



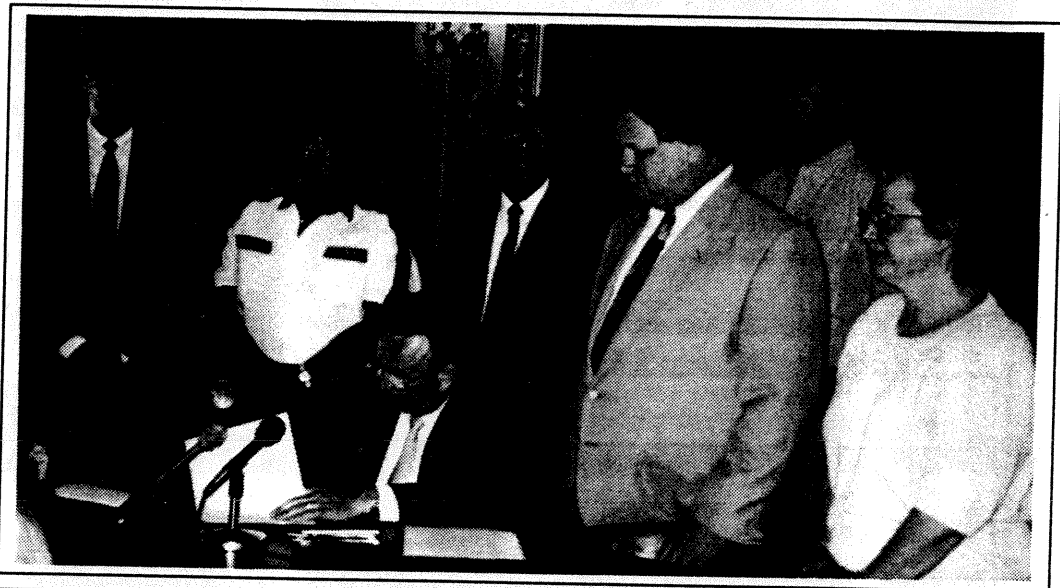
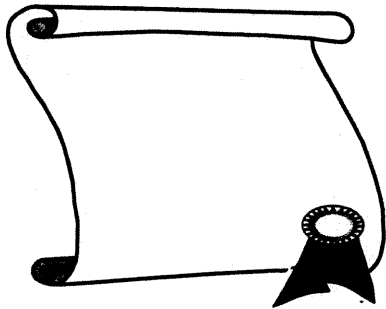
# WISCONSIN APARTMENT NEWS

For The Multi-Housing Industry In Wisconsin

Vol. 19 No. 8 Official Publication Of The Wisconsin Apartment Association AUGUST 1998

## Eviction Bill Signed

By Chet Gerlach, WAA Lobbyist



Attending the signing of AB 872 were, left to right behind Governor Thompson: Wisc. Realtors Assoc. President Dave Stark, Representative of the Apt. Assoc. of SE Wisc., WAA Legislative Analyst Art Luetke, WAA Legislative Co-Chair Jim Campbell, Orville Seymour, State Representative Judy Robson (D-Beloit).

Governor Thompson signed legislation allowing apartment owners to remove personal property left behind by evicted tenants. Under the previous law, apartment owners were required to

hire bonded movers to remove evicted tenants' personal property at the cost of between \$100 to \$1,000. The new law would allow apartment owners to move evicted tenants' personal property if all of the following provisions are satisfied:

1. Notify the sheriff, not later than the date on which the sheriff executes the writ of restitution, of the address of the premises where the defendant's property will be stored.
2. Notify the sheriff, not later than the date on which the sheriff executes the writ of restitution, of the name, address and telephone number of the person the defendant may contact to obtain possession of the property.
3. Exercise ordinary care in removing the property from the premises, and in the handling and storage of all property removed from the premises.
4. Have warehouse, or other receipts issued with respect to the property stored under this paragraph, issued in the name of the defendant.

*Continued from the Cover.....*

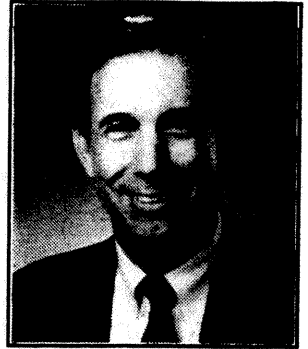
5. Obtain a bond or insurance policy to pay the defendant and indemnify the sheriff for any damages to the property removed from the premises that is handled or stored with less than ordinary care.
6. Impose charges for the removal and storage of the property removed from the premises that do not exceed the rate determined by the sheriff to be the average rate for such services available in the county.
7. Within 3 days of the removal of the property, notify the defendant of the charges imposed and of any receipt or other document required to obtain possession of the property.

Please note that there is risk to apartment owners in using the new law. Under the old law, a bonded mover who was hired by the apartment owner bore the liability in case of damage. Under the new law, if an apartment owner chooses to move personal property, the liability lies with the apartment owner. Please carefully review Jim Campbell's article on this subject on page 6.

Questions have also been raised by members regarding the availability of bonds or insurance. Like any new law, it will take time for bond companies and insurance companies to react. However, to date, we know of at least one bond company which has been selling bonds since the law took effect. We will provide additional

information regarding the availability of bonds and/or insurance in upcoming editions of the *WAA News*. In the mean time, if you have questions, please contact Laura Messner at the WAA office.

In addition to Governor Thompson, we wish to express our thanks to the two primary authors of the bill; Representative Glen Grothman (R-West Bend) and Representative Judy Robson (D-Beloit). Their efforts represented bipartisan cooperation at its best.



**Chet Gerlach**

We would also like to express our thanks to the following Legislators who co-sponsored Assembly Bills 660 and 872. John Ainsworth, Sheryl Albers, Marc Duff, Bob Goetsch, Mark Green, Scott Gunderson, Joe Handrick, Donald Hasenohrl, Tom Hebl, Neal Kedzie, Bonnie Ladwig, John LaFave, Frank Lasee, John Lehman, William Lorge, Terry Musser, Stephen Nass, Alvin Ott, Antonio Riley, Lorraine Seratti, Tony Staskunas, Bob Turner, Scott Walker, David Ward, Sheldon Wasserman, Bob Ziegelbauer, Bob Zukowski; and Senators Alberta Darling, Margaret Farrow, Carol Roessler, Peggy Rosenzweig, Tim Weeden, and Bob Welch.

## CUSTOM 3-DIMENSIONAL

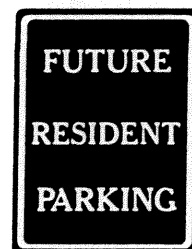
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### Town House Exemption Passes

A bill that would exempt town houses from the State's accessibility standards was included as a provision of the budget adjustment bill. Town houses are already exempt from Federal accessibility standards. This bill will restore uniformity between state and federal law and will allow damaged townhouses to be restored without costly improvements.

Courtesy: *Build Up* 🏠

### Washington UPDATE Real Estate Trends

Optimism is running high among the 302 senior bank examiners and asset managers surveyed in April for the Federal Deposit Insurance Corporation's (FDIC) Quarterly Survey of Real Estate Trends.

Sixty-three percent of the respondents reported improved conditions in the residential markets during the prior three months, the highest proportion in four years and one of the most favorable assessments since the survey began seven years ago. The composite index, which reflects residential and commercial real estate market results nationwide, was 79, up significantly from 72 in January and from 71 in April of 1997.

Scores exceeding 50 indicate more respondents believed market conditions were improving rather than declining. The national residential index jumped 11 points from January to 91. Composite index scores rose in all regions, with the largest gains recorded in the Midwest, up to 12 points to 74. All other regional scores remained high: The West scored 87; the Northeast at 86, and the South at 77. Complete survey results are available on the Internet at : [www.fdic.gov/databank/retrends/index.html](http://www.fdic.gov/databank/retrends/index.html).

Courtesy: *National News* 🏠

### Do's and Don'ts of the New Eviction Law

By Jim Campbell, WAA Legislative Co-chair

Many of us have had the unhappy experience of having to pay a bonded mover to remove an evicted tenant's personal property. Needless to say, the cost of doing so merely adds insult to injury when we've already lost rent and the tenant has possibly caused damage to the apartment. Now, under the new eviction law, which took effect July 15, you have the option to remove the personal property yourself (or you can still elect to use a bonded mover if you prefer). Chet Gerlach, in his article, did an excellent job of summarizing the procedures for doing so,

so I won't repeat them here. It's important to understand, however, what liabilities you may incur, and what you **should not do**.

1. If you elect to remove the personal property, you must use "ordinary care" in moving and storage. If you do not, you may be held liable for any consequent damage. The bond that you must obtain (cost \$50 for \$5,000 of coverage) merely assures the sheriff that he will be paid if there is a claim filed against him by the tenant. The bonding company will then demand reimbursement from YOU. **A bond is not the same as insurance.** (The law does allow you to obtain insurance, but it generally is not available.)

In some instances you may conclude that the liability isn't worth the risk, and might want to consider using the bonded mover option.

2. Do not use the personal property as a bargaining chip to demand payment for unpaid rent or damages. If the tenant requests return of his personal property, you must do so. You may demand payment for moving and storage costs within limits set by the law and nothing more. Unpaid rent and damages are separate issues recoverable through other means.
3. Be sure to comply with Wis. Stats 407.209 and 407.210, which specify your lien rights, notification requirements (registered or certified mail to the tenant's last know address) and the length of time (30 days) that you must store the personal property before disposing of it by private or public sale.
4. Always treat the property with respect, and be especially sensitive to items of a personal nature, such as family photos, medicine or personal papers and documents.

This change was sought by our industry in response to many concerns expressed by our members. It was a hard fought victory. However, I can think of no quicker way to lose this new privilege than by abusing it. If we all follow the procedures set forth by Chet in his article, and remain mindful of the issues I've presented here, the new law should serve us well as an additional tool in our management policies.

We are working closely with Capital Indemnity Corporation to devise easy-to-use forms that will be available from the WAA office or from each Local so that the procedure for obtaining a bond will be fairly simple. We will have more on that in future issues.

If you would like a copy of the new law, you can obtain it from the State's web site under 1997-98 Acts. Click on Act 317, or call the WAA office for a copy. You may also feel free to call me at 608-251-6200 (or e-mail: [campbell.ipc@juno.com](mailto:campbell.ipc@juno.com)) if you have any questions.



# Wisconsin Legislature



## Talking Points

**To:** Interested Parties  
**From:** Rep. Glenn Grothman and Rep. Judy Robson  
**Date:** March 25, 1998  
**Re:** Assembly Substitute Amendment 2 to Assembly Bill 872

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Under current law, landlords face considerable expense when they have to evict tenants for infractions such as nonpayment of rent. They generally don't recover the lost rent, they pay legal and court costs to get the eviction judgment, and they pay law enforcement to execute the eviction judgment. In addition, they must frequently pay movers hundreds or even thousands of dollars to move and store tenant property. These expenses increase the costs of housing for the law-abiding tenants who remain. This reduces the accessibility of housing for those who most need it.

We have come together to offer Assembly Substitute Amendment 2 to Assembly Bill 872. This legislation is slated to come before the Assembly tomorrow. We believe that this amendment meets the spirit of the discussions on evictions in the Ad Hoc Advisory Committee on Residential Rental Practices, convened by the Department of Agriculture last year to re-write Wisconsin's rental practices rules. Here are the primary provisions of this legislation. We urge you to support the bill with Assembly Substitute Amendment 2.

- ***The landlord may choose to remove and store an evicted tenant's property.***
- ***The sheriff shall arrange for removal of the tenant's property, as done under current law, if the landlord does not notify the sheriff of his or her intention to perform the move at the time the writ of restitution (eviction order) is executed. The sheriff may hire a bonded mover for this purpose, as current law provides.***
- ***The sheriff shall supervise the removal and handling of the tenant's property by the landlord, to assure that the property is not abused and in the interest of keeping the peace.***
- ***The sheriff may order tenant property having "no monetary value" to be discarded at the site. This is current law.***
- ***If the landlord moves the property, he or she shall provide a bond or insurance coverage to indemnify the sheriff and pay the tenant for any damages to the tenant's property caused from handling or storing the property with less than ordinary care. The bond or insurance***

***must be filed with the clerk of courts for the county in which the eviction occurs at the time that the sheriff is notified that the landlord will perform his or her own move.***

- ***The sheriff is responsible for exercising "ordinary care" in the removal or the supervision of the removal of the tenant's property, as well as in the handling and storage of the property.***
- ***To protect the tenant's interests, the sheriff may prevent a landlord from moving the property if the landlord fails to:***
  - Notify the sheriff of the address where the tenant's property will be stored.
  - Notify the sheriff of the name, address, and telephone number of the person the defendant may contact to obtain possession of the property.
  - Exercise ordinary care in the removal and handling of the tenant's property.
  - Procure and file a bond or insurance policy as described above.
  - Impose charges for removal and storage of the property which do not exceed the rate determined by the sheriff to be the average rate for such services available in the county.
- ***In addition, the landlord shall have warehouse or other receipts issued with respect to the former tenant's property, taken in the name of the former tenant.***
- ***The landlord must, within three days of removal of the property, notify the former tenant of the removal and storage charges, and of any receipt or other document required to obtain possession of the property.***
- ***The landlord must keep the tenant's property in a place of safekeeping.***
- ***If the landlord stores the tenant's property on the landlord's premises, he or she has the rights and remedies of a warehouse keeper. This allows the landlord to recover for the costs of moving and storage, as regulated by this amendment, before the property is returned to the tenant. The landlord may not hold the tenant's property to obtain unpaid rents or charges unrelated to the costs of moving and storage as defined by this amendment.***
- ***Disposal of unclaimed tenant property shall be carried out in compliance with current law.***

Please feel free to contact Representative Grothman, Representative Robson, or their staff with any questions which you may have on this amendment or this memorandum.

# Vote Record

## Assembly Committee on Housing

Date: 3/18/98  
 Moved by: 872 FOTI      Seconded by: VRAKAS  
 AB: \_\_\_\_\_      Clearinghouse Rule: \_\_\_\_\_  
 AB: \_\_\_\_\_      Appointment: \_\_\_\_\_  
 AJR: \_\_\_\_\_      Other: \_\_\_\_\_  
 A: \_\_\_\_\_      SR: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
 A/S Amdt: 1 to A/S Amdt: \_\_\_\_\_  
 A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

- Be recommended for:
- |  |  |
|--|--|
| <input type="checkbox"/> Passage             | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction        | <input type="checkbox"/> Tabling                 |
| <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence             |
| <input type="checkbox"/> Rejection           | <input type="checkbox"/> Nonconcurrency          |
|  | <input type="checkbox"/> Confirmation            |

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Carol Owens, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Steven Foti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Daniel Vrakas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Steve Wieckert	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <i>RS</i>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Johnnie Morris-Tatum	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. John La Fave	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Leon Young	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Tammy Baldwin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 7      2      \_\_\_\_\_      \_\_\_\_\_

# Vote Record

## Assembly Committee on Housing

Date: 3/18/98  
 Moved by: Foti Seconded by: Kedzie  
 AB: 872 Clearinghouse Rule: \_\_\_\_\_  
 AB: \_\_\_\_\_ SB: \_\_\_\_\_ Appointment: \_\_\_\_\_  
 AJR: \_\_\_\_\_ SJR: \_\_\_\_\_ Other: \_\_\_\_\_  
 A: \_\_\_\_\_ SR: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

- Be recommended for:
- Passage
  - Introduction
  - Adoption
  - Rejection
  - Indefinite Postponement
  - Tabling
  - Concurrence
  - Nonconcurrence
  - Confirmation

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Rep. Carol Owens, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Steven Foti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Daniel Vrakas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Steve Wieckert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Johnnie Morris-Tatum	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. John La Fave	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Leon Young	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Tammy Baldwin	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>4</u>	_____	_____

Motion Carried
  Motion Failed



STATE REPRESENTATIVE  
**ANTONIO R. RILEY**  
18TH ASSEMBLY DISTRICT

March 18, 1998

Rep. Carol Owens, Chairperson  
Assembly Committee on Housing  
State Capitol, Room 105-West  
Madison, Wisconsin

**Re: Substitute amendment to Assembly Bill 872,  
scheduled for executive session today**

Dear Representative Owens and committee members:

I am writing to urge you to reject the substitute amendment to Assembly Bill 872 that Representative Glenn Grothman will be asking you to approve in today's executive session.

In my opinion, Representative Grothman's amendment would make evictions more dangerous for all involved and would give landlords too much discretion over disposing of a family's belongings.

Under current law, sheriffs are responsible for oversight of the removal, handling and storage of the property of an evicted tenant. Under the substitute amendment, the sheriff's responsibility has been limited just to removal of property.

In order to ensure that the tenant's property is not carelessly or maliciously disposed of by a landlord, I'd recommend that this committee follow the lead of the DATCP's ad hoc committee on rental practices and require that the sheriff's involvement be maintained throughout the eviction process. That means that *before* the sheriff turns the property over to the landlord, the sheriff should be convinced that:

- the landlord would exercise reasonable care in handling the tenant's property;
- the landlord would store the property in an appropriate place;
- the landlord had sufficient bonding or insurance;
- the landlord would charge current rates for moving and storage.

It's important to note that while Rep. Grothman's amendment requires landlords to meet these criteria, the amendment doesn't provide that the sheriff's department have oversight to determine that the landlords do in fact meet these criteria.

**Please see next page**



**Page 2**

**Rep. Riley: Assembly Bill 872**

**March 18, 1998**

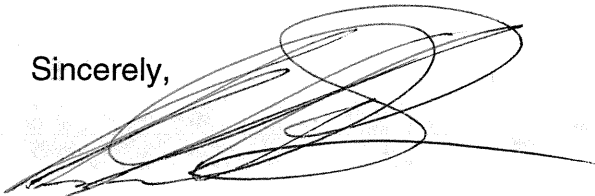
Another major problem with Rep. Grothman's amendment is that it allows landlords to throw away a family's belongings worth up to \$150 in value and—on top of that—allows landlords to trash property even if those belongings exceed \$150 in value as long as the landlord deems some of the property to be of "negligible" value. To give landlords that much discretion—and what, by the way, does negligible mean?—over a family's belongings strikes me as unfair, especially when you consider that evicted families are in such a vulnerable situation.

As you know, Chet Gerlach of the Wisconsin Apartment Association and Joe Murray of the Wisconsin Realtors Association both raised questions about the advisability of Representative Grothman's amendment at your committee's recent public hearing on the bill.

I hope you will weigh these matters carefully as you decide how to vote on Representative Grothman's amendment.

Thanks.

Sincerely,

A handwritten signature in black ink, appearing to read 'Antonio R. Riley', with several overlapping loops and a long horizontal stroke at the bottom.

Antonio R. Riley  
State Representative  
18<sup>th</sup> Assembly District

cc: Assembly Committee on Housing members  
Rep. Kedzie  
Rep. Foti  
Rep. Vrakas  
Rep. Wieckert  
Rep. Morris-Tatum  
Rep. La Fave  
Rep. L. Young  
Rep. Baldwin

# Rental Practices

**To:** All Legislative Colleagues  
**From:** Rep. Glenn Grothman  
**Date:** March 18, 1998  
**Re:** Assembly Bill 842 - Landlord and Tenant Bill (Assembly Substitute Amendment 1)

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Earlier today, you received a memorandum from Bob Andersen of Legal Action of Wisconsin, addressing the provisions of Assembly Substitute Amendment 1 to Assembly Bill 842. The Housing Committee is scheduled to take executive action on this legislation this afternoon. I wish to answer the criticisms of the substitute amendment, as brought forward by Legal Action of Wisconsin.

- *L.A.W Says: The Amendment Takes the Sheriff Out of the Process*

**Reality: The Sheriff Will Supervise the Entire Process of Removal of Property.** According to a March 18, 1998 Legislative Council memorandum on this amendment, "the sheriff is responsible for supervising removal of the property by the landlord or his or her agent." We chose not to require the sheriff to supervise the storage of the property because such a provision would be unworkable as it relates to moves and storage performed by landlords. If a landlord from, for instance, West Bend, were to perform a forced move at his property in Milwaukee, it would be untenable to require the Milwaukee County Sheriff to follow that landlord all the way back to a storage facility in West Bend. The sheriff may also prevent the landlord from performing his or her own move if the landlord fails to exercise ordinary care when handling the property. The tenant's property is, therefore, protected.

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- *L.A.W. Says: The Amendment Removes the Requirement that the Sheriff be Satisfied that the Landlord will Exercise ordinary care, store the property in an appropriate facility, have warehouse receipts, and not charge an exorbitant amount.*

**Reality: The Bill Requires the Landlord Performing His or Her Own Move To Do All of These Things.** Obviously, it is not practical to require that the sheriff be convinced that ordinary care will be exercised by the landlord in storing the property, that receipts for the property will be issued, and the like. There is no way the sheriff could be "convinced" of those things in advance, particularly if the eviction being performed is the first forced move for a particular landlord. Nonetheless, the landlord *must, as a matter of law*, conform to those requirements. The landlord who does not so conform can, simply, be sued.

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- *L.A.W. Says: The Substitute Requires only a bond that will pay for \$50 in damages.*

**Reality: This is a legitimate criticism.** This is a drafting error. We will introduce a simple amendment on the floor to excise the \$50 figure. The effect of this, according to the drafter, is simply to require the landlord to post a bond sufficient to cover the property from damage and loss during the removal and storage. According to landlords who have researched the availability of coverage like that, such a bond would cost roughly \$50.

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- *L.A.W. Says: The Amendment allows landlords to dispose of important personal belongings of families who have been involuntarily evicted from their rental units because it allows landlords to dispose of property that is worth up to \$150 in value.*

**Reality: Tenants know when a forced move is coming, and frequently move their prized possessions in advance.** From the time an eviction proceeding commences, several weeks generally elapse before the move occurs, with numerous and progressively harsher warnings to the tenant to vacate the property in that interim. In Milwaukee in particular, where most of the state's forced moves occur, landlords report that most of what commonly remains at the time of a forced move is the stuff the tenant doesn't care about – old mattresses, dirty clothes, soiled items. If, at the time of the forced move, the sheriff feels that the *total value* of everything in the household is less than \$150, he or she may order the belongings discarded. However, if the aggregate value *exceeds* \$150, then the sheriff must order everything having more than negligible value moved to safekeeping. The image of stormtroopers entering the unit of a surprised family with no warning to move all their belongings is a powerful and emotional image. But it simply isn't realistic.

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- *L.A.W. Says: The County will be liable for decisions made by the sheriff with regard to the value of tenant property.*

**Reality: The bill drafter says this is not the case.** Sheriffs are employees of the county, and would be sued in their official capacity as county employees if they were held liable for their decisions regarding tenant property. Therefore, the protection this amendment extends to sheriffs is extended, by definition, to the county for which they work.

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- *L.A.W. Says: The amendment allows a landlord to recover the "actual costs" of moving, rather than the current rates.*

**Reality: This is true – and is likely good for evicted tenants.** The amendment requires landlords to make a recovery only for their "actual costs" in moving the tenant's property. The landlord who attempts to make recovery for such costs as lost rents may be sued for damages by the tenant. In fact, the landlord's actual costs (gas, friends who helped with the move, the bond against property damage) are likely to be far less than the amount the landlord could sue the tenant for if the bonded movers performed the move. Requiring the landlord to charge "current rates" could, in some jurisdictions, cost the average tenant more than \$1,000.

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- *L.A.W. Says: New Section 799.45 (3)(bm), Created by the Substitute, Changes the Process that Applies to Sales of Property by Warehousemen who Store Property.*

**Reality: This section applies only to evicted tenants.** According to the Legislative Council memorandum referenced earlier, the substitute "provides that persons storing property *removed in an eviction* (emphasis added), whether removed by the sheriff or by the landlord, may sell the property at auction whenever the costs of removal and storage exceed the value of the property . . ." The bill does not affect warehouseman practices outside of the landlord and tenant arena. The bill drafter confirmed this.

***must be filed with the clerk of courts for the county in which the eviction occurs at the time that the sheriff is notified that the landlord will perform his or her own move.***

- ***The sheriff is responsible for exercising "ordinary care" in the removal or the supervision of the removal of the tenant's property, as well as in the handling and storage of the property.***
- ***To protect the tenant's interests, the sheriff may prevent a landlord from moving the property if the landlord fails to:***
  - Notify the sheriff of the address where the tenant's property will be stored.
  - Notify the sheriff of the name, address, and telephone number of the person the defendant may contact to obtain possession of the property.
  - Exercise ordinary care in the removal and handling of the tenant's property.
  - Procure and file a bond or insurance policy as described above.
  - Impose charges for removal and storage of the property which do not exceed the rate determined by the sheriff to be the average rate for such services available in the county.
- ***In addition, the landlord shall have warehouse or other receipts issued with respect to the former tenant's property, taken in the name of the former tenant.***
- ***The landlord must, within three days of removal of the property, notify the former tenant of the removal and storage charges, and of any receipt or other document required to obtain possession of the property.***
- ***The landlord must keep the tenant's property in a place of safekeeping.***
- ***If the landlord stores the tenant's property on the landlord's premises, he or she has the rights and remedies of a warehouse keeper. This allows the landlord to recover for the costs of moving and storage, as regulated by this amendment, before the property is returned to the tenant. The landlord may not hold the tenant's property to obtain unpaid rents or charges unrelated to the costs of moving and storage as defined by this amendment.***
- ***Disposal of unclaimed tenant property shall be carried out in compliance with current law.***

Please feel free to contact Representative Grothman, Representative Robson, or their staff with any questions which you may have on this amendment or this memorandum.

# Talking Points

**To:** Interested Parties  
**From:** Rep. Glenn Grothman  
**Date:** March 16, 1998  
**Re:** Assembly Substitute Amendment 1 to Assembly Bill 872

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I am offering a substitute amendment to this legislation in light of comments received by the Housing Committee at its public hearing on this legislation earlier this month. The substitute amendment rectifies many of the concerns expressed by those testifying at that hearing. It removes issues dealt with by the DATCP Rental Practices Ad Hoc Committee, in order to permit that process to move forward unimpeded. As a result, it deals exclusively with eviction issues, which are largely beyond the ability of DATCP to regulate by rule.

This memo will be followed up by a Legislative Council analysis by Dave Stute.

Assembly Substitute Amendment 1 to Assembly Bill 872, which I urge the Housing Committee to adopt, contains the following provisions:

■ ***Removal of Tenant Property During Evictions:***

- The sheriff shall permit the landlord or his or her agent to remove and store tenant property, if the landlord chooses to do so. The landlord or his or her agent shall be required to exercise ordinary care in the removal and storage of tenant property, and all such property shall be stored in a safe place. The landlord or his or her agent must provide to the sheriff evidence that he or she holds a \$50 surety bond against loss or damage of tenant property during the moving process. The sheriff shall engage the services of a mover or trucker if the landlord chooses not to perform, or to delegate to an agent the performance of, the move and storage of the tenant's property.
- The sheriff shall execute the writ of restitution within 10 days of its issuance by the court.
- The sheriff or his or her deputy shall be present at the time that the tenant's property is removed from the premises, and shall continue to be present until such time as all of the tenant's property has been removed from the property for disposal or safekeeping.
- If the sheriff determines, at the time of the move, that the aggregate value of all of the tenant's property is less than \$150, the sheriff may order the belongings to be removed to a location for disposal. If the aggregate value of the property is adjudged to be equal to or greater than

\$150, the sheriff may order that any individual piece of tenant property of negligible value be discarded, and that other individual items having value be moved and stored by the mover or trucker, or the landlord or his or her agent, as the case may be. *The sheriff shall be held harmless from civil liability for any such decision undertaken in good faith.*

- The landlord shall pay the mover or trucker for charges related to the forced move, unless the landlord or his or her agent is performing the move.
- If the landlord or his or her agent performs the move and property storage, he or she (or his or her agent) shall post a \$50 bond to provide coverage against all perils for the stored property, and shall deliver the property to an "appropriate facility" for storage.
- The mover or, in the event that the landlord or his or her agent has performed the move, then the landlord or his or her agent, shall mail within three days to the last known address of the evicted tenant a notice detailing the location at which the tenant's property is stored and the method for obtaining possession of the property.
- The evicted tenant shall, at the landlord's discretion, pay to the landlord all the actual costs of moving and storage of his or her property before the property is restored to the evicted tenant, if the landlord performed the move and has possession of the tenant's property. Charges for moving shall be established by the landlord, shall not be excessive or punitive, and shall be based on actual costs to the landlord or his or her agent for performing the move. Charges for storage shall be based on the average rate in the county for an equivalent level of storage by a warehouseman.
- The tenant's property shall be held by the warehouseman or landlord until the value of the property is exceeded by the accumulated charges for storage. If the warehouseman or landlord decides at that time to dispose of the property, it shall be disposed of at auction. Auction proceeds shall be used to pay the cost of the auction, and the accrued costs of storage.

## AB 872

Glenn Grothman - (see written testimony.)

→ DATCP formed a committee dealing with issues brought up with bill from 2 years ago (AB 1038)

1) landlord can keep cost of the credit check.

2) tenant should prove they didn't cause the damage.

3) landlord should not have to pay a high cost to move items with no value. 4) Sheriff decides what property is considered "junk".

→ let's not wait for <sup>DATCP</sup> committee to complete their work - besides, they are not addressing these issues.

Orville Seymour - Jan. paper < Milw. Sentinel >

- this legis. is long over due; especially in the Milw. area.

- landlord that abuse the credit ch. fee can be taken after by Atty. General

David Ohmstedt - landlords are being required to "screen" their tenants.

Charging a fee would slow down the "musical" application process, which they do to show landlords will rent to the discrimination cases!

Brenda Kunkel - part of DATCP ad hoc committee

- she prefers recommendation of the committee and compromise on AB 610.

- not happy with "rebuttable presumption" - some tenants are not aware that they need to fill out "clean" sheets.

People will not go to court and give up their security deposit.



Megan  
Hecker

- has worked at Tenant Resource Center.
- \* supports DATCP Adhoc committee work.
- also doesn't like "rebut. pres." → not required for landlords to provide a "ck-in" sheet. \* Include language to require landlords to provide a "ck-in" sheet!

Dawn  
Buchholz

- landlords may pay we'll rent, charge the \$25 just to make money because of 1st intent of not renting to this individual.
- letter of support was written to DATCP

Bob

Andersen

- same complaints as previous speakers. What happens with landlords who cause damage or surrounding neighbors cause the damage? Proof should not be on the tenants — that's why there is security deposits.
- collect reasonable atty. fees → corrects imbalance and that is in current law.
- appl. fee / nothing says how it is used or if it will be returned to the individuals. Should ensure it will be used for the "right" purposes.
- \* AB 610 will exclude Miles County — he is agreeable to this language.
- DATCP process should be used → opposed right now.

Joe  
Munich

Bill  
Omnich

- over 200 people testified at their hearing. See written testimony for Adhoc committee recommendations.

- working with Rep. Roberson on AB 610 to make it workable.
- make tenant responsible for areas outside their apt. — hallway, etc.
- process will be done by summer, take effect on Jan. 1, 1999
  - ↳ every major landlord, tenants, realtors groups were involved with this Adhoc committee.

Chet  
Berlach

- we like proposed bill → however, would rather go with DATCP's proposed rule.
- working with Rep. Roberson on AB 610!

Robert  
Gramlich  
(Janov)

— we need a fee to ct. for credit. Stop people from falsifying info.

Glenn  
Grothman  
STATE REPRESENTATIVE  
59TH ASSEMBLY DISTRICT

# Talking Points

**To:** All Legislative Colleagues  
**From:** Rep. Glenn Grothman  
**Date:** March 5, 1998  
**Re:** 1997 Assembly Bill 872

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## What The Legislation Does

- **Credit Check Charge of up to \$25:** The bill authorizes the landlord to charge up to \$25 to a prospective tenant for the cost of a credit or background check at the time the prospective tenant applies for tenancy.
- **Rebuttable Presumption:** Current law is silent on the assignment of *responsibility* for damages to a dwelling unit. The law allows a landlord to withhold money from a security deposit for "waste or neglect" of the premises, but neither specifies what constitutes waste and neglect nor specifies that a tenant is responsible for damages to a dwelling unit unless a plausible alternative explanation for the damage can be offered. This provision creates a "rebuttable presumption" that any damage occurring to a dwelling unit during a tenancy is the responsibility of the tenant. Because the presumption is rebuttable, a tenant who is the victim of crime (burglary, door broken down by harassing boyfriend, etc . . . ) or who noted existing damage on a check-in sheet can disavow responsibility for damage that he or she did not cause.
- **Removal of Tenant Property:** Under current law, landlords are permitted to remove and store property which the tenant abandons at the end of the lease, and to charge the tenant the cost of moving and storage to recover the property. However, in eviction cases, only the sheriff or his or her designee may remove and store the tenant's property when the tenant ignores previous orders by the sheriff to vacate the premises (a "forced move.") The bill allows the landlord to remove and store the tenant's property, and requires the landlord to comply with the same requirements which sheriffs or their designees are required to follow when removing and storing tenant property. The sheriff must still be present when the writ of restitution (eviction order) is executed, and the sheriff retains the authority to schedule the eviction to meet the sheriff's needs. Landlords may choose to permit the sheriff or his or her designee to perform the move.
- **Disposal of Tenant Property:** Under current law, the sheriff may determine that the property of the tenant to be evicted is valueless. If such a determination is made, the sheriff may direct that

the property be removed to a site for disposal, rather than stored. The bill specifies that any individual piece of property having a value of less than \$50 may be discarded and need not be stored, upon the determination of the sheriff.

#### Benefits of the Legislation

- **Reduced Costs for Landlords and Their Good Tenants:** What people often fail to realize is that investment property ownership and management is a business. Like any other business, the primary goal is to show a profit. When landlords spend \$500 moving an evicted tenant's \$150 worth of property to storage, that \$500 comes out of the business profit. In most cases, the landlord never makes a recovery from the tenant for the cost of the forced move. The impact on the remaining tenants who do pay their rent is felt in increased rents, as the business makes up for the loss caused by the evicted tenant. Anything that saves the landlord's business from unreasonable and unnecessary costs is good not just for the landlord, but for his or her remaining tenants as well.
- **Expanded Use of Credit and Background Checks:** Currently, fewer landlords use background and credit checks than should use them, because the cost of the checks is largely unrecoverable. If an applicant is approved, all of the earnest money deposit must be applied toward rent and security deposit or returned to the tenant. While current law does allow landlords to recover the cost of credit checks from applicants who are approved and who subsequently fail to enter a rental agreement, many courts do not consider the cost of a credit check to be a "damage" for the purposes of withholding from earnest money deposits because that cost is not ordinarily recoverable anyway. While the collection of fees for credit and background checks is optional under the bill, the ability to collect fees and recover costs for these background checks will give landlords greater latitude to keep serial evictees and persons with a history of nonpayment of rent out of their buildings. As such people frequently have criminal backgrounds as well, the expanded use of credit and background screening is obviously beneficial for existing tenants.
- **Clarification of the Law:** With regard to the rebuttable presumption language in the bill, it is widely understood that the system works this way now. Security deposits are withheld for damage to dwelling units which did not exist at the inception of the lease. However, the burden of proof rests with the landlord, which sometimes leads to strange outcomes in court. The law should be clear and should be based on common sense – if the carpet is clean when the lease begins, and there is a juice stain at the end of the lease, common sense would dictate that the tenant made the stain. This bill merely codifies that common-sense assumption under which many landlords, tenants, and judges already operate.



**LANDLORD INFORMATION SERVICE, INC.**  
A Subsidiary of *The Apartment Association of Southeastern Wisconsin, Inc.*

Landlord Information Service, Inc. is solely owned and operated by *The Apartment Association of Southeastern Wisconsin, Inc.*

Landlord Information Service, Inc. (LIS) is a reporting service specializing in credit, eviction, and tenancy information on renters. LIS is a valuable asset that could **SAVE YOU THOUSANDS** of dollars annually in vacancy and court costs with just one call!

Services provided by LIS include:

- \* **Eviction & Complaint Reports:** Our files include over 70,000 eviction and complaint records within Milwaukee & Waukesha Counties for the past seven years. We also have the same information from 20 states including Chicago and the District of Columbia!
- \* **Complete Credit Checks:** A complete credit bureau history, employment and tenancy verification.
- \* **Drug Felony Records:** Our records include persons in Milwaukee County convicted of possession, possession with intent to deliver, and delivery of illegal drugs, from April 30, 1993 to present.
- \* **Criminal Records:** In November 1993, we added this service at the request of our clients. We obtain Milwaukee County criminal records daily at 8:00 a.m.

Membership in *The Apartment Association of Southeastern Wisconsin, Inc.* is required to utilize this valuable service.

We look forward to providing you with valuable tenant information. If you have any questions, please contact our office at (414) 276-7378.

Sincerely,

Landlord Information Service, Inc.

See Price List on Other Side.

Apartment Association of Southeastern Wisconsin, Inc.  
1442 North Farwell, Suite 102 • Milwaukee, Wisconsin 53202 • 414-276-9637

*Exclusively Representing the Interest of the Rental Housing Industry in the Greater Milwaukee Area*

**Landlord Information Service, Inc.**  
**Fee Schedule**  
 1/96

Code:	Description of Service	Price:
1	Credit Check oral local	\$15.00
2	Credit Check Oral non-local	\$18.00
3	Credit Check written local	\$16.00
4	Credit Check written non-local	\$19.00
5	Eviction / Complaints* Checked only (1-4 \$6.00 / 5-99 \$3.00 / 100+ \$1.00)	\$ 1.00 to 6.00
	* Milwaukee & Waukesha Counties (per-month basis)	
6	Evictions / Complaints / Drugs	\$ 8.00
7	Drugs checked only	\$ 2.00
8	Evictions / Complaints / Drugs / Criminals	\$12.00
9	Credit only / with Drugs	\$12.00
10	Credit only (local)	\$10.00
11	Credit only (non-local verbal)	\$12.00
12	Full Credit / with Drugs	\$17.00
13	Full Credit / with Criminals	\$20.00
14	Full Credit / with Criminals & Drugs	\$22.00
15	Criminals only	\$ 6.00
16	Criminals & Drugs only	\$ 8.00
17	Evictions / Complaints & Landlord called	\$10.00
18	Bounced check fee	\$20.00
19	Special requests court search	\$10.00 +
20	Annual Affiliate Fee	\$25.00
	* (Per Calender year - or / portion of)	
21	Robert Smith Manual	\$34.95
	+ \$4.00 for shipping & handling	\$38.95
22	Evictions / Complaints / Drugs / Criminals / Emp	\$17.00
23	Out of State Evictions Checked	\$ 8.00
24	Full Credit (non-local) + Out of State Evictions	\$27.00
25	Out of State Evictions / Milw Drugs & Criminals	\$16.00
26	Out of State Credit & Evictions	\$20.00
27	Out of State Credit (Faxed / Mailed out of State)	\$14.00
28	As needed	
29	As needed	
30	Attorney Services*	\$25.00/15 min
	* for General Members only	
31	Credit only, evictions, complaints, drug ck (no landlord or employment verification)	\$18.00

\*\* Drug & Criminal Reports can only be done for Milwaukee County until further notice

**799.44 Order for judgment; writ of restitution.**

**(1) ORDER FOR JUDGMENT.** In an eviction action, if the court finds that the plaintiff is entitled to possession, the order for judgment shall be contain an order restraining the defendant(s) from returning to the premises after the effective date of the order for the writ; and, for the restitution of the premises to the plaintiff and, if an additional cause of action is joined under s. 799.40 (2) and plaintiff prevails thereon, for such other relief as the court orders. Judgment shall be entered accordingly as provided in s. 799.24.

**(2) WRIT OF RESTITUTION.** At the time of ordering judgment for the restitution of premises, the court shall order that a writ of restitution be issued, and the writ may be delivered to the sheriff for execution in accordance with s. 799.45. No writ shall be executed if received by the sheriff more than 30 days after its issuance.

**(3) STAY OF RESTRAINING ORDER AND WRIT OF RESTITUTION.** At the time of ordering judgment, upon application of the defendant with notice to the plaintiff, the court may, in cases where it determines hardship to exist, stay the issuance of the restraining order and writ by a period not to exceed 30 days from the date of the order for judgment. Any such stay shall be conditioned upon the defendant paying all rent or other charges due and unpaid at the entry of judgment and upon the defendant paying the reasonable value of the occupancy of the premises, including reasonable charges, during the period of the stay upon such terms and at such times as the court directs. The court may further require the defendant, as a condition of such stay, to give a bond in such amount and with such sureties as the court directs, conditioned upon the defendant's faithful performance of the conditions of the stay. Upon the failure of the defendant to perform any of the conditions of the stay, the plaintiff may file an affidavit executed by the plaintiff or attorney, stating the facts of such default, and the restraining order and the writ of restitution may forthwith be issued.

**(4) WRIT OF RESTITUTION; FORM AND CONTENTS.** The writ of restitution shall be in the name of the court, sealed with its seal, signed by its clerk, directed to the sheriff of the county in which the real property is located, and in substantially the following form:

(Venue and caption)

THE STATE OF WISCONSIN To the Sheriff of .... County: The plaintiff, ....., of .... recovered a judgment against the defendant, ....., of ....., in an eviction action in the Circuit Court of .... County, on the .... day of ....., 19.., to have restitution of the following described premises:

.... (description as in complaint), located in .... County, Wisconsin.

**YOU ARE HEREBY COMMANDED** To immediately remove the defendant, ....., from the said premises and to restore the plaintiff, ....., to the possession thereof. You are further commanded to remove from said premises all personal property not the property of the plaintiff, and to store and dispose of the same according to law, and to make due return of this writ within ten days.

Witness the Honorable ....., Judge of the said Circuit Court, this .... day of ....., 19..

.... Clerk

(5) RESTRAINING ORDER; FORM AND CONTENTS. The restraining order shall be in the name of the court, sealed with its seal, signed by its clerk, directed to the defendant, and in substantially the following form:

(Venue and caption)

THE STATE OF WISCONSIN To the defendant: A judgment entered against the defendant, .... of ...., in an eviction action in the Circuit Court of .... County, on the .... day of ...., 19.., to restore to the plaintiff, .... of ....., the possession of the following described premises:

.... (description as in complaint), located in .... County, Wisconsin.

THE DEFENDANT(S) ARE HEREBY ORDERED to avoid the premises described herein and the real property on which said premises is situated. This order shall become effective..(date writ is stayed to), and continue for a period of two years from this date. Failure to comply with this order is subject to contempt under s. 785.

Witness the Honorable .... Judge of the said Circuit Court, this .... day of ...., 19..

.... Clerk      *(THIS LANGUAGE MAY NEED IMPROVEMENT)*



# Swift and severe, evictions on rise

**Poverty, drugs among troubles that lead to visits from move-out team**

By MICHELLE DERUS  
of the Journal Sentinel staff

They're almost never packed. A sharp rap at the door, a deep, authoritative call — "This is the Sheriff's Department. We have a court-ordered eviction here" — and most tenants know their time is up.

They see it in the grim expressions of the seven burly men — five movers, two deputies — there to usher them out.

"We tell them to grab their

valuables, their medicine and jewelry. Then one mover takes each room," said Detective Rick Baldewicz. "We generally have 'em out in an hour to an hour and a half."

Baldewicz and his partner, Detective Greg Otto, who man the Milwaukee County Eviction Squad, are busier than ever. Last year, deputies supervised 3,251 evictions, more than double the 1988 total of 1,337. Nearly four times that many leave under court order

**John Flessas, landlord, on problem tenants:**

"Everybody pays more because of them. And did I mention I bring cockroaches home to the suburbs?"

without escort. "It's an epidemic," declared Orville Seymer, vice president of the Apartment Association of Southeast Wisconsin Inc. Poverty, drug abuse, alcoholism and Wisconsin's welfare reform program are often blamed. "And the whole societal trend toward irresponsibility. People don't want to pay their bills," Seymer complained. He acknowledged that landlords move more quickly these days

to oust problem tenants.

Most evictions are in the central city, but they happen countywide, Baldewicz and Otto said. They said their calls this past Friday morning were typical — a filthy apartment on N. 27th St. and a well-kept studio unit on W. Wisconsin Ave. near Marquette University.

## Debris and Disdain

A dozen adults and children stared expressionlessly in the garbage-strewn, vermin-infested, foul-smelling suite of splintered doors and dirty windows on N. 27th.

Please see EVICTIONS page 4



ERWIN GEBHARD/STAFF PHOTOGRAPHER

A girl who is among those being evicted from a flat on the city's near north side collects some games and toys she dropped while leaving the premises. Movers (background) load up belongings to put into storage.

They said I had today to get out," muttered Gloria, as the Eagle Moving & Storage Co. crew swept into her place. Only the first names of tenants are being published to protect their privacy.

Behind a battered door, a child shrieked. A school-age boy sat solemnly on the couch while a younger child roamed through the debris, past the decaying body of a mouse. The child munched on cereal decorating a small, plastic Christmas tree that he plucked from the floor.

Gloria wanted the movers to take two refrigerators, even though the appliances had broken parts and their contents were filthy. Tom Brittain, co-owner of the moving company, refused. It was also thumbs down for the sagging, ripped sofas, stained mattresses and hill of dirty dishes.

"Anything that we tag, we take to the warehouse and store," he said. "It's protected pretty good — good security, good alarm system, cameras."

Among the tagged items were a glass-topped living room coffee table, a 4-foot-long black panther statue, a towering, arched multiple-lighting system, a large-screen TV, a curio cabinet, stereo system and microwave oven.

"You can be poor and decent, but people like Gloria don't care," said landlord John Flessas, who arrived midway through the eviction. "Every house down here has lead in it. You've got to watch the kids. They don't. They sit on their butts all day, watching 'The Jerry Springer Show.'"

Flessas said Gloria owed him three months' rent at \$350 a month, which prompted a heated reaction from one of those evicted.

"You lie," she hissed. "You lie."

Flessas said it would cost \$700 to move Gloria and more than \$2,000 to repair the apartment.

"You see the damage — look at the thermostat ripped out of the wall," he said. "They tie the wires so the furnace will run constantly. They kick holes in the doors — new doors — break the windows, throw their used Pampers right out in the hallway...."

"Everybody pays more because of them. And did I mention I bring cockroaches home to the suburbs? Yeah, they get on you and once you get a roach, you're screwed."

Several of the apartment dwellers glared at him, then returned to the desultory task of putting clothes and dishes into plastic bags and boxes.

Within two hours, Gloria's encouragement and belongings were on the street. Gloria was the last to go, and it took ever-sterner orders from the deputies to get her through the door one last time. Then she and the others boarded a bus. They said they had a place to go.

Evicted tenants often damage their place on their way out, said Seymer, of the apartment association. "We're seeing more damage, more vandalism, more fires. Most leave a trail of destruction," he said.

about all the tenant damage, and there is a lot," he said. "(Gloria) had two previous evictions. They could have checked the courthouse.... I did, and it took five minutes over the phone."

Landlords sometimes give problem tenants a break because vacant rentals can cost them even more money, Seymer said. Empty dwellings are a magnet for drug users, arsonists and vandals.

### In Tears

There was no damage at the W. Wisconsin Ave. eviction. Just tears.

"I don't understand," gasped the tenant, Martha, as movers brushed past her to pack up the immaculate apartment of delicate lace curtains, flourishing plants and heirloom quality furniture. She had paid \$275 a month for it.

Tears coursed down her cheeks as she tried to negotiate a reprieve by phone. Brittain tacked a lime green eviction notice on her door. The notice explains how to reclaim one's belongings.

"I paid the rent. It was sent back to me.... I never went before anyone in court, not a court commissioner or anyone," she stammered.

The officers winced at her plaintive tone.

Property manager Kent Cory called it a "nuisance" eviction.

"She's been calling the police about the neighbors across the hall and upstairs, accusing them of loud music and parties — even when the police come and say there was nobody home. She called 20 times in one month," he said.

Wiegand Enterprises, which bought the building in September 1996 and is upgrading it, moved quickly to evict Martha. The calls were in November; the parties were in court Dec. 17, records show.

"This doesn't happen often. Normally, it's non-payment or drugs," Cory said. "I asked her, 'Will you move?' I didn't want to have to do this. I know I'm going to get burned on this. It's going to cost \$400, \$500 for movers, the sheriff is \$30."

Martha, meanwhile, said she had nowhere to go. "I've been looking for work, but...." Her voice trailed off to a sob.

What about her family? She's estranged.

Savings? "All I have is this two months' rent."

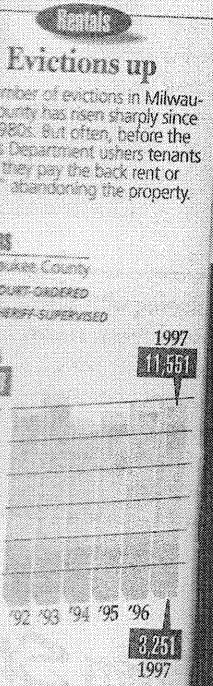
The deputies supplied a list of homeless shelters. Eventually, one offered a bed.

Martha stood, transfixed, in her bedroom, as the movers veered around her, carting away her belongings.

"I still don't understand. Can you tell me the reason for this?" she asked, searching the faces around her.

Finally, suitcase in hand, she stepped out the apartment door, which Cory quickly locked behind her.

Her shoes clicked as they hit the hard corridor floor, missing the welcome mat that lay askew in the hallway.



Sources: Milwaukee County, Milwaukee County Sheriff's Department, Apartment Association of Southeast Wisconsin Inc., Journal Sentinel

Log on to [www.jsonline.com](http://www.jsonline.com) and give your reaction to this report.

# Tension creates tough situation

**Officers endure hostility in evictions; landlords lose cash; tenants on edge**

By MICHELLE DERUS  
of the Journal Sentinel staff

Evictions are risky business or all concerned.

"More and more families are linking into poverty. That's the predominant reason people live on the edge, why sometimes the landlord doesn't get paid — the kids need food," said David Pifer, staff attorney of Legal Action of Wisconsin.

Landlords counter that evicted tenants often have only themselves to blame because they don't pay their rent, or they abuse property or commit illegal acts.

Either way, evictions raise the level of urban hostility, something Milwaukee County Sheriff's Detective Rick Baldewicz experienced firsthand.

"I got bit last month. It was a 20-year, drug-using prostitute,

using her baby as a weapon. I tried to grab her from behind, she turned around and sunk her teeth into my hand," he said. Baldewicz took medicine to reduce the risk of AIDS immediately after the attack. Although his attacker's blood tested negative for the deadly disease, he will be tested for two years just in case, he said.

Baldewicz and his partner, Detective Greg Otto, have noticed several patterns in the evictions they've supervised the last two years.

"Usually, the houses that don't have food or clean clothes are the drug houses — the ones with dirty, underfed kids," Otto said. "Then there's the people who spend all their money on CDs, TVs and video collections. Their kids are well taken care of. They just have different priorities than rent."

Finally, there are what Baldewicz calls "the little lost souls," people ill-equipped mentally or emotionally for life's difficulties.

"It does happen that there are rotten landlords, too," Otto

noted, "although the vast majority are reputable."

Landlords complain that they often are left to pick up the pieces.

"We're seeing more deliberate damage. Since June 6, we've had five tenants set their places on fire when they got their eviction notices," said Barbara Holzmann of Holzmann & Associates, 2303 N. 39th St., which owns or manages 280 Milwaukee-area rental units.

Milwaukee's situation isn't unique. The number of inner city evictions seems to be rising nationwide, said Jerry A. Moline, president of National Apartment Association in Alexandria, Va. "Every city has its little pockets" of high evictions, he said.

Some observers think the number of evictions here may surge under Wisconsin's welfare reform program, Wisconsin Works.

"Wait until, say, March," said Diane Moore, a captain with the Milwaukee County Sheriff's Department.



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URL <http://www.wra.org>

DAVE STARK, GRI, President

WILLIAM MALKASIAN, CAE, Executive Vice President

TO: Assembly Housing Committee

FROM: E. Joe Murray, Political Affairs Director

DATE: March 4, 1998

RE: AB 871 – Residential Rental Property

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The Wisconsin REALTORS Association (WRA) does not support AB 871 at this time. While the policy objectives of the bill have merit, we believe legislative consideration at this time could jeopardize adoption of soon-to-be-proposed administrative rules by the Department of Agriculture, Trade and Consumer Protection (DATCP). We believe these rules, which represent consensus among landlord and tenant groups, should be adopted before the legislature considers other significant changes to Wisconsin's landlord-tenant statutes.

#### Background

In January 1997, the Department of Agriculture, Trade and Consumer Protection (DATCP) created the Ad Hoc Committee on Residential Rental Practices. The Committee was created to review and revise Chapter 134 of the Wisconsin Administrative Code pertaining to residential rental practices governing landlord-tenant relationships.

From January through October 1997, the Ad Hoc Committee met to discuss nearly one hundred issues relative to ATCP 134. Representatives of the Wisconsin Realtors Association, the Wisconsin Apartment Association, the Southeast Apartment Association, Legal Action of Wisconsin, the Madison Area Tenant Resource Center, and the Manufactured Housing Association, worked with the DATCP to bring forth a consensus package of agreed upon modification to ATCP 134.

In January of 1998, DATCP took these proposed modifications to a series of public hearing throughout Wisconsin for additional input and comment. The Department is now in the process of revising the proposed rule modifications. DATCP will convene the Ad Hoc Committee for a meeting to review final proposed modifications.

The proposed rules truly represent a consensus process and as such, none of the participating organizations and interests received 100% of what they wanted. Tenants, landlords, and DATCP, worked hard to produce a set of proposed rule changes that deal with a variety of rental issues effecting thousands of tenants and owners.

Assembly Bill 871 contains provisions that were advocated by landlord representatives during the ad hoc committee process, but not agreed to by the full committee. We are fearful that engaging in a heated legislative debate over issues which failed to garner consensus at a time when consensus issues are pending, could jeopardize the hard work and substantial work product of the Ad Hoc.

For this reason, we urge the Assembly Housing Committee to allow the administrative rule process regarding ATCP 134 to proceed before considering the policy issues contained in AB 871.



State of Wisconsin  
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary



DATE: March 5, 1998

TO: Chairperson Owens and Committee Members  
Assembly Committee on Housing

FROM: Bill Oemichen, Administrator  
Division of Trade and Consumer Protection *Bill Oemichen*

SUBJECT: Public Hearing on AB 872

Approximately one-third of all Wisconsin households, or more than 1.5 million people, live in rental housing in our state. Literally thousands of new rental transactions occur each year, and landlord-tenant disputes remain as one of the major sources of consumer complaints to the Department of Agriculture, Trade and Consumer Protection (DATCP).

Before the Assembly Committee on Housing takes any further action on AB 872, the Department strongly urges that you consider the following issues and concerns.

1. Revisions to Landlord-Tenant Rules are Near Completion.

Section 100.20, Stats., known as Wisconsin's "Little FTC Act", gives broad authority to DATCP to issue special orders and adopt rules prohibiting business practices deemed to be unfair and deceptive. Under this authority, the Department adopted rules in 1980 regulating residential rental practices. Since its adoption, ch. ATCP 134, Wis. Adm. Code, has provided a fair and sensible balance between the rights and responsibilities of both landlords and tenants, and has remained as one of the most important rules administered by DATCP.

In February, 1997, the Department convened a Residential Rental Practices Ad Hoc Advisory Committee to reach consensus on changes that would update and clarify provisions of ch. ATCP 134, Wis. Adm. Code, and current statutes. The advisory committee met seven times prior to recommending a package of rule changes last September. In addition, the committee agreed in principle to changes to s. 799.45, Stats., related to eviction proceedings.

The Department held five public hearings around the state on proposed residential rental practices code revisions. The hearings were well attended and our preliminary count is that 121 persons registered or testified in favor of the rule changes and 21 registered or testified against. We are now in the process of evaluating and recommending further rule changes in response to public hearing comments. We intend to reconvene the Residential Rental Practices Ad Hoc Advisory Committee to review, comment and reach consensus on these additional rule revisions. It is our hope that a final rule draft will be presented to the Board of Agriculture, Trade and Consumer Protection for approval and referral to the Legislature no later than June, 1998.

We urge this committee and the Legislature to give this process the opportunity to work.

2. Provisions in AB 872 Conflict With Work of the Residential Rental Practices Ad Hoc Advisory Committee.

The Department offers the following comments in regards to the four specific proposals in AB 872:

A. Allowing landlords to move and store tenant property following issuance of a writ of restitution is a difficult and potentially controversial issue. This committee held a public hearing on similar legislation, Assembly Bill 610, which has generated opposition from the Wisconsin County Sheriff's Assn., the Wisconsin Warehouse Assn., Legal Action of Wisconsin, tenant groups and others.

The Department has been involved in several meetings to reach some consensus on this bill. A key holdup to consensus is the availability of liability insurance or surety bond coverage that would ensure faithful performance of duties of a landlord to exercise "ordinary care" in the removal and storage of tenant personal property following a lawful eviction.

As proposed, AB 872 conflicts with recommendations of the Residential Rental Practices Ad Hoc Advisory Committee regarding amendments to s. 799.45, Stats.

If unrestricted by law when acting to move and store tenant property following an eviction, a landlord could conceivably be held to a lesser standard than the sheriff's department with regard to the obligation to use "ordinary care" in the removal and storage of the tenant's property.

In addition, the Department is concerned that landlords would misinterpret this proposed statutory authority to mean that landlords could simply refuse to return tenant property until past due rent is paid. Such actions are prohibited under s. 704.11, Stats., which abolishes the common law right of a landlord to distraint for rent.

B. The proposed legislation allows a landlord to dispose of any tenant property following an eviction if the sheriff determines that a piece of property is worth less than \$50.

The Department has discussed this issue with apartment owners and others, and has found no agreement on the need for further changes to state law. The issue discussed by landlords related to the cumulative value of tenant property, and the desire for better statutory direction regarding disposal of "junk" furniture and belongings left by a tenant. However, personal belongings valued at less than \$50 per item can hardly be classified as worthless property, and cumulatively could add up to a substantial amount of lost value for the tenant.

Furthermore, county sheriff departments have already expressed concerns regarding establishment of a statutory monetary value on the handling of tenant property following an eviction action. County sheriffs do not want to be put into the role of appraising the value of the tenant's property prior to determining whether the property is "junk," and can be thrown out, or must be moved and stored.

C. AB 872 authorizes a landlord to charge a prospective tenant up to \$25 for the cost of a credit or background check.

Public hearing comments on proposed changes to ch. ATCP 134, Wis. Adm. Code, have requested the Department to reconsider language that would address landlord concerns in this area. The Department will do that with the help and input of the Residential Rental Practices Ad Hoc Advisory Committee. Statutory language to address this issue is inappropriate and unnecessary, and could actually lead to greater confusion for landlords regarding appropriate residential rental practice policies.

D. AB 872 also creates a rebuttable presumption for tenant damage to property. Renters will be strongly opposed to this provision, and for good cause.

The effort to “rebuttably presume” that a tenant caused damage to the “premises” during the period of tenancy reverses the current burden of proof in a civil action, and shifts the burden to the tenant on matters related to the tenant’s property, i.e., his or her security deposit. In other words, it is the landlord who is refusing to return the security deposit on the grounds that there has been damage to the landlord’s property. The burden should be on the landlord to prove why the money was withheld. Other concerns arise from the question of how a landlord might treat damage to common areas of the building or apartment complex. The proposed legislation refers to “premises” instead of “dwelling unit.” The term, “premises”, is generally interpreted to mean the overall building or apartment complex. Are all tenants rebuttably presumed to have caused damage to common areas? Does this provision serve as an opportunity for a landlord to deduct from all tenants’ security deposits to pay the costs of damage to common areas of the building?

We are concerned that any legislative action on landlord-tenant law in Chapter 704 of the Statutes will be regarded by many organizations and individuals as breaking faith with the consensus process used by the Department for seeking changes to current residential rental practice rules and statutes.

While we recognize the need for statutory changes to address the agreed upon principles for reforming the eviction process, we urge this committee to build upon the discussions that have already taken place on Assembly Bill 610.



## **Zibrowski, Jacque**

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**From:** Krieser, Steve  
**Sent:** Monday, February 23, 1998 10:53 AM  
**To:** Zibrowski, Jacque  
**Subject:** RE: Tenant and Landlord  
**Sensitivity:** Private

Here's the relating clause -- I just called LRB and had them read it to me. Easier than waiting, and it allows you to get your work done.

*Relating to charging a tenant for a credit check, presumption that a tenant caused damage, allowing plaintiffs to remove and store property under a writ of restitution, and providing a penalty.*

**Steve Krieser**  
**Office of State Rep. Glenn Grothman**  
Room 125 West, State Capitol  
P.O. Box 8952  
Madison, WI 53708-8952  
v:608-264-8486 or 888-534-0059 f:608-282-3659  
*Visit Us on the World Wide Web!*  
<http://www.legis.state.wi.us/assembly/asm59/news/>

-----  
**From:** Zibrowski, Jacque  
**Sent:** Monday, February 23, 1998 10:50 AM  
**To:** Krieser, Steve  
**Subject:** RE: Tenant and Landlord  
**Sensitivity:** Private

It's also called being a Monday morning!!!! Thanks for letting me know...I'll call Jody and let her know my notice will be on its way yet before noon.

-----  
**From:** Krieser, Steve  
**Sent:** Monday, February 23, 1998 10:48 AM  
**To:** Zibrowski, Jacque  
**Subject:** RE: Tenant and Landlord  
**Sensitivity:** Private

I'll have it to you. Of all things, I seem to have mislaid the draft (which, when you have 72 bills, isn't that hard to do.) So I had to request another one from the LRB. It should arrive shortly. I'll then photocopy the first page and send it over to you.

**Steve Krieser**  
**Office of State Rep. Glenn Grothman**  
Room 125 West, State Capitol  
P.O. Box 8952  
Madison, WI 53708-8952  
v:608-264-8486 or 888-534-0059 f:608-282-3659  
*Visit Us on the World Wide Web!*  
<http://www.legis.state.wi.us/assembly/asm59/news/>

-----  
**From:** Zibrowski, Jacque  
**Sent:** Monday, February 23, 1998 10:45 AM

**To:** Krieser, Steve  
**Subject:** RE: Tenant and Landlord  
**Sensitivity:** Private

Thanks...I need to get the notice over by noon to Jody for the hearing schedule.

-----  
**From:** Krieser, Steve  
**Sent:** Monday, February 23, 1998 10:32 AM  
**To:** Zibrowski, Jacqu  
**Subject:** RE: Tenant and Landlord  
**Sensitivity:** Private

I'll have it to you shortly.

**Steve Krieser**  
**Office of State Rep. Glenn Grothman**  
Room 125 West, State Capitol  
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Madison, WI 53708-8952  
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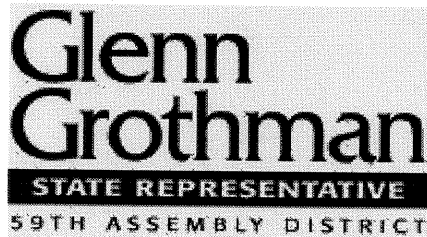
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**From:** Zibrowski, Jacqu  
**Sent:** Monday, February 23, 1998 10:08 AM  
**To:** Krieser, Steve  
**Subject:** RE: Tenant and Landlord  
**Sensitivity:** Private

I kept a copy of this info. Thanks! What I need for the notice is the "Relating to" wording.

-----  
**From:** Krieser, Steve  
**Sent:** Monday, February 23, 1998 10:04 AM  
**To:** Zibrowski, Jacqu  
**Subject:** Tenant and Landlord  
**Sensitivity:** Private

<<File: LRB 1081-3 Landlord and Tenant Cosponsorship.doc>>

**Steve Krieser**  
**Office of State Rep. Glenn Grothman**  
Room 125 West, State Capitol  
P.O. Box 8952  
Madison, WI 53708-8952  
v:608-264-8486 or 888-534-0059 f:608-282-3659  
*Visit Us on the World Wide Web!*  
<http://www.legis.state.wi.us/assembly/asm59/news/>



Can we  
get this a  
hearing March 5  
also the other one  
on 2-17-98  
FEB 17 1998

# Cosponsorship

**To:** All Legislative Colleagues  
**From:** Rep. Glenn Grothman  
**Date:** February 17, 1998  
**Re:** LRB 1081/3: **Landlord and Tenant Changes**

As you may know, the Department of Agriculture, Trade, and Consumer Protection currently administers and enforces administrative rules which regulate the rental housing industry. Recently, the Department has engaged in a concerted effort to update these administrative rules, which have not been changed in any substantive way since 1980.

The Department does not, however, have the authority to make changes to the state's eviction procedures, which exist in statute rather than rule. This area of the statutes is also overdue for some changes and adjustments. Additionally, there are some enhancements to the landlord and tenant code changes proposed by DATCP which have not made it into the final draft which would increase the quality of life for tenants. I am incorporating these statutory adjustments and minor code adjustments into legislation which I will be introducing.

As you are also aware, I had introduced legislation, which had received a public hearing, last session dealing with landlord and tenant issues. This proposal is a scaled-back version of that effort. Of the almost two dozen changes to the statute and code proposed in last year's bill, only four are addressed in this legislation. I also strive in this bill to produce as little disruption as possible to the existing regulatory framework for landlord and tenant law. The Agriculture Department will still retain regulatory authority in this area.

The legislation makes the following changes to current state law and code:

## Evictions

- Gives landlords the same rights and responsibilities to remove, store, and dispose of the property of former tenants who are evicted as they currently have over the property of former tenants whose tenancy is terminated. This will allow landlords to take responsibility for the direct removal of the property of evicted tenants from the dwelling unit. Landlords will be required to keep the property under safekeeping for 30 days before disposing of it, and to notify the evicted tenant of what he or she needs to do to get the property back. This does not remove the sheriff from the process of

executing the writ of restitution (the actual eviction order), nor does it remove from the sheriff the responsibility of scheduling the eviction.

- *Allows a landlord or sheriff to dispose immediately with any piece of tenant property which is adjudged by the sheriff to have a value of less than \$50. As often as not, tenants who are evicted and who subsequently abandon property in the dwelling unit do so because the property has little or no value. Because the tenant is unlikely to claim these goods from storage, the landlord will be unable to recover the costs of transport and storage from the tenant. This provision will save the landlord from having to transport and store relatively valueless items which the tenant will most likely never claim.*

### **Rental Provisions**

- *Allows a landlord to charge a prospective tenant up to \$25 for the cost of a credit or background check. With the age in which we live, landlords are under increasing pressure from both their tenants and from local law enforcement to screen prospective tenants before renting to them, using legal means to deny rental to bad actors. However, credit checks and background checks are not free. For landlords, the problem of paying for credit checks on every applicant is compounded by prospective tenants who make rental applications at multiple apartments simultaneously, then turn down most of the applications once approved. This provision will help landlords to engage in responsible, legal screening of prospective tenants, thereby improving the quality of life for other tenants in the building. It will help defray the cost to landlords of prospective tenants who apply for units which they have little or no intention of renting.*
- *Creates a "rebuttable presumption" that damage resulting to a dwelling unit during a tenancy was caused by the tenant. While this seems common-sense, it is not current law. The provision makes it easier for landlords to recover damages from destructive tenants, while giving tenants a legal means to fight wrongful damage charges. Tenants can readily guarantee that existing damage is not attributed to them by notifying the landlord of unit damages which exist when they move in. If damage to a unit results from criminal activity beyond the control of the tenant, the filing of a police complaint by the tenant could provide the rebuttal the tenant needs to defeat the presumption that the damage was caused by him or her.*

If you are interested in coauthoring or cosponsoring this legislation, please contact **Steve** in my office at **264-8486** by **February 20, 1998**.

*The Legislative Reference Bureau Analysis Is On The Next Page . . .*

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***Analysis by the Legislative Reference Bureau***

Current law addresses some issues related to the rental of residential property, such as certain lease requirements and how to terminate a tenancy. The Wisconsin Administrative Code provides regulations related to other rental practices, which are administered and enforced by the department of agriculture, trade and consumer protection.

Under current law, if a tenant, at the termination of his or her tenancy, leaves personal property on the premises, the landlord has certain rights and responsibilities regarding that property. The landlord may store the property and notify the former tenant that the property may be claimed, subject to a lien by the landlord for the costs of the removal and storage of the property. The current law allows the landlord to dispose of the property after giving the former tenant notice that the property will be disposed of if the tenant does not claim the property within 30 days after receipt of the property. Current law also allows the landlord to store

the property without charging the tenant with any storage costs and to return the property to the tenant.

This bill creates 2 additional statutory provisions related to residential rental practices. The bill authorizes a landlord to charge a prospective tenant up to \$25 for the cost of a credit or background check. The bill creates a rebuttable presumption that any damage to leased premises that occurs during a tenant's tenancy was caused by the tenant. The bill provides that the penalties that apply to a violation of the rental practices set out in the Wisconsin Administrative Code, such as double damages and reasonable attorneys fees, also apply to a violation of the rental practices provisions created in the bill.

Current law requires the sheriff, when executing a writ to evict a tenant, to remove property left on the premises by the tenant. The sheriff is required to take the removed property to a place of safekeeping and to notify the former tenant of the place where the property is being kept and of the right to obtain possession of the goods after the payment of the expenses of moving and storing the property.

The bill gives landlords the same rights and responsibilities to remove, store and dispose of the property of former tenants who are evicted as they currently have over property of former tenants whose tenancy is terminated. A landlord is given the option under the bill to have the sheriff take possession of the former tenant's property or to take possession himself or herself and follow the procedures used when a tenancy is terminated regarding the removal, storage and disposal of the property. If the sheriff determines that a piece of property is worth less than \$50, the bill gives the landlord who has agreed to remove the property the right to dispose of that piece of property.

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

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TOP 10 COMPLAINTS, add one

The Top 10 List is compiled from more than 15,000 written complaints. Complaints are recorded according to 161 possible categories.

### 1996 TOP 10 CONSUMER COMPLAINTS

Category # of Written Complaints

1. Used Motor Vehicles	1,524
2. Landlord/Tenant	1,244
3. Motor Vehicle Repairs	824
4. Home Improvements	792
5. Mail Order Purchases	512
6. Telecommunications	434
7. Magazines	371
8. Travel/Tourism	338
9. Business Opportunities	302
10. Contests/Sweepstakes	246

DEPARTMENT OF  
AGRICULTURE  
TRADE AND  
CONSUMER  
PROTECTION