonstandard rental provision with the tenant and that the tenant has agreed to it.

(3) NORMAL WEAR AND TEAR. This section does not authorize a landlord to withhold any amount from a security deposit for normal wear and tear, or for other damages or losses for which the tenant cannot reasonably be held responsible under applicable law.

(4) Timing for return. A landlord shall deliver or mail to a tenant the full amount of any security deposit paid by the tenant, less any amounts that may be withheld under subs. (1) and (2), within 30 days after any of the following:

(a) If the tenant vacates the premises on the termination date of the rental agreement, the date on which the rental agreement terminates.

(b) If the tenant vacates the premises before the termination date of the rental agreement, the date on which the tenant's rental agreement terminates or, if the landlord reenters the premises before the tenant's rental agreement terminates, the date on which the new tenant's tenancy begins.

(c) If the tenant vacates the premises after the termination date of the rental agreement, the date on which the landlord learns that the tenant has vacated the premises.
Landlord and Tenant

704.44

Residential rental agreement that contains certain provisions is void. Notwithstanding s. 704.02, a residential rental agreement is void and unenforceable if it does any of the following:

(1m) Allows a landlord to do any of the following because a tenant has contacted an entity for law enforcement services, health services, or safety services:

(a) Increase rent.

(b) Decrease services.

(c) Bring an action for possession of the premises.

(d) Refuse to renew a rental agreement.

(e) Threaten to take any action under pars. (a) to (d).

(2m) Authorizes the eviction or exclusion of a tenant from the premises, other than by judicial eviction procedures as provided under ch. 799.

(3m) Provides for an acceleration of rent payments in the event of tenant default or breach of obligations under the rental agreement, or otherwise waives the landlord’s obligation to mitigate damages as provided in s. 704.29.

(4m) Requires payment by the tenant of attorney fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement. This subsection does not prevent a landlord or tenant from recovering costs or attorney fees under a court order under ch. 799 or 814.

(5m) Authorizes the landlord or an agent of the landlord to confess judgment against the tenant in any action arising under the rental agreement.

(6) States that the landlord is not liable for property damage or personal injury caused by negligent acts or omissions of the landlord. This subsection does not affect ordinary maintenance obligations of a tenant under s. 704.07 or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(7) Imposes liability on a tenant for any of the following:

(a) Personal injury arising from causes clearly beyond the tenant’s control.

(b) Property damage caused by natural disasters or by persons other than the tenant or the tenant’s guests or invitees. This paragraph does not affect ordinary maintenance obligations of a tenant under s. 704.07 or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.

(8) Waives any statutory or other legal obligation on the part of the landlord to deliver the premises in a fit or habitable condition or to maintain the premises during the tenant’s tenancy.

(9) Allows the landlord to terminate the tenancy of a tenant if a crime is committed in or on the rental property, even if the tenant could not reasonably have prevented the crime.

History: 1979 c. 32 s. 92 (16); 1993 a. 486.

704.40 Remedies available when tenancy dependent upon life of another terminates. (1) Any person occupying premises as tenant of the owner of a life estate or any person owning an estate for the life of another, upon cessation of the measuring life, is liable to the owner of the reversion or remainder for the reasonable rental value of the premises for any period the occu-

2009-10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Sept. 1, 2012. Statutory changes effective on or prior to Sept. 1, 2012 are printed as currently in effect. Changes effective after Sept. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (9-4-12)
704.45 Retaliatory conduct in residential tenancies prohibited. (1) Except as provided in sub. (2), a landlord in a residential tenancy may not increase rent, decrease services, bring an action for possession of the premises, refuse to renew a lease or threaten any of the foregoing, if there is a preponderance of evidence that the action or inaction would not occur but for the landlord’s retaliation against the tenant for doing any of the following:

(a) Making a good faith complaint about a defect in the premises to an elected public official or a local housing code enforcement agency.

(b) Complaining to the landlord about a violation of s. 704.07 or a local housing code applicable to the premises.

(c) Exercising a legal right related to residential tenancies.

(2) Notwithstanding sub. (1), a landlord may bring an action for possession of the premises if the tenant has not paid rent other than a rent increase prohibited by sub. (1).

(3) This section does not apply to complaints made about defects in the premises caused by the negligence or improper use of the tenant who is affected by the action or inaction.

History: 1981 c. 286.

704.50 Disclosure duty; immunity for providing notice about the sex offender registry. (1) Except as provided in sub. (2), a landlord or his or her agent has no duty to disclose to any person in connection with the rental of real property any information related to the fact that a particular person is required to register as a sex offender under s. 301.45 or any information about the sex offender registry under s. 301.45.

(2) If, in connection with the rental of real property, a person requests of a landlord or his or her agent information related to whether a particular person is required to register as a sex offender under s. 301.45 or any other information about the sex offender registry under s. 301.45, the landlord or agent has a duty to disclose such information, if the landlord or agent has actual knowledge of the information.

(3) Notwithstanding sub. (2), the landlord or agent is immune from liability for any act or omission related to the disclosure of information under sub. (2) if the landlord or agent in a timely manner provides to the person requesting the information written notice that the person may obtain information about the sex offender registry and persons registered with the registry by contacting the department of corrections. The notice shall include the appropriate telephone number and Internet site of the department of corrections.

History: 1999 a. 89.

704.90 Self-service storage facilities. (1) Definitions.

In this section:

(a) “Default” means the lessee fails to pay rent or other charges due under a rental agreement for a period of 7 consecutive days after the due date under the rental agreement.

(amb) “Last-known address” means the address provided by a lessee to an operator in the most recent rental agreement between the lessee and the operator or the address provided by a lessee to an operator in a written notice of a change of address, whichever address is provided later.

(b) “Leased space” means a self-service storage unit or a space located within a self-service storage facility that a lessee is entitled to use for the storage of personal property on a self-service basis pursuant to a rental agreement and that is not rented or provided to the lessee in conjunction with property for residential use by the lessee.

(c) “Lessee” means a person entitled to the use of a leased space, to the exclusion of others, under a rental agreement, or the person’s sublessee, successor or assign.

(d) “Operator” means the owner, lessee or sublessee of a self-service storage facility or of a self-service storage unit, an agent of any of them or any other person who is authorized by the owner, lessor or sublessor to manage the self-service storage facility or unit or to receive rent from a lessee under a rental agreement.

(e) “Personal property” means movable property not affixed to land, including goods, wares, merchandise, motor vehicles, watercraft, household items and furnishings.

(f) “Rental agreement” means a lease or agreement between a lessee and an operator that establishes or modifies any provisions concerning the use of a leased space, including who is entitled to the use of the leased space.

(g) “Self-service storage facility” means real property containing leased spaces but does not include a warehouse or other facility if the operator of the warehouse or facility issues a warehouse receipt, bill of lading or other document of title for personal property stored in the leased spaces.

(h) “Self-service storage unit” means a box, shipping container, or trailer that is leased by a tenant primarily for use as a storage space whether the box, shipping container, or trailer is located at a facility owned or operated by the owner or at a location designated by the tenant.

(2) Use of leased space. (a) An operator may not knowingly permit a leased space to be used for residential purposes.

(b) A lessee may not use a leased space for residential purposes.

(2m) Written rental agreement. Every rental agreement shall be in writing and shall contain a provision allowing the lessee to specify the name and last-known address of a person who, in addition to the lessee, the operator is required to notify under sub. (5) (b) 1. If the rental agreement contains a provision that places a limit on the value of property that is stored in the leased space, that provision shall be typed in bold type or underlined type of the same size as the remainder of the agreement.

(3) Lien and notice in rental agreement. (a) An operator has a lien on all personal property stored in a leased space for rent and other charges related to the personal property, including expenses necessary to the preservation, removal, storage, preparation for sale and sale of the personal property. The lien attaches as of the first day the personal property is stored in the leased space and is superior to any other lien on or security interest in the personal property except for a statutory lien or a security interest that is perfected by filing prior to the first day the personal property is stored in the leased space, a security interest in a vehicle perfected under ch. 342 or a security interest in a boat perfected under ch. 305.

(b) A rental agreement shall state in boldface type that the operator has a lien on personal property stored in a leased space and that the operator may satisfy the lien by selling the personal property, as provided in this section, if the lessee defaults or fails to pay rent for the storage of personal property abandoned after the termination of the rental agreement.

(c) If the rental agreement contains a limit on the value of property stored in the lessee’s storage space, the limit shall be presumed to be the maximum value of the property stored in that space.

(4) Care and custody. Except as provided in the rental agreement and in this section, a lessee has exclusive care, custody and control of personal property stored in the lessee’s leased space.

(4b) Late fee. (a) The operator may charge a reasonable late fee for each month a lessee does not pay rent by 5 weekdays after the rent is due if the amount of the late fee is contained in the rental agreement.

(b) A late fee of $20 or 20 percent of the monthly rental amount, whichever is greater, is presumed reasonable. An operator may charge a higher late fee but has the burden of proof that the higher late fee is reasonable.

(4g) Default or failure to pay after termination. A lessee who defaults or fails to pay rent for the storage of personal prop...
(4r) DENIAL OF ACCESS; REMOVAL AND STORAGE. (a) If a lessee defaults, an operator may deny the lessee access to the personal property until the lessee redeems the personal property under sub. (5) (a).

(b) After the termination, by expiration or otherwise, of a rental agreement for the use of a leased space by a lessee, an operator may remove personal property remaining in the leased space and store the personal property at another site or within or outside the self–service storage facility or move the self–service storage unit to another site, or the operator may continue to store the personal property in the leased space, and the operator may deny the former lessee access to the personal property until the lessee redeems the personal property under sub. (5) (a). The operator may charge a reasonable rent for storage of the personal property, whether at another site or in the leased space. A former lessee who fails to pay the rent is subject to all procedures and remedies set forth in this section for default.

(5) REDEMPTION AND NOTICE OF OPPORTUNITY TO REDEEM. (a) At any time prior to disposal under sub. (5m) or sale under sub. (6), a lessee may redeem personal property by paying the operator any rent and other charges due. Upon receipt of such payment, the operator shall return the personal property, and thereafter the operator shall have no liability to any person with respect to such personal property.

(b) An operator may not dispose of personal property under sub. (5m) or sell personal property under sub. (6) unless the operator first delivers the following 2 notices:

1. A first notice sent by regular mail to the last–known address of the lessee and the person, if any, specified in the rental agreement under sub. (2m) containing all of the following:
   a. Notification that the lessee is in default or has failed to pay rent for the storage of personal property abandoned after the termination of the rental agreement or both.
   b. A brief and general description of the personal property subject to the lien that is reasonably adequate to permit the lessee to identify it, except that any container including, but not limited to, a trunk, valise or box that is locked, fastened, sealed or tied in a manner which deters immediate access to its contents may be described as such without describing its contents.
   c. A notice of denial of access to the personal property if such denial is permitted under the terms of the rental agreement or under sub. (4r).
   d. The name, street address and telephone number of the operator whom the lessee may contact to redeem the personal property by paying the rent and other charges due.

2. A 2nd notice sent by certified mail or 1st class mail with a certificate of mailing to the last–known address of the lessee containing all of the following:
   a. A statement that the operator has a lien on personal property stored in a leased space.
   b. A brief and general description of the personal property subject to the lien that is reasonably adequate to permit the lessee to identify it, except that any container including, but not limited to, a trunk, valise or box that is locked, fastened, sealed or tied in a manner which deters immediate access to its contents may be described as such without describing its contents.
   c. A notice of denial of access to the personal property if such denial is permitted under the terms of the rental agreement or under sub. (4r).
   d. An itemized statement of the operator's claim for rent and other charges due as of the date of the notice and of additional rent and other charges that will become due prior to sale and the dates when they will become due.
   e. A demand for payment of the rent and other charges due within a time period not sooner than 14 days after the date of the notice.

(5m) DISPOSITION OF CERTAIN PROPERTY. If the fair market value of the personal property that was stored in the lessee's leased space is less than $100, an operator may do any of the following:

(a) Donate the personal property to an organization described in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under s. 501 (a) of the Internal Revenue Code.

(b) Dispose of the personal property in a solid waste facility.

(c) Have the personal property recycled.

(d) Dispose of the personal property in another manner that is reasonable under the circumstances.

(6) SALE, ADVERTISEMENT OF SALE AND PROCEEDS OF SALE. (a) After the expiration of the time period given in the 2nd notice under sub. (5) (b) 2. c., an operator may sell personal property that was stored in a lessee's leased space to satisfy the lien under sub. (3) (a) in the manner set forth in pars. (b) and (c) if all of the following conditions are met:

1. The operator has complied with the notice requirements under sub. (5) (b).

2. The lessee has failed to redeem the personal property under sub. (5) (a) within the time period specified in the notice under sub. (5) (b) 2. c.

3. An advertisement of the sale is published once a week for 2 consecutive weeks in a newspaper of general circulation where the self–service storage facility or unit is located.

4. The advertisement under sub. 4. contains all of the following:

   a. A brief and general description of the personal property reasonably adequate to permit its identification, as provided in the notices under sub. (5) (b).

   b. The address of the self–service storage facility or of the operator of the self–service storage unit and the name of the lessee.

5. The sale takes place not sooner than 15 days after the first publication under sub. 4.

6. The sale conforms to the terms of the notices under sub. (5) (b) and to any of the following:

   a. The personal property is offered either as a single parcel or multiple parcels at a public sale attended by 3 or more bidders.

   b. The personal property has been offered to at least 3 persons who deal in the type of personal property offered for sale and is sold in a private transaction.

   c. The personal property is sold in another manner that is commercially reasonable.

7. The sale is held at the self–service storage facility, at the self–service storage unit, or at the nearest suitable place to the place where the personal property is stored.

8. (b) The operator shall report and deliver any balance to the state treasurer as provided under ch. 177.

9. (c) A purchaser in good faith of personal property sold takes the personal property free and clear of any rights of any person against whom the lien under sub. (3) (a) was valid and any rights of any other lienholder, regardless of any noncompliance with the requirements of this section by any person.
(7) Notice, presumption of delivery. Notice by mailing under sub. (5) (b) is presumed delivered if deposited with the U.S. postal service, properly addressed to the last-known address of the lessee or person specified in the rental agreement under sub. (2m) with postage prepaid.

(8) Supplemental nature of section. This section does not impair or affect in any way the right of parties to create liens by special contract or agreement, nor does it impair or affect any lien not arising under this section, whether the other lien is statutory or of any other nature.

(9) Rules. The department of agriculture, trade and consumer protection may promulgate rules necessary to carry out the purposes of this section.

(10) Penalties. (a) Except as provided in par. (b), any person who violates this section or any rule promulgated under this section may be required to forfeit not more than $1,000 for the first offense and may be required to forfeit not more than $3,000 for the 2nd or any later offense within a year. Each day of continued violation constitutes a separate offense. The period shall be measured by using the dates of the offenses which resulted in convictions.

(b) Paragraph (a) does not apply to a lessee who violates sub. (4g) or (4r) (b) because he or she defaults or fails to pay rent for the storage of personal property abandoned after the termination of the rental agreement.

(c) Forfeitures under par. (a) shall be enforced by action on behalf of the state by the department of justice or by the district attorney of the county where the violation occurs.

(11) Duties of the department of agriculture, trade and consumer protection. (a) Except as provided in par. (c), the department of agriculture, trade and consumer protection shall investigate alleged violations of this section and rules promulgated under sub. (9). To facilitate its investigations, the department may subpoena persons and records and may enforce compliance with the subpoenas as provided in s. 885.12.

(b) Except as provided in par. (a), the department may, on behalf of the state, bring an action for temporary or permanent injunctive or other relief in any court of competent jurisdiction for any violation of this section or any rule promulgated under sub. (9).

(12) Right to action for violation. In addition to the remedies otherwise provided by law, a lessee injured by a violation of this section or any rule promulgated under sub. (9) may bring a civil action to recover damages together with costs, disbursements and reasonable attorney fees, notwithstanding s. 814.04 (1) and any equitable relief as may be determined by the court.

History: 1987 a. 23; 1991 a. 39; 1995 a. 27; 2005 a. 461; 2009 a. 380; 2011 a. 260 s. 80. "Any person injured" in sub. (12) is not limited to a "lessee" as defined in sub. (1) (c). This section protects the interests in personal property of persons who are authorized to store their property in a leased space pursuant to the rental agreement, whether or not they are lessees. Cook v. Public Storage, Inc. 2008 WI App 155, 314 Wis. 2d 426, 761 N.W.2d 645, 07-2077.

To construe "the address provided by a lessee to an operator in the most recent rental agreement" in sub. (1) (am), to mean the correct address actually provided by a lessee in an information form is more reasonable than to construe it to mean the incorrect address that the operator transferred to the rental agreement. It is more reasonable to place the responsibility on the operator to accurately transfer the address to the rental agreement than on the lessee to catch the operator's mistake. Cook v. Public Storage, Inc. 2008 WI App 155, 314 Wis. 2d 426, 761 N.W.2d 645, 07-2077.

"Provided by a lessee" in the definition of "last-known address" in sub. (1) (am), does not expressly require that the lessee provide the address in person. It is more reasonable to construe "the address provided by a lessee" to include an address provided by a person acting on behalf of the lessee who the operator knows is acting on the lessee's behalf than it is to restrict it to the lessee himself or herself. Cook v. Public Storage, Inc. 2008 WI App 155, 314 Wis. 2d 426, 761 N.W.2d 645, 07-2077.

While excess proceeds from sales under sub. (6) are presumed abandoned, nothing in ch. 177 suggests that this presumption may not be overcome. Nothing suggests that the holder may continue to hold the excess proceeds even if the person whose property was sold presents himself or herself to the holder or otherwise contacts the holder. Cook v. Public Storage, Inc. 2008 WI App 155, 314 Wis. 2d 426, 761 N.W.2d 645, 07-2077.

The attorney fee provision in sub. (12) is the incentive for private parties to bring actions to enforce this section. It is unreasonable to read this section to permit a contract provision to eliminate or reduce reasonable attorney fees. The same conclusion applies with respect to compensatory damages. A contract provision preventing punitive damages was against public policy. Cook v. Public Storage, Inc. 2008 WI App 155, 314 Wis. 2d 426, 761 N.W.2d 645, 07-2077.

704.95 Practices regulated by the department of agriculture, trade and consumer protection. Practices in violation of this chapter may also constitute unfair methods of competition or unfair trade practices under s. 100.20. However, the department of agriculture, trade and consumer protection may not issue an order or promulgate a rule under s. 100.20 that changes any right or duty arising under this chapter.

History: 2011 a. 143.
Chapter ATCP 134
RESIDENTIAL RENTAL PRACTICES

ATCP 134.01 Scope and application. This chapter is adopted under authority of s. 100.20, Stats. This chapter applies to the rental of dwelling units located in this state, but does not apply to the rental or occupancy of any of the following:

(1) A dwelling unit operated by a public or private institution if occupancy is incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar services.

(2) A dwelling unit occupied by a member of a fraternal or social organization which operates that dwelling unit.

(3) A dwelling unit occupied, under a contract of sale, by the purchaser of the dwelling unit or the purchaser’s successor in interest.

(4) A dwelling unit, such as a dwelling unit in a hotel, motel or boarding house, that is being rented only by tourist or transient occupants.

(5) A dwelling unit which the landlord provides free of charge to any person, or which the landlord provides as consideration to a person whom the landlord currently employs to operate or maintain the premises.

(6) A dwelling unit occupied by a tenant who is engaged in commercial agricultural operations on the premises.

(7) A dwelling unit owned and operated by government, or a subdivision or agency of government.

History: Cr. Register, February, 1980, No. 250, eff. 5-1-80; am. (intro.), (1) to (6), Register, December, 1998, No. 516, eff. 1-1-99; am. (7), Register, June, 1999, No. 522, eff. 7-1-99.

ATCP 134.02 Definitions. (1) “Building and housing codes” means laws, ordinances, or governmental regulations concerning the construction, maintenance, habitability, operation, occupancy, use or appearance of any premises or dwelling unit.

(1m) “Consumer credit report” has the meaning given for “consumer report” in 15 USC 1681a(d).

(1r) “Consumer reporting agency that compiles and maintains files on consumers on a nationwide basis” has the meaning given in 15 USC 1681a(p), and includes the agency’s contract affiliates.

(2) “Dwelling unit” means a structure or part of a structure that is primarily used as a home, residence, or place of abode. The term includes a mobile home or mobile home site as defined in s. ATCP 125.01 (1) and (7).

(3) “Earnest money deposit” means the total of any payments or deposits, however denominated or described, given by a prospective tenant to a landlord in return for the option of entering into a rental agreement in the future, or for having a rental agreement considered by a landlord. “Earnest money deposit” does not include a fee which a landlord charges for a credit check in compliance with s. ATCP 134.05 (3).

(5) “Landlord” means the owner or lessee of a dwelling unit under any rental agreement, and any agent acting on the owner’s or lessee’s behalf. The term includes sublessors, other than persons subleasing individual units occupied by them.

(6) “Lease” means a lease as defined in s. 704.01 (1), Stats.

(7) “Owner” means one or more persons, jointly or severally, vested with all or part of the legal title to the premises or all or part of the beneficial ownership and right to present use and enjoyment of the premises. The term includes a mortgagee in possession.

(8) “Person” means an individual, partnership, corporation, association, estate, trust, and any other legal or business entity.

(9) “Premises” means a dwelling unit and the structure of which is a part and all appurtenances, grounds, areas, furnishings and facilities held out for the use or enjoyment of the tenant or tenants generally.

(10) “Rental agreement” means an oral or written agreement, for the rental or lease of a specific dwelling unit or premises, in which the landlord and tenant agree on essential terms of tenancy such as rent. “Rental agreement” includes a lease. “Rental agreement” does not include an agreement to enter into a rental agreement in the future.

History: By approving an individual as a prospective tenant, a landlord does not necessarily enter into a “rental agreement” with that individual, or vice versa. A “rental agreement” (creating a tenancy interest in real estate) arises only after the parties agree on the essential terms of tenancy, including the specific dwelling unit which the tenant will occupy and the amount of rent which the tenant will pay for that dwelling unit.

(11) “Security deposit” means the total of all payments and deposits given by a tenant to the landlord as security for the performance of the tenant’s obligations, and includes all rent payments in excess of 1 month’s prepaid rent.

(12) “Tenant” means a person occupying, or entitled to present or future occupancy of a dwelling unit under a rental agreement, and includes persons occupying dwelling units under periodic tenancies and tenancies at will. The term applies to persons holding over after termination of tenancy until removed from the dwelling unit by sheriff’s execution of a judicial writ of restitution issued under s. 799.44, Stats. It also applies to persons entitled to the return of a security deposit, or an accounting for the security deposit.

(13) “Tenancy” means occupancy, or a right to present occupancy under a rental agreement, and includes periodic tenancies and tenancies at will. The term does not include the occupancy of a dwelling unit without consent of the landlord after expiration of a lease or termination of tenancy under ch. 704, Stats.

(14) “Tourist or transient occupants” means tourists or other persons who occupy a dwelling unit for less than 60 days while traveling away from their permanent place of residence.

History: Cr. Register, February, 1980, No. 250, eff. 5-1-80; am. (2), Register, February, 1987, No. 374, eff. 3-1-87; correction in (12) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1993, No. 448; cr. (1m), (1r) and (14), am. (3) and (10), r. (4), Register, December, 1998, No. 516, eff. 1-1-99.

ATCP 134.03 Rental agreements and receipts. (1) COPIES OF RENTAL AGREEMENTS, RULES. Rental agreements and rules and regulations established by the landlord, if in writing, shall be furnished to prospective tenants for their inspection.
before a rental agreement is entered into, and before any earnest money or security deposit is accepted from the prospective tenant. Copies shall be given to the tenant at the time of agreement.

(2) RECEIPTS FOR TENANT PAYMENTS. (a) Immediately upon accepting any earnest money or security deposit, the landlord shall provide the tenant or prospective tenant with a written receipt for the deposit, stating the nature of the deposit and its amount. A receipt is not required where payment is made by check bearing a notation describing the purpose for which it was given, unless requested by the tenant.

(b) If a tenant pays rent in cash, the landlord upon receiving the cash payment shall provide the tenant with a written receipt stating the nature and amount of the payment. A landlord is not required to provide a receipt for rent payments made by check.

History: Cr. Register, February, 1980, No. 390, eff. 5–1–80; rew. (2) to be (2) (a), cr. (2) (b), Register, December, 1998, No. 516, eff. 1–1–99.

ATCP 134.04 Disclosure requirements. (1) IDENTIFICATION OF LANDLORD OR AUTHORIZED AGENTS. (a) The landlord shall, except as provided under par. (c), disclose to the tenant in writing, at or before the time a rental agreement is entered into, the name and address of:

1. The person or persons authorized to collect or receive rent and manage and maintain the premises, and who can readily be contacted by the tenant; and

2. The owner of the premises or other person authorized to accept service of legal process and other notices and demands on behalf of the owner. The address disclosed under this subdivision shall be an address within the state at which service of process can be made in person.

(b) A landlord shall keep tenants informed of changes, if any, in the information required under par. (a). The landlord shall mail or deliver written notice of each change within 10 business days after the change occurs.

(c) This subsection does not apply to an owner-occupied structure containing no more than 4 dwelling units.

(2) CODE VIOLATIONS AND CONDITIONS AFFECTING HABITABILITY. Before entering into a rental agreement or accepting any earnest money or security deposit from the prospective tenant, the landlord shall disclose to the prospective tenant:

(a) All uncorrected building and housing code violations of which the landlord has received notice from code enforcement authorities, and which affect the individual dwelling unit and common areas of the premises. Disclosure shall be made by exhibiting to the prospective tenant those portions of the building and housing code notices or orders which have not been fully complied with. Code violations shall not be considered corrected until their correction has been reported to code enforcement authorities.

(b) The following conditions affecting habitability, the existence of which the landlord knows or could know on basis of reasonable inspection, whether or not notice has been received from code enforcement authorities:

1. The dwelling unit lacks hot or cold running water.

2. Heating facilities serving the dwelling unit are not in safe operating condition, or are not capable of maintaining a temperature, in all living areas of the dwelling unit, of at least 67° F (19° C) during all seasons of the year in which the dwelling unit may be occupied. Temperatures in living areas shall be measured at the approximate center of the room, midway between floor and ceiling.

3. The dwelling unit is not served by electricity, or the electrical wiring, outlets, fixtures or other components of the electrical system are not in safe operating condition.

4. Any structural or other conditions in the dwelling unit or premises which constitute a substantial hazard to the health or safety of the tenant, or create an unreasonable risk of personal injury as a result of any reasonably foreseeable use of the premises other than negligent use or abuse of the premises by the tenant.

5. The dwelling unit is not served by plumbing facilities in good operating condition.

6. The dwelling unit is not served by sewage disposal facilities in good operating condition.

(3) UTILITY CHARGES. If charges for water, heat or electricity are not included in the rent, the landlord shall disclose this fact to the tenant before entering into a rental agreement or accepting any earnest money or security deposit from the prospective tenant. If individual dwelling units and common areas are not separately metered, and if the charges are not included in the rent, the landlord shall disclose the basis on which charges for utility services will be allocated among individual dwelling units.

Note: A sample form which landlords may use to make the disclosures required under s. ATCP 134.04 is contained in the department publication, "Landlords and Tenants — The Wisconsin Way." You may obtain a copy of this publication by calling the department's toll-free Consumer Hotline, 1-800-422-7128, or by sending a written request to:

Division of Trade and Consumer Protection
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708–8911

History: Cr. Register, February, 1980, No. 390, eff. 5–1–80; am. (1) (b), (2) (b) 1. and 2., cr. (2) (b) 5, 6. and 6., Register, December, 1998, No. 516, eff. 1–1–99.

ATCP 134.05 Earnest money deposits and credit check fees. (1) ACCEPTING AN EARNEST MONEY DEPOSIT. A landlord may not accept an earnest money deposit or security deposit from a rental applicant until the landlord identifies to the applicant the dwelling unit or units for which that applicant is being considered for tenancy.

Note: A credit check fee authorized under sub. (4) is not an "earnest money deposit" or a "security deposit." See definition of "earnest money deposit" under s. ATCP 134.02(3).

(2) REFUNDING OR CREDITING AN EARNEST MONEY DEPOSIT. (a) A landlord who receives an earnest money deposit from a rental applicant shall send the full deposit to the applicant by first-class mail, or shall deliver the full deposit to the applicant, by the end of the next business day after any of the following occurs:

1. The landlord rejects the rental application or refuses to enter into a rental agreement with the applicant.

2. The applicant withdraws the rental application before the landlord accepts that application.

3. The landlord fails to approve the rental application by the end of the third business day after the landlord accepts the application for earnest money deposit, or by a later date to which the tenant agrees in writing. The later date may not be more than 21 calendar days after the landlord accepts the earnest money deposit.

(b) A landlord who receives an earnest money deposit from a rental applicant shall do one of the following if the landlord enters into a rental agreement with that applicant:

1. Apply the earnest money deposit as rent or as a security deposit.

2. Return the earnest money deposit to the tenant.

(c) A person giving an earnest money deposit to a landlord does not waive his or her right to the full refund or credit owed under par. (a) or (b) merely by accepting a partial payment or credit of that amount.

(3) WITHHOLDING AN EARNEST MONEY DEPOSIT. (a) A landlord may withhold from a properly accepted earnest money deposit if the prospective tenant fails to enter into a rental agreement after being approved for tenancy, unless the landlord has significantly altered the rental terms previously disclosed to the tenant.

(b) A landlord may withhold from an earnest money deposit, under par. (a), an amount sufficient to compensate the landlord for actual costs and damages incurred because of the prospective tenant's failure to enter into a rental agreement. The landlord may not withhold for lost rents unless the landlord has made a reasonable effort to mitigate those losses, as provided under s. 704.29, Stats.
ATCP 134.06 Security deposits. (1) CHECK-IN PROCEDURES; PRE-EXISTING DAMAGES. (a) Before a landlord accepts a security deposit, or converts an earnest money deposit to a security deposit under s. ATCP 134.05, the landlord shall notify the tenant in writing that the tenant may do any of the following by a specified deadline date which is not less than 7 days after the start of tenancy:

1. Inspect the dwelling unit and notify the landlord of any pre-existing damages or defects.
2. Request a list of physical damages or defects, if any, charged to the previous tenant’s security deposit. The landlord may require the tenant to make this request, if any, in writing.

(b) If a tenant makes a request under par. (a) 2., the landlord shall provide the tenant with a list of all physical damages or defects charged to the previous tenant’s security deposit, regard less if those damages or defects have been repaired. The landlord shall provide the list within 30 days after the landlord receives the request, or within 7 days after the landlord notifies the previous tenant of the security deposit deductions, whichever occurs later. The landlord may explain that some or all of the listed damages or defects have been repaired, if that is the case. The landlord need not disclose the previous tenant’s identity, or the amounts withheld from the previous tenant’s security deposit.

(2) RETURNING SECURITY DEPOSITS. (a) Within 21 days after a tenant surrenders the rental premises, the landlord shall deliver or mail to the tenant the full amount of any security deposit held by the landlord, less any amounts properly withheld by the landlord under sub. (3).

Note: A rent payment in excess of one month’s prepaid rent is considered a security deposit as defined under s. ATCP 134.02 (11). This chapter does not prevent a landlord from collecting more than one month’s prepaid rent. However, if the landlord holds any rent prepayment in excess of one month’s prepaid rent. However, if the landlord holds any rent prepayment in excess of one month’s prepaid rent when the tenant surrenders the premises, the landlord must treat that excess as a “security deposit” under sub. (2).

Note: See Pierce v. Norwick, 202 Wis. 2d 588 (1996), regarding the award of damages claims for failure to comply with provisions of this chapter related to security deposits and earnest money deposits.

(b) A tenant surrenders the premises under par. (a) on the last day of tenancy provided under the rental agreement, except that:

1. If the tenant vacates the last day of tenancy provided under the rental agreement, and gives the landlord written notice that the tenant has vacated, surrender occurs when the landlord receives the written notice that the tenant has vacated. If the tenant mails the notice to the landlord, the landlord is deemed to receive the notice on the second day after mailing.

2. If the tenant vacates the premises after the last day of tenancy provided under the rental agreement, surrender occurs when the landlord learns that the tenant has vacated.

3. If the tenant is evicted, surrender occurs when a writ of restitution is executed, or the landlord learns that the tenant has vacated, whichever occurs first.

(c) If a tenant surrenders the premises without a forwarding address, the landlord may mail the security deposit to the tenant’s last known address.

(d) If a landlord returns a security deposit in the form of a check, draft or money order, the landlord shall make the check, draft or money order payable to all tenants who are parties to the rental agreement, unless the tenants designate a payee in writing.

(e) A tenant does not waive his or her right to the full amount owed under par. (a) merely by accepting a partial payment of that amount.

(3) SECURITY DEPOSIT WITHHOLDING; RESTRICTIONS. (a) A landlord may withhold from a tenant’s security deposit only for the following:

1. Tenant damage, waste or neglect of the premises.
2. Unpaid rent for which the tenant is legally responsible, subject to s. 704.29, Stats.
3. Payment which the tenant owes under the rental agreement for utility service provided by the landlord but not included in the rent.
4. Payment which the tenant owes for direct utility service provided by a government-owned utility, to the extent that the landlord becomes liable for the tenant’s nonpayment.
5. Unpaid mobile home parking fees which a local unit of government has assessed against the tenant under s. 66.0435 (3), Stats., to the extent that the landlord becomes liable for the tenant’s nonpayment.
6. Other reasons authorized in the rental agreement according to par. (b).

(b) A rental agreement may include one or more nonstandard rental provisions which authorize a landlord to withhold from a tenant’s security deposit for reasons not identified under par. (a). The landlord shall include the nonstandard provisions, if any, in a separate written document entitled “NONSTANDARD RENTAL PROVISIONS” which the landlord provides to the tenant. The landlord shall specifically identify and discuss each nonstandard provision with the tenant before the tenant enters into any rental agreement with the landlord. If the tenant signs or initial a nonstandard rental provision, it is rebuttably presumed that the landlord has specifically identified and discussed that nonstandard provision with the tenant, and that the tenant has agreed to it.

Note: The separate written document under par. (b) may be pre-printed.

(c) This subsection does not authorize a landlord to withhold a security deposit for normal wear and tear, or for other damages or losses for which the tenant cannot reasonably be held responsible under applicable law.

Note: For example, a landlord may not withhold from tenant’s security deposit for routine painting or carpet cleaning, where there is no unusual damage caused by tenant abuse.

(4) SECURITY DEPOSIT WITHHOLDING; STATEMENT OF CLAIMS. (a) If any portion of a security deposit is withheld by a landlord, the landlord shall, within the time period and in the manner specified under sub. (2), deliver or mail to the tenant a written statement accounting for all amounts withheld. The statement shall describe each item of physical damages or other claim made against the security deposit, and the amount withheld as reasonable compensation for each item or claim.

(b) No landlord may intentionally misrepresent or falsify any claim against a security deposit, including the cost of repairs, or
withhold any portion of a security deposit pursuant to an intentionally falsified claim.

(5) Tenant failure to leave forwarding address. A landlord who has otherwise complied with this section shall not be considered in violation solely because the postal service has been unable to complete mail delivery to the person addressed. This subsection does not affect any other rights that a tenant may have under law to the return of a security deposit.

Note: “Deliver” includes delivery by an agent of the landlord such as a private courier service.

History: Cr. Register, February, 1980, No. 290, eff. 5-1-80; r. and rec. (1) to (3), Register, December, 1998, No. 516, eff. 1-1—99; correction in (1) (a) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1999, No. 522; correction in (3) (a) 5. made under s. 13.93 (2m) (b) 7., Stats., Register October 2004 No. 586.

ATCP 134.07 Promises to repair. (1) Date of completion. Every promise or representation made by a landlord to a tenant or prospective tenant to the effect that the dwelling unit or any other part of the premises, including furnishings or facilities, will be cleaned, repaired or otherwise improved by the landlord shall specify the date or time period on or within which the cleaning, repairs or improvements are to be completed.

(2) Initial promises in writing. All promises made before the initial rental agreement shall be in writing with a copy furnished to the tenant.

(3) Performance; unavoidable delays. No landlord shall fail to complete the promised cleaning, repairs or improvements on the date or within the time period represented under sub. (1), unless the delay is for reason of labor stoppage, unavailability of supplies or materials, unavoidable casualties, or other causes beyond the landlord’s control. The landlord shall give timely notice to the tenant of reasons beyond the landlord’s control for any delay in performance, and stating when the cleaning, repairs or improvements will be completed.

History: Cr. Register, February, 1980, No. 290, eff. 5-1-80.

ATCP 134.08 Prohibited rental agreement provisions. No rental agreement may:

(1) Authorize the eviction or exclusion of a tenant from the premises, other than by judicial eviction procedures as provided under ch. 799, Stats.

(2) Provide for an acceleration of rent payments in the event of tenant default or breach of obligations under the rental agreement, or otherwise purport to waive the landlord’s obligation to mitigate damages as provided under s. 704.29, Stats.

(3) Require payment, by the tenant, of attorney’s fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement. This does not prevent the recovery of costs or attorney’s fees by a landlord or tenant pursuant to a court order under ch. 799 or 814, Stats.

(4) Authorize the landlord or any agent of the landlord to confess judgment against the tenant in any action arising under the rental agreement.

(5) Relieve, or purport to relieve the landlord from liability for property damage or personal injury caused by negligent acts or omissions of the landlord. This does not affect ordinary maintenance obligations assumed by a tenant under a rental agreement, in accordance with sub. (7) and s. 704.07, Stats.

(6) Impose, or purport to impose liability on a tenant for:

(a) Personal injury arising from causes clearly beyond the tenant’s control.

(b) Property damage caused by natural disasters, or by persons other than the tenant or the tenant’s guests or invitees. This does not affect ordinary maintenance obligations assumed by a tenant under the rental agreement, in accordance with sub. (7) and s. 704.07, Stats.

(7) Waive any statutory or other legal obligation on the part of the landlord to deliver the premises in a fit or habitable condition, or maintain the premises during tenancy.

History: Cr. Register, February, 1980, No. 290, eff. 5-1-80; correction in (1) and (3) made under s. 13.93 (2m), (b) 7., Stats., Register, August, 1990, No. 416; am. (7), Register, December, 1998, No. 516, eff. 1-1-99.

ATCP 134.09 Prohibited practices. (1) Advertising or rental of condemned premises. No landlord may rent or advertise for rent any premises which have been placarded and condemned for human habitation, or on which a notice of intent to place on a condemned, or an order to raze, or to rehabilitate or use, or any similar order has been received under state or local laws or ordinances, until and unless all repairs required to bring the property into compliance with the laws or ordinances have been completed.

(2) Unauthorized entry. (a) Except as provided under par. (b) or (c), no landlord may do any of the following:

1. Enter a dwelling unit during tenancy except to inspect the premises, make repairs, or show the premises to prospective tenants or purchasers, as authorized under s. 704.05 (2), Stats. A landlord may enter for the amount of time reasonably required to inspect the premises, make repairs, or show the premises to prospective tenants or purchasers.

2. Enter a dwelling unit during tenancy except upon advance notice and at reasonable times. Advance notice means at least 12 hours advance notice unless the tenant, upon being notified of the proposed entry, consents to a shorter time period.

(b) Paragraph (a) does not apply to an entry if any of the following applies:

1. The tenant, knowing the proposed time of entry, requests or consents in advance to the entry.

2. A health or safety emergency exists.

3. The tenant is absent and the landlord reasonably believes that entry is necessary to protect the premises from damage.

(c) A rental agreement may include a nonstandard rental provision authorizing a landlord to enter a tenant’s dwelling unit at reasonable times, under circumstances not authorized under par. (a) or (b). The landlord shall include the nonstandard provision in any, in a separate written document entitled “NONSTANDARD RENTAL PROVISIONS” which the landlord provides to the tenant. The landlord shall specifically identify and discuss the nonstandard provision with the tenant before the tenant enters into any rental agreement with the landlord. If the tenant signs or initials the nonstandard rental provision, it is rebuttably presumed that the landlord has specifically identified and discussed that nonstandard provision with the tenant, and that the tenant has agreed to it.

Note: The separate written document under par. (c) may be pre-printed.

(d) No landlord may enter a dwelling unit during tenancy without first announcing his or her presence to persons who may be present in the dwelling unit, and identifying himself or herself upon request.

Note: For example, a landlord may announce his or her presence by knocking or ringing the doorbell. If anyone is present in the dwelling unit, the landlord must then identify himself or herself upon request.

(3) Automatic lease renewal without notice. No landlord shall enforce, or attempt to enforce, an automatic renewal or extension provision in any lease unless, as provided under s. 704.15, Stats., the tenant was given separate written notice of the pending automatic renewal or extension at least 15 days, but no more than 30 days before its stated effective date.

(4) Confiscating personal property. (a) No landlord may seize or hold a tenant’s personal property, or prevent the tenant from taking possession of the tenant’s personal property, except as authorized under s. 704.05 (5), Stats., or a written lien agreement between the landlord and tenant.
(b) A lien agreement under par. (a), if any, shall be executed in writing at the time of the initial rental agreement. The landlord shall include the lien agreement in a separate written document entitled “NONSTANDARD RENTAL PROVISIONS” which the landlord provides to the tenant. The landlord shall specifically identify and discuss the lien agreement with the tenant before the tenant enters into any rental agreement with the landlord. The lien agreement is not effective unless signed or initialed by the tenant.

Note: See s. 704.11, Stats.

(5) RETALIATORY EVICTION. No landlord shall terminate a tenancy or give notice preventing the automatic renewal of a lease, or constructively evict a tenant by any means including the termination or substantial reduction of heat, water or electricity to the dwelling unit, in retaliation against a tenant because the tenant has:

(a) Reported a violation of this chapter or a building or housing code to any governmental authority, or filed suit alleging such violation;

(b) Joined or attempted to organize a tenant’s union or association;

(c) Asserted, or attempted to assert any right specifically accorded to tenants under state or local law.

(6) FAILURE TO DELIVER POSSESSION. No landlord shall fail to deliver possession of the dwelling unit to the tenant at the time agreed upon in the rental agreement, except where the landlord is unable to deliver possession because of circumstances beyond the landlord’s control.

(7) SELF-HELP EVICTION. No landlord may exclude, forcibly evict or constructively evict a tenant from a dwelling unit, other than by an eviction procedure specified under ch. 799, Stats.

(8) LATE RENT FEES AND PENALTIES. (a) No landlord may charge a late rent fee or late rent penalty to a tenant, except as specifically provided under the rental agreement.

(b) Before charging a late rent fee or late rent penalty to a tenant, a landlord shall apply all rent prepayments received from that tenant to offset the amount of rent owed by the tenant.

(c) No landlord may charge any tenant a fee or penalty for non-payment of a late rent fee or late rent penalty.

(9) MISREPRESENTATIONS. (a) No landlord may do any of the following for the purpose of inducing any person to enter into a rental agreement:

1. Misrepresent the location, characteristics or equivalency of dwelling units owned or offered by the landlord.

2. Misrepresent the amount of rent or non-rent charges to be paid by the tenant.

3. Fail to disclose, in connection with any representation of rent amount, the existence of any non-rent charges which will increase the total amount payable by the tenant during tenancy.

(b) No landlord may misrepresent to any person, as part of a plan or scheme to rent a dwelling unit to that person, that the person is being considered as a prospective tenant for a different dwelling unit.

Note: Paragraph (b) prohibits “bait and switch” rental practices by landlords. See also s. 100.18(9), Stats.

History: Cr. Register, January, 1980, No. 290, eff. 5-1-80; am. (2) and (4), Register, December, 1998, No. 516, eff. 1-1-99.

ATCP 134.10 Effect of rules on local ordinances.

(1) This chapter does not prohibit or nullify any local government ordinance with which it is not in direct conflict as provided in sub. (2).

(2) In the event of any direct conflict between this chapter and any local government ordinance, such that compliance with one can only be achieved by violating the other, this chapter shall be controlling.

(3) Compliance with local government ordinances shall not relieve any person from the duty of complying with this chapter.

History: Cr. Register, February, 1980, No. 290, eff. 5-1-80.