



1997 SENATE BILL 348

November 12, 1997 - Introduced by Senator PLACHE, cosponsored by Representatives KUNICKI, HASENOHRL, DOBYNS, RYBA, NOTESTEIN, BAUMGART, RILEY, LA FAVE, GOETSCH, WALKER, KAUFERT and HANSON. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 **AN ACT to amend** 704.17 (1) (c), 704.17 (2) (c), 704.17 (3) (b), 823.113 (title),
2 823.115 (2) (a), 823.115 (2) (b), 823.16 and 893.80 (7); and **to create** 823.113 (1g)
3 of the statutes; **relating to:** evictions of tenants in buildings used for
4 prostitution.

Analysis by the Legislative Reference Bureau

Under current law, any building or structure that is used as a drug house or for criminal gang activity is declared a nuisance and the local government where the property is located may bring an action to abate the nuisance and enjoin the continued use of the property for that purpose. The court, under current law, may do all of the following if a nuisance exists: 1) issue a temporary injunction to prevent the recurrence of the nuisance; 2) order closure of the property; 3) direct removal and sale of personal property; 4) order the sale of the property; or 5) order the razing of the building or structure and sale of the land. Current law allows a property owner to terminate the tenancy of a week-to-week or month-to-month tenant, or of a tenant who is occupying the property under a lease, by giving a 5-day notice to terminate if a law enforcement agency notifies the property owner that the property has been declared a nuisance based on drug use or criminal gang activity. If the tenant objects, the tenancy may not be terminated without proof that the drug use or criminal gang activity exists in that tenant's rental unit or was caused by that tenant. Under current law, no suit may be brought against a law enforcement agency that, in good faith, acts or fails to act to provide the notice to a property owner regarding the existence of one of these nuisances.

This bill extends these provisions to buildings or structures used for the purpose of prostitution.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 704.17 (1) (c) of the statutes is amended to read:

2 704.17 (1) (c) A property owner may terminate the tenancy of a week-to-week
3 or month-to-month tenant if the property owner receives written notice from a law
4 enforcement agency of a city, town or village that a nuisance under s. 823.113 (1), (1g)
5 or (1m) (b) exists in that tenant's rental unit or was caused by that tenant on the
6 property owner's property and if the property owner gives the tenant written notice
7 requiring the tenant to vacate on or before a date at least 5 days after the giving of
8 the notice. The notice shall state the basis for its issuance and the right of the tenant
9 to contest the termination of tenancy in an eviction action under ch. 799. If the
10 tenant contests the termination of tenancy, the tenancy may not be terminated
11 without proof by the property owner by the greater preponderance of the credible
12 evidence of the allegation in the notice from the law enforcement agency of a city,
13 town or village that a nuisance under s. 823.113 (1), (1g) or (1m) (b) exists in that
14 tenant's rental unit or was caused by that tenant.

15 **SECTION 2.** 704.17 (2) (c) of the statutes is amended to read:

16 704.17 (2) (c) A property owner may terminate the tenancy of a tenant who is
17 under a lease for a term of one year or less or who is a year-to-year tenant if the
18 property owner receives written notice from a law enforcement agency of a city, town
19 or village that a nuisance under s. 823.113 (1), (1g) or (1m) (b) exists in that tenant's
20 rental unit or was caused by that tenant on the property owner's property and if the

1 property owner gives the tenant written notice requiring the tenant to vacate on or
2 before a date at least 5 days after the giving of the notice. The notice shall state the
3 basis for its issuance and the right of the tenant to contest the termination of tenancy
4 in an eviction action under ch. 799. If the tenant contests the termination of tenancy,
5 the tenancy may not be terminated without proof by the property owner by the
6 greater preponderance of the credible evidence of the allegation in the notice from
7 the law enforcement agency of a city, town or village that a nuisance under s. 823.113
8 (1), (1g) or (1m) (b) exists in that tenant's rental unit or was caused by that tenant.

9 **SECTION 3.** 704.17 (3) (b) of the statutes is amended to read:

10 704.17 (3) (b) A property owner may terminate the tenancy of a tenant who is
11 under a lease for a term of more than one year if the property owner receives written
12 notice from a law enforcement agency of a city, town or village that a nuisance under
13 s. 823.113 (1), (1g) or (1m) (b) exists in that tenant's rental unit or was caused by that
14 tenant on the property owner's property and if the property owner gives the tenant
15 written notice to vacate on or before a date at least 5 days after the giving of the
16 notice. The notice shall state the basis for its issuance and the right of the tenant
17 to contest the termination of tenancy in an eviction action under ch. 799. If the
18 tenant contests the termination of tenancy, the tenancy may not be terminated
19 without proof by the property owner by the greater preponderance of the credible
20 evidence of the allegation in the notice from the law enforcement agency of a city,
21 town or village that a nuisance under s. 823.113 (1), (1g) or (1m) (b) exists in that
22 tenant's rental unit or was caused by that tenant.

23 **SECTION 4.** 823.113 (title) of the statutes is amended to read:

24 **823.113 (title) Drug or, criminal gang or prostitution house a public**
25 **nuisance.**

1 **SECTION 5.** 823.113 (1g) of the statutes is created to read:

2 823.113 **(1g)** Any building or structure that is used for the purpose of
3 prostitution is a public nuisance and may be proceeded against under this section.

4 **SECTION 6.** 823.115 (2) (a) of the statutes is amended to read:

5 823.115 **(2)** (a) The law enforcement agency of the city, town or village that
6 brought the action, to be used for prostitution-related, gang-related and
7 drug-related law enforcement activities.

8 **SECTION 7.** 823.115 (2) (b) of the statutes is amended to read:

9 823.115 **(2)** (b) The treasurer of the city, town or village that brought the action,
10 to be placed in a fund that is used to provide grants to organizations for prostitution
11 abatement, gang abatement and drug and alcohol treatment programs for residents
12 of the city, town or village that brought the action.

13 **SECTION 8.** 823.16 of the statutes is amended to read:

14 **823.16 Remedy of lessor of place of prostitution.** If In addition to the
15 remedies under s. 704.17 (1) (c), (2) (c) and (3) (b), if the lessee of a place has been
16 convicted of keeping that place as a place of prostitution or if such place has been
17 adjudged a nuisance under this chapter, the lease by which such place is held is void
18 and the lessor shall have the same remedies for regaining possession of the premises
19 as the lessor would have against a tenant holding over the tenant's term.

20 **SECTION 9.** 893.80 (7) of the statutes is amended to read:

21 893.80 **(7)** No suit may be brought against any city, town or village or any
22 governmental subdivision or agency thereof or against any officer, official, agent or
23 employe of any of those entities who, in good faith, acts or fails to act to provide a

1 notice to a property owner that a public nuisance under s. 823.113 (1), (1g) or (1m)

2 (b) exists.

3 (END)