

**Exhibit A**

Annual Subscriber Fee

\$ \_\_\_\_\_  
*Payable on the date hereof*

If Subscriber elects to use TransRisk New Account for Prescreen/Extract Promotions and for Portfolio Review, the combined annual subscriber fee for all TransRisk New Account services shall be \$ \_\_\_\_\_.

Monthly TransRisk New Account Transaction Volume	Surcharge Per Transaction
	\$

**EMPIRICA  
ON-LINE AGREEMENT**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Trans Union LLC (hereinafter referred to as "Trans Union"), Fair, Isaac and Co., Inc. (hereinafter referred to as "Fair, Isaac"), and \_\_\_\_\_ (hereinafter referred to as ("Subscriber")).

1. Trans Union is in the business of providing consumer credit information to subscribers who are members, and who have a permissible purpose for receiving such information.

2. Fair, Isaac is in the decision support business with expertise in developing predictive models of credit performance by consumers from historical credit data.

3. Subscriber is a credit grantor who purchases consumer credit reports from Trans Union in connection with consumer credit applications.

4. Trans Union and Fair, Isaac have developed a unique and proprietary statistical credit scoring system ("EMPIRICA") which evaluates certain information in the credit report on an individual consumer from Trans Union's database and provides a score which rank orders the consumer with respect to likely credit performance (the "EMPIRICA Score"). The EMPIRICA Score is available in industry-specific versions, as well as a general version.

5. Subscriber hereby requests that Trans Union process credit reports it purchases against EMPIRICA and provide an EMPIRICA Score. Trans Union agrees to perform such processing.

6. Fair, Isaac, the developer of EMPIRICA, warrants that the scoring algorithms used in the computation of the EMPIRICA Score are empirically derived from Trans Union's credit data and are a demonstrably and statistically sound method of rank-ordering candidate records with respect to credit risk, and that no scoring algorithm used by EMPIRICA uses a "prohibited basis" as that term is defined in the Equal Credit Opportunity Act and Regulation B ("Reg. B") promulgated thereunder.

7. Subscriber recognizes that factors other than the EMPIRICA Score must be considered in making a credit decision, including the credit report, the individual credit application, and economic factors. The factors that are provided by Trans Union as significantly contributing to the Score may be disclosed to consumers as the reasons for taking adverse action, as required by Reg. B. However, the Score itself is proprietary, may not be used as the reason for adverse action under Reg. B and, accordingly, shall not be disclosed to credit applicants.

8. Subscriber agrees to pay to Trans Union the annual subscriber fees for the use of EMPIRICA, stated in Exhibit A, at the time stated therein. In addition, Subscriber agrees to pay the added surcharge stated in Exhibit A for each credit report purchased that uses EMPIRICA. All fees stated in Exhibit A are due in the same manner and subject to the same terms and conditions as the fees in the Subscriber Agreement in effect between the parties. All fees may be modified by Trans Union at any time upon a prior thirty (30) day notice.

9. Trans Union and Fair, Isaac shall use their best efforts to perform their obligations hereunder, but make no guarantees other than as described in Paragraph 6, and shall not be liable for any loss, cost or expense of Subscriber resulting from the use of EMPIRICA. In no event shall either party be

liable to Subscriber for any loss, costs, damages or expenses in excess of the fees charged Subscriber hereunder for the previous twelve (12) month period.

10. Each party hereto shall be responsible for compliance with all laws and regulations to which it is subject.

11. This Agreement states the entire understanding of the parties as to the subject matter hereof, supersedes all prior correspondence, documentation or representations, and may not be amended except by written agreement signed by both. However, this Agreement does not supersede any other agreement in effect between the parties relating to credit reporting.

12. This Agreement shall be in effect for one year from the date hereof, and thereafter shall be automatically renewed, except that either party may terminate this Agreement at any time upon a prior thirty (30) day notice to the other.

13. No party may assign its rights or obligations hereunder except with the prior written consent of the other party.

14. Nothing contained in this Agreement is intended to create a joint venture or partnership between the parties. Each party shall be fully independent in its business operations.

15. Trans Union is authorized to sign this Agreement on behalf of Fair, Isaac.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**Trans Union LLC**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
**Subscriber Name**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Trans Union for Fair, Isaac and Co., Inc.**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**EXHIBIT A**

Annual Subscriber Fee

\$ \_\_\_\_\_  
*Payable on the date hereof*

The processing charge shall be based on units of credit reports scored and shall be added to the credit report price as follows:

Monthly EMPIRICA  
Transaction Volume

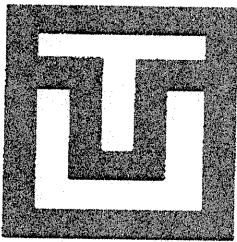
\_\_\_\_\_

Surcharge Per  
Transaction

\$ \_\_\_\_\_

# TRANS UNION

*WE DELIVER SOLUTIONS THAT MATTER*



WISCONSIN DIVISION

P.O. Box 27907

Milwaukee, Wisconsin 53227-0907

(414) 328-9820 - Marketing Office

(414) 328-4189 - Marketing Fax

(800) 882-8105 - Verbal/Written Credit Files

## PRICE LIST

JANUARY 2000

	<u>Local</u>	<u>Foreign</u>
Online Credit Reports . . . . .	\$ 1.90	\$ 2.90
Verbal & Written Credit Reports . . . . .	\$ 17.50	\$ 17.50
Joint file an add'l . . . . .	\$ 1.90	\$ 1.90

**File Includes:** **TRANS ALERT** *A message automatically appears when the consumer has numerous inquiries or if there is a discrepancy between the input address and/or social security number and the file's information.*

Non-Tape Contributors, Add'l . \$ 0.60

Annual Membership Fee . . . . \$ 200.00

Monthly Minimum . . . . . \$ 25.00

Additional Subscriber Codes . . \$ 10.00

*For employment purposes we offer the following report.*

### PEER

Before you hire anyone solely on the basis of an interview, we strongly recommend using our Pre Employment Evaluation Report. This report is designed to comply with the Fair Credit Reporting Act when using a credit file for employment purposes.

**BE AWARE - FCRA REQUIRES SPECIAL HANDLING FOR CREDIT  
REPORTS USED IN CONNECTION WITH EMPLOYMENT.**

Teletype	\$ 6.00
Written	\$ 10.00

*When you are trying to locate an individual or family as a marketing tool or for skip tracing, the services listed below can and will be extremely effective*

### TRACE

A terminal or verbal access feature that uses the social security number to search our national database to return a name and/or address that has been used with that social security number in the past eight (8) years.

Terminal	\$ 1.90
Verbal/Written	\$10.00

### TRACE PLUS

An enhanced version of Trace supplying all of the basic data contained in the Trace report *plus* age, salary and employment. Since this report contains salary information and posts an inquiry, a permissible purpose is required.

Terminal	\$ 2.25
Verbal/Written	\$10.00

### ReTRACE

RETRACE reverses the trace search process to provide or verify your customer's social security number. It will search our database by a customer's name and address and will return the corresponding social security number. It also returns previous addresses and a phone number.

Terminal	\$ 2.25
Verbal/Written	\$10.00

### ATLAS

Atlas provides name, address, neighbors and telephone number searches.

	<u>Report Ranges</u>
Subject Verification	\$1.00 - \$2.50
Address Verification	\$1.40 - \$1.60
Phone Number Verification	\$0.85
Surname Search	\$1.25 - \$7.00

No Charge for No Hit

### THE SCORE REPORT

*Do you want to make a credit decision and not see the entire credit file?*

Trans Union's score only report provides you with the information that you need to make a sound credit decision without returning the entire credit file.

Terminal	\$2.25
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### MERGED REPORT

Two or three repositories merged. An alternative to a residential mortgage report.

Call for quote

We offer the following specialized products.

### WATCH

Our Watch report will inform you of new addresses, new employment, new inquiries or new derogatory information on a particular individual. The request for a Watch may be extended for a period of up to 36 months in our market area.

Call for quote

### HAWK

This service assists in detecting possible frauds, by cross checking search input and file data against potentially fraudulent social security numbers and addresses.

Per Hit Charge	\$3.50
Per Search Charges	\$0.25

### FRAUD DETECT

Fraud Detect alerts you to erroneous, inaccurate or potentially fraudulent information during the application process by searching for inconsistencies in various elements of information.

Call for quote

### YEAR OF ISSUANCE

Provides the year and state of issuance for a social security number. It will also provide an estimated age of the applicant, that can be useful to assist in the verification of an individuals social security number.

Per Transaction	\$0.10
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### GLANCE

Glance allows reporting subscribers to view their own tradelines as they appear on a credit file. This can assist in the consumer dispute process or when conducting audits of data reporting.

Terminal	\$0.50
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### LOOK

An addition to a Trans Union credit report that decodes credit information automatically.

Verbal/Written Subscriber Look-Ups	\$1.00
LOOK - Telephone Number Only	\$0.30
LOOK - Address and Telephone Number	\$0.35

### FLOOD ZONE CERTIFICATION

Trans Union's flood certification program guarantees full compliance with Federal regulations, complete nationwide coverage, 100% accuracy, and 24 hour completion time.

We also offer:

- Life of loan
- Census tracking
- Portfolio reviews
- Competitive prices, volume discounts

Call for quote

### MAILING LISTS

A mailing list tailored to your specific marketing needs.

Such as:

- Homeowners
- New movers
- Auto owners
- Finance company users
- Singles and/or students

Call for quote

### MANUAL TRADELINE REPORTING

\$15.00 per line

**RISK/CREDIT SCORING MODELS**

Our on-line services use credit activity characteristics to score and index applicants. The index is based upon how these characteristics have previously forecasted the potential for an individual to become delinquent, charge off, collection or file for bankruptcy.

Trans Union Risk Model	\$ .75
Fair Isaac Risk Model	\$ .90
Dual Score	\$1.40

**DATA TRAIL**

*New for the Millennium...*

- Online access to change of address files,
- Over 200 million credit files,
- Household database,
- Regional Bell information, and
- Over 67 million county assessors and recorder data, including US Bureau of Census.

Call for quote

**TIE**

An advanced and powerful individual income estimator. The Tie score is based on an individual's previous and current credit behavior and not on census data. It is a helpful tool in supplementing applicant-supplied data.

Per Transaction	\$0.25
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**PHONE APPEND**

New add-on product that will append a ten-digit telephone number with area code to a variety of our products.

Add-on	\$ .25
By requested file	\$ .35

**ACCESS MODES****SOFTWARE**

Software that enables your personal computer to pull credit reports directly from Trans Union.

Software - \$295.00

Software/Installation/Training - \$395.00

Software compatible with Windows 3.1,  
Windows NT and Windows 95 & 98.

*CPU-CPU - Contact your Marketing Representative.*

For more information on any of the products listed or answers to any credit product question, please contact our Marketing Department at (414) 328-9820.



## Milwaukee County Yearly Eviction Records 1992 to Present

These statistics only show **actual** eviction cases. These numbers *do not* reflect the amount of **skips** where there is no public record. Those numbers are estimated between 4-8 times the number of eviction cases.

In 1971 there were 600 evictions in Milwaukee County and of this total only 72 had to be physically removed by the sheriff.

Month /	1992	1993	1994	1995	1996	1997	1998	1999
January	969	909	659	803	1032	942	862	827
February	828	775	818	799	828	906	846	983
March	889	1123	801	773	848	944	898	1010
April	924	928	822	680	869	923	939	933
May	826	817	891	756	985	942	874	849
June	1087	1062	844	922	931	1049	1100	1152
July	1054	911	944	799	1127	1106	1166	1048
August		1096	1159	1063	1080	950	983	1127
September	105	966	913	953	922	1029	1069	1103
October	925	815	1037	1015	1069	1039	1067	1059
November	884	735	739	898	805	747	906	960
December	941	789	821	799	864	940	925	959
Totals by Year	11,475	10,352	11,230	11,779	11,475	11,230	11,779	1306
		93~11,944	95~10,693	97~11,551	99~12,189			

Physical removals by the Milwaukee County Sheriffs office for years are listed below:

Year	Physical moves	Returns
1996 ~	2177	No accurate #'s
1997 ~	2201	1084
1998 ~	2386	1301

**NEW**  
**Fee Schedule**  
**Effective 10/1/99**

1) Full Comprehensive Credit, evictions / complaints, criminals, landlord and employer called	\$22.00
2) Credit, evictions / complaints, criminals	\$17.00
3) Credit, evictions / complaints, landlord and employer called	\$20.00
4) Credit, evictions / complaints	\$15.00
5) Evictions / complaints (1-4 \$6.00 / 5-99 \$3.00 / 100 + \$1.00 @	\$ 6.00
6) Credit Only (local & non-local)	\$10.00
7) Criminals Only	\$ 6.00
8) Evictions / complaints , criminals	\$12.00
9) Evictions / complaints, criminals, landlord, employer (no credit)	\$18.00
10) Re-pull paper work over 7 days old (for any reason)	\$10.00
11) Out of State evictions	\$ 8.00
12) Out of State evictions and Credit	\$20.00
13) Out of state evictions, credit, landlord and employer	\$27.00
14) Attorney Services (General Members only) per 15 min	\$25.00
15) Annual Affiliate Membership fee	\$30.00
16) Bounced check fee	\$20.00



702 N. High Point Road • Suite #202 • Madison, WI 53717  
608.824.0024 • Fax 608.824.0002 • Email: [WiAptAssoc@aol.com](mailto:WiAptAssoc@aol.com)

November 14, 2000

Chair Judy Robson  
P.O. Box 7882  
Madison, WI 53707-7882

Re: ATCP 134.06(3) – Security Deposits and Carpet Cleaning

Dear Chair Robson,

The Wisconsin Apartment Association urges the Joint Committee for Review of Administrative Rules Committee to grant the extension of 120 days of Emergency Rule ATCP 134.06(3).

The Wisconsin Apartment Association is currently in discussions with the department and we are confident that resolution of this issue will be resolved.

Sincerely,

Robert R. Dennik  
Executive Director/Director of Governmental Affairs  
Wisconsin Apartment Association

SENATOR JUDITH B. ROBSON  
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR

P.O. Box 7882  
MADISON, WI 53707-7882  
(608) 266-2253

P.O. Box 8952  
MADISON, WI 53708-8952  
(608) 264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

June 23, 2000

Ben Brancel, Secretary  
Department of Agriculture, Trade, and Consumer Protection  
2811 Agriculture Drive  
Madison, WI 53704

Dear Secretary Brancel:

The Joint Committee for the Review of Administrative Rules met in Executive Session on June 21, 2000 and adopted the following motions:

### ATCP 134.06

#### **Relating to residential rental practices. Public testimony taken on the rights of a landlord in withholding security deposits.**

Moved by Senator Welch, seconded by Representative Gunderson that, pursuant to s. 227.26(2)(b), Stats., the Joint Committee for Review of Administrative Rules finds that the Note following s. ATCP 134.06 (3) (c) meets the definition of a rule and directs the Department of Agriculture, Trade, and Consumer Protection to promulgate the Note as an emergency rule under s. 227.24 (1) (a), Stats., within 30 days of June 21, 2000.

Ayes: (10) Representatives Grothman, Gunderson,  
Seratti, Kreuser and Black; Senators Robson, Grobschmidt,  
Shibilski, Schultz and Welch.

Noes: (0)

Absent: (0)

Motion Carried: 10 Ayes, 0 Noes, 0 Absent

Moved by Representative Grothman, seconded by Senator Welch that, the Joint Committee for Review of Administrative Rules finds that the Note following s. ATCP 134.06 (3) (c) does not express what should be the state of Wisconsin's policy with regard to carpet cleaning and security deposits.

Ayes: (6) Representatives Grothman, Gunderson,  
and Kreuser; Senators Robson, Shibilski, Schultz and Welch.

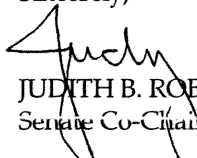
Noes: (4) Representatives Seratti and Black; Senators  
Grobschmidt and Robson

Absent: (0)

Motion Carried: 6 Ayes, 4 Noes, 0 Absent.

Pursuant to s. 227.24(2)(c) Stats., we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

  
JUDITH B. ROBSON  
Senate Co-Chair

  
GLENN GROTHMAN  
Assembly Co-Chair

JBR:GSG:mjg

Cc: Secretary of State Doug LaFollette  
Revisor of Statutes Gary Poulson

SENATOR JUDITH B. ROBSON  
 Co-CHAIR  
 PO BOX 7882  
 MADISON, WI 53707-7882  
 (608) 266-2253



REPRESENTATIVE GLENN GROTHMAN  
 Co-CHAIR  
 PO BOX 8952  
 MADISON, WI 53708-8952  
 (608) 264-8486

**JOINT COMMITTEE FOR  
 REVIEW OF ADMINISTRATIVE RULES**

***Emergency Rule Extension Motion Form***

*Last Modified May 2000*

Date 11/15/00 Location 201 SE  
 Moved by Robson, Seconded by Seratti

**THAT**, pursuant to § 227.24(2)(a), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules extend the effective period of Emergency Rule ATCP 134.06(3) by 60 days, at the request of the Department of Agriculture, Trade and Consumer Protection.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
* 3. Senator SHIBLISKI	✓		✓
* 4. Senator WELCH	✓		✓
* 5. Senator SCHULTZ	✓		✓
6. Representative GROTHMAN	✓		
7. Representative GUNDERSON	✓		
8. Representative SERATTI	✓		
9. Representative KREUSER			✓
10. Representative BLACK	✓		
Totals			

Motion Carried

Motion Failed

\* by polling

SENATOR JUDITH B. ROBSON  
CO-CHAIR  
PO BOX 7882  
MADISON, WI 53707-7882  
(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIR  
PO BOX 8952  
MADISON, WI 53708-8952  
(608) 264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

### *Motion Form*

*Last Modified September 1999*

Date 5/10/00

Location 201 SE

Moved by \_\_\_\_\_, Seconded by \_\_\_\_\_

THAT, pursuant to § 227.26(2)(d), and for the reason given in § 227.19(4)(d)(6), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules suspends the phrase "that compiles and maintains files on consumers on a nationwide basis" in ATCP 134.05(4)(a) and (b).

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COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON			
2. Senator GROBSCHMIDT			
3. Senator SHIBLISKI			
4. Senator WELCH			
5. Senator <del>DARLING</del> SCHULTZ			
6. Representative GROTHMAN			
7. Representative GUNDERSON			
8. Representative SERATTI			
9. Representative KREUSER			
10. Representative BLACK			
Totals			

Motion Carried  Motion Failed

## Flury, Kelley

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**From:** Emmerich & Associates, Inc., John H. Fischer [john@helprent.com]  
**Sent:** Monday, April 10, 2000 5:06 PM  
**To:** Sen.Robson@legis.state.wi.us; Sen.Grobschmidt@legis.state.wi.us;  
Sen.Shibilski@legis.state.wi.us; Sen.Schultz@legis.state.wi.us  
**Cc:** Rep.Grothman@legis.state.wi.us; Rep.Gunderson@legis.state.wi.us;  
Rep.Seratti@legis.state.wi.us; Rep.Kreuser@legis.state.wi.us; Rep.Black@legis.state.wi.us  
**Subject:** Comments on ATCP 134.06, Hearing Tuesday April 11th

Honorable Senators and Representatives of the Committee,

I will be unable to attend the hearing on ATCP 134.06 scheduled for April 11th, so I wish to e-mail these comments to the committee members.

### **We urge you to allow landlords to enter into agreements with tenants that would allow for various cleaning charges, including carpet cleaning, to come out of a security deposit.**

The statutes and administrative rules have always been guidelines to follow when there are no lease provisions to the contrary. Historically, Landlords have been able to establish policies inconsistent with the statutes provided they were part of a written rental agreement.

These same standards should apply to carpet cleaning.

Under the current rule, not only can a landlord not charge a tenant for carpet cleaning, they are forbidden from even entering into such an agreement.

We do not object to language that does not allow this charge when there is no contrary language in the rental agreement. However, Landlords should be allowed to have "Non-Standard Rental Provisions" that allow for security deposit withholding for carpet cleaning.

Under current law, the consumer is still well protected. They have to be offered the chance to review this agreement before paying any earnest money, the landlord has to literally read the agreement to the tenant before they can sign the lease, and the provision has to be separately acknowledged by a signature or initials.

Feel free to contact me, I would be more than willing to answer any questions any committee members may have.

John H. Fischer, Emmerich & Associates, Inc.  
**Vice-President, Wausau Area Apartment Association**  
453 Grand Avenue, Schofield, WI 54476  
(715) 359-1500 Fax: (715) 355-0028

**Flury, Kelley**

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**From:** reliance@1804dollar.com  
**Sent:** Tuesday, April 11, 2000 8:02 AM  
**To:** Sen.Robson@legis.state.wi.us  
**Subject:** Residential Rental Practices

Senator Robson:

This morning's session of the Joint Committee for Review of Administrative Rules will consider a landlord's withholding of security deposits. I've been a landlord since 1978 and it has been the practice of myself and most other landlords to routinely provide tenants with freshly cleaned carpets upon moving into a new residence. It has also been standard practice to deduct the cost of carpet cleaning from the security deposits of tenants who vacate those apartments and houses. Please allow landlords to be able to continue this practice so we can provide new residents with clean accommodations and allow landlords an efficient way to recover this cost. Thank you. Mark Ferguson



## Flury, Kelley

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**From:** Barb Domenk [BarbD@BearRealty.com]  
**Sent:** Monday, April 10, 2000 7:23 PM  
**To:** 'Sen.Robson@legis.state.wi.us'  
**Subject:** AG Rules regarding carpet cleaning

Dear Senator Robson:

I received a phone call tonight from another member of our Apartment Association. He was hoping that I was available to go to Madison tomorrow to give testimony on the rights of a landlord in reference to withholding carpet cleaning from the security deposit. Since I can not leave work to do this, I am hoping that my e-mail will reach you before you meet on this issue.

I am the Director of Property Management for Kenosha's largest Real Estate firm. I have been in Property Management 24 years. I take pride in the fact that I follow the Ag. rules carefully, am always professional in my business transactions, and attend seminars whenever new legislation is being passed that effects our industry.

I was recently contacted by The Department of Agriculture in reference to a complaint that had been filed over this issue. I am sending the same letter I sent as my answer because I think it is a good one that addresses my concerns very well.

State of Wisconsin  
Department of Agriculture, Trade and Consumer Protection  
10930 West Potter Road Suite C  
Milwaukee, WI 53226-3450

Re: File #363314

Dear Ms. DePons:

I am in receipt of your letter dated March 28th in reference to the above captioned file. I am writing this letter to document the facts and allegations stated in your letter.

There seems to be some confusion over the way to handle the carpet cleaning upon a tenant vacating a unit. I attended 4 seminars on the subject of the new Ag. rules. Two were in Milwaukee. Someone gave one with the Department of Agriculture and an Attorney representing BOMA gave another. The others were given in our area by the Wisconsin Apartment Association and by another Attorney. I was the first one to ask questions in this area and try to determine the correct way to handle this.

It was determined that it was unclear. The Department was saying that you could not deduct carpet cleaning from anyone's security deposit but that it was alright to charge a tenant for carpet cleaning as long as it was stated in the Non Standard Rental Provisions. It was indicated that the tenant would need to pay the bill for the carpet cleaning rather than have the landlord deduct for it. When it was discussed at the various seminars, others attending felt that having a tenant pre-pay for it might be the answer since it would be difficult to collect this from someone that had moved. The speaker felt that this was a gray area.

I can see, by your correspondence that this may not be the acceptable way to handle this. Due to your letter, we will not be charging this pre-paid carpet-cleaning fee in the future.

However, it does not change our position on what is considered normal wear and tear or routine carpet cleaning. This was a 12 month lease and the tenant only lived in the unit 7 months. A landlord should not have to absorb the cost of cleaning the carpeting twice in one year. The carpet needed to be cleaned regardless of what Joanna Nechvatal has told you. A new tenant moving would never have accepted it without it being cleaned. Wouldn't this

be considered "mitigation costs"?

In reference to the complaint that you have received, I have included a copy of the Non Standard Rental Provisions form that was initialed by the person filing the complaint. (Please note that she was initialing it with her maiden name prior to her marriage and name change). #7 clearly states our position on re-painting.

When this tenant was ready to move into the unit, they refused to do so because they felt that the walls were not acceptable. Although it had been painted previously as part of the new construction of the building, they wanted it painted again. We complied with their request and pro-rated their rent for the time that they did not occupy the unit.

They vacated the unit 7 months into a 12 month lease term. Is it fair that we should have to absorb the expense of painting it a second time for the next tenant? They claim that painting was not necessary. That is their opinion. We felt it was since it would not be acceptable to the next person that rented the condominium due to the marks on the walls. Our offer to discount the cost to half when they called expressing their opinion was very fair.

Our position is that painting a unit more than once a year is not normal wear and tear regardless of the fact that they may not have smoked and feel they were not abusive.

Our position on the carpet cleaning is pretty much the same. You have informed us that we can not deduct this charge from the security deposit, however, it does not change the fact that we feel they owe this and is stated in #6 of the Non-Standard Rental Provision. (This addresses our position if they vacate prior to one year and their carpet needs cleaning)

You will note on the Non Standard Rental Provision Form enclosed that we addressed the issue of late fees. I would assume that this would address this point that was brought up in your letter.

The matter as I see it concerns \$162.50 for ½ the cost to re-paint. Had they lived in the unit the full lease term we would have considered it normal wear and tear and would not have charged this.

The second matter concerns the \$75 pre-paid carpet cleaning. We will return this to the tenant and then bill them for it since we feel it was necessary to do this to be able to re-rent the unit. Once again, I feel that it really was a part of mitigating their loss.

I would ask the Department of Agriculture, to take into consideration that "broken leases" prior to one year of occupancy create an additional expense for the landlord that should not be necessary. We are prohibited from charging an "early lease termination fee" as they do in many other states (which would cover the costs associated in getting the apartment ready for the next tenant prior to one year of occupancy). Shouldn't we at least be able to cover our costs to "mitigate"?

I will wait to hear from you. Thank you.

Sincerely,

Barbara Domenk  
Director of Property Management  
BEAR PROPERTY MANAGEMENT, INC.

Senator Robson:

I urge you to speak for me at the hearing. I believe the following:

1. In the case of broken leases prior to a full lease term of occupancy, landlords should be able to recover their expenses to be able to "mitigate the tenants losses". This includes being able to charge them to have the carpet re-cleaned if it is necessary.
2. That placing the carpet cleaning agreement in the Non Standard Rental Provision that the tenant has initialed at the time they signed the

lease is sufficient notification to the tenant for the landlord to be able to deduct for this from their security deposit.

3. That having to bill a tenant for carpet cleaning after they vacate is a burden on landlords and will not be easy to collect.

4. That the entire issue of carpet cleaning has been unclear since the Ag. rules were revised. Many landlords felt that having a tenant pre-pay for it prior to moving in would be a workable solution. Now we are told that it violates the Ag. Rules because no matter what you call it the "fee" is really just additional security deposit.

I will appreciate a reply.

Sincerely,

Barbara Domenk  
Barb@bearrealty.com <mailto:Barb@bearrealty.com>

4015 80th Street  
Kenosha, WI 53142

262-697-9616

## Flury, Kelley

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**From:** KRoesler@aol.com  
**Sent:** Wednesday, April 12, 2000 9:07 AM  
**To:** Sen.Robson@legis.state.wi.us; Sen.Grobschmidt@legis.state.wi.us;  
Jeff.Grothman@legis.state.wi.us; rep.gunderson@legis.state.wi.us;  
rep.seratti@legis.state.wi.us; sen.shibiski@legis.state.wi.us; sen.welch@legis.state.wi.us;  
sen.schultz@legis.state.wi.us; rep.kreuser@legis.state.wi.us; rep.black@legis.state.wi.us  
**Subject:** ATCP 134.06

In regards to ATCP 134.06 relating to residential rental practices/carpet cleaning

This letter is to inform you that we are AGAINST the new carpet cleaning law that makes the landlord responsible for carpet cleaning cost. The tenant is the person living in the apartment and the cost of carpet cleaning should be deducted from their security deposit.

If you are a landlord you will know where we are coming from and that this law is wrong by placing the cost on the landlord. Along with other costs of repairs and replacing items in the apartments after a tenant leaves it has become very costly to the landlord.

PLEASE RECONSIDER THIS RULE AND PUT THE COST OF CARPET CLEANING BACK ON THE TENANT WHERE IT BELONGS

thank you for your time

**Flury, Kelley**

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**From:** Orv Seymer [legal@execpc.com]  
**Sent:** Wednesday, April 12, 2000 8:00 AM  
**To:** Rep.Grothman@legis.state.wi.us; Sen.Robson@legis.state.wi.us  
**Subject:** Admin. Rules Committee

I want to Thank You for your patience in yesterdays hearing. Even though it was long, all of the items on the agenda were very interesting and I do appreciate you giving everyone the opportunity to say there peace.

The carpet cleaning / painting issue along with the credit check issue are important to all landlords across the State especially the small owners who do not have the resources to hire Attorney's to give them legal advice for such small items. I do appreciate your efforts to make this as simple as possible without the government bureaucracy interfering.

Thank You

Orville Seymer

Legislative Chairman

Apartment Association of S.E. Wis.

AUG 02 2000



State of Wisconsin  
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection  
Ben Brancel, Secretary

July 31, 2000

Senator Judith Robson  
Co-Chair, JCRAR  
P.O. Box 7882  
Madison, WI 53707-7882

Representative Glenn Grothman  
Co-Chair, JCRAR  
P.O. Box 8952  
Madison, WI 53707-8952

Re: Security Deposits – ATCP 134.06(3)(c)(note)

Dear Senator Robson and Representative Grothman:

This will confirm that Department has implemented the directive in your letter dated June 23, 2000, to promulgate the note to §ATCP 134.06(3)(c), "Residential Rental Practices," as an emergency rule. The note to §ATCP 134.06(3)(c) is now §ATCP 134.06(3)(d).

The emergency rule was signed by Deputy Secretary Joseph Tregoning on July 11, 2000. The text of the emergency rule was published in the *Wisconsin State Journal* on July 20, 2000. Copies of these documents are enclosed for your reference.

We also wish to advise the Committee that the Department intends to try to resolve this issue by meeting with landlord and tenant representatives to consider revising the administrative rule. To accomplish this end, we have submitted a Scope Statement to the Board of Agriculture, Trade & Consumer Protection for its review and approval at its next meeting on August 17, 2000. A copy of the Scope Statement is attached for your information.

After the DATCP Board approves the scope statement, we will arrange meetings with representatives from the various interest groups to discuss possible rule changes. The Department respectfully requests that we be given time to try to resolve the carpet cleaning issue through meetings with the interest groups before the JCRAR takes any further action on this issue.

Sincerely,

A handwritten signature in cursive script that reads "William L. Oemichen".

William L. Oemichen, Administrator  
Division of Trade and Consumer Protection

Enclosures

cc: Secretary Ben Brancel



State of Wisconsin  
Tommy G. Thompson, Governor

**Department of Agriculture, Trade and Consumer Protection**  
Ben Brancel, Secretary

June 20, 2000

Tim Ballering, President  
Apartment Association of Southeastern Wisconsin  
1442 N. Farwell, Suite 102  
Milwaukee, WI 53202

Sent by FAX to (414) 643-8450  
and by first-class mail

Re: Landlord Information Service, Inc. (LIS)

Dear Mr. Ballering:

On behalf of the Apartment Association of Southeastern Wisconsin and the Landlord Information Service, Inc. (LIS), you have asked the department to review the following question:

Question: May landlords who subscribe to LIS require prospective tenants to pay the actual cost, up to \$20, for obtaining from LIS the consumer credit report which is provided by TransUnion?

Answer: Yes. Landlords who subscribe to LIS and receive consumer credit reports from TransUnion through LIS may charge prospective tenants the actual cost, up to \$20, for obtaining the consumer credit report. This is because the credit report comes from TransUnion and is subject to all the procedures and protections of the federal Fair Credit Reporting Act.

Discussion: Under sec. ATCP 134.05(4)(a), Wis. Adm. Code, ". . . a landlord may require a prospective tenant to pay the landlord's actual cost, up to \$20, to obtain a *consumer credit report* from a *consumer credit reporting agency that compiles and maintains files on consumers on a nationwide basis*. . . ." if the landlord notifies the prospective tenant of this charge before requesting the credit report and provides the prospective tenant with a copy of the report. (Italics added.)

The opinion expressed in this letter is based upon the following facts:

- LIS obtains "consumer credit reports" on prospective tenants from TransUnion, then it provides the credit report to its subscribers. These credit reports meet the definition of a "consumer report" under sec. ATCP 134.02(1m), Wis. Adm. Code and the Fair Credit Reporting Act (FCRA), 15 USC §1681a(d);
- TransUnion is a "consumer credit reporting agency that compiles and maintains files on consumers on a nationwide basis," as defined in sec. ATCP 134.02(1r), Wis. Adm. Code and the FCRA, 15 USC §1681a(p);

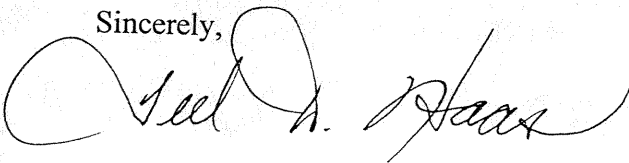
Tim Ballering, President  
Apartment Association of Southeastern Wisconsin  
June 20, 2000  
Page 2

- LIS is a "reseller" of consumer reports with respect to the consumer credit reports it obtains from TransUnion, 15 USC §1681e(e);
- LIS is a "consumer reporting agency" within the meaning of the FCRA, 15 USC §1681a(f), in regard to the additional consumer information it provides its subscribers, such as eviction records, criminal convictions and tenant history;
- As both a "reseller" and a "consumer reporting agency," LIS is required to comply with the provisions in the FCRA concerning permissible uses of consumer reports, resale of consumer reports, compliance and reporting requirements, and procedures regarding consumer rights, etc.
- LIS and its subscribers are not asking or planning to charge prospective tenants for the "additional" reports LIS provides concerning eviction records, criminal conviction records and tenant history.

Based on the above information, it would be permissible for LIS subscribers (landlords) to charge prospective tenants the actual cost, not to exceed \$20, for the consumer credit reports they receive from TransUnion. Of course, the subscribers must also comply with the other provisions in sec. ATCP 134.05(4), Wis. Adm. Code, regarding advance notice, etc.

I hope this information is helpful to you and your members. Please let me know if you have any questions.

Sincerely,



Teel D. Haas  
Assistant Legal Counsel

Telephone: 608-224-5032  
FAX: 608-224-5034

cc: William L. Oemichen, Administrator, Division of Trade and Consumer Protection  
Elmer Prenzlou, Manager, Milwaukee Regional Office  
Kelly McDowell, Schreiber & Associates





**State of Wisconsin**

Tommy G. Thompson, Governor

**Department of Agriculture, Trade and Consumer Protection**

Ben Brancel, Secretary

DATE: June 20, 2000

TO: Senator Judith B. Robson, Co-Chair  
Joint Committee for the Review of Administrative Rules

Representative Glenn Grothman, Co-Chair  
Joint Committee for the Review of Administrative Rules

FROM: William L. Oemichen, Administrator  
Division of Trade & Consumer Protection

RE: Security Deposit Withholding Exemptions – ATCP 134.06(3)  
Credit Checks Paid For By Prospective Tenants – ATCP 134.05(4)

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The Department of Agriculture, Trade & Consumer Protection would like to provide you with information for your June 21, 2000, Executive Session on Security Deposits and Credit Check provisions of Chapter ATCP 134 (Residential Rental Practices).

First, I wish to inform you that the department has written to the Apartment Association of Southeastern Wisconsin and advised them that we believe the current rule allows landlords who subscribe to the Landlord Information Service (LIS) to charge prospective tenants for credit report information LIS obtains from TransUnion (which is an agency that compiles credit information on consumers on a nationwide basis). We believe the letter resolves the concerns about the credit check provision raised by the Apartment Association of Southeastern Wisconsin and the Landlord Information Service at the last JCRAR meeting and obviates the need to make any changes to sec. ATCP 134.05(4).

Second, the Department respectfully continues to oppose any change to the security deposit portion of section ATCP 134.06(3). We understand several committee members view this provision in a different light and are interested in removing the "NOTE" to subsection (3)(c). However, we believe the suspension of the NOTE may only be done if the underlying provision is also suspended and meets at least one of the requirements of Wis. Stats. section 227.19(4)(d).

Suspension of the underlying provision in subsection (3) at the time many Wisconsin residents are leaving current one-year leases to enter into new leases would lead to significant confusion about how security deposits can be used during the next year. This would also change a provision that has been law for more than 20 years.

Senator Judith B. Robson, Co-chair, JCRAR  
Representative Glenn Grothman, Co-chair, JCRAR  
June 20, 2000  
Page 2

As you know, the current rule states that a landlord may deduct costs of tenant waste or neglect from a security deposit. A landlord may not deduct costs arising from ordinary wear and tear from the security deposits.

We respectfully request that the JCRAR not suspend this rule or any portion of it. However, if the Committee should decide to suspend a provision, we would commit to bringing the affected provision before the Board of Agriculture, Trade and Consumer Protection at the earliest possible opportunity for the Board's consideration.

Thank you for your attention to an important issue affecting more than 1.5 million Wisconsin residents and numerous landlords.

Please contact Southeast Regional Consumer Protection Supervisor Elmer Prenzlou (414/266-1232) or Assistant Legal Counsel Teel Haas (608/224-5032) if you have any questions.

JUL 12 2000



State of Wisconsin  
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection  
Ben Brancel, Secretary

DATE: July 13, 2000  
TO: State Legislators  
FROM: Joseph E. Tregoning, Deputy Secretary  
SUBJECT: Emergency Rule Relating to Residential Rental Practices

Pursuant to s. 227.24(3), Stats., the Department of Agriculture, Trade and Consumer Protection is forwarding a copy of an emergency rule relating to residential rental practices. The department is adopting this emergency rule at the direction of the Joint Committee for Review of Administrative Rules (JCRAR).

The department administers state landlord-tenant rules contained in ch. ATCP 134, Wis. Adm. Code. These rules affect over 1.5 million Wisconsin residents. This emergency rule modifies current residential rental practices rules related to security deposit withholding.

Under current rules, a landlord may not withhold a security deposit for normal wear and tear, or for other damages or losses for which the tenant cannot reasonably be held responsible. A "note" to s. ATCP 134.06(3)(c) also states that a landlord may not withhold from a tenant's security deposit for routine painting or carpet cleaning, where there is no unusual damage caused by tenant neglect.

On June 21, 2000, the Legislature's Joint Committee for Review of Administrative Rules (JCRAR) found that the "note" to s. ATCP 134.06(3)(c) is actually a rule and directed DATCP to adopt the "note" as an emergency rule. According to s. 227.26(2)(b), Stats., DATCP must promulgate the emergency rule under s. 227.24(1)(a), Stats., within 30 days after the JCRAR directs DATCP to do so. Because the JCRAR has directed DATCP to adopt this emergency rule, DATCP is not required to make any other finding of emergency.

#### **Fiscal Effect**

This emergency rule will have no fiscal effect on state or local government.

#### **Next Steps**

An emergency rule is a temporary rule that takes effect upon publication in the official state newspaper. An emergency rule remains in effect for 150 days, unless extended by or suspended by the JCRAR. The department will hold a public hearing on the emergency rule as required by chapter 227, Stats. The department has not yet determined the hearing date, time and location, but will publish a hearing notice as required by chapter 227, Stats.

The department is also planning to develop a "permanent" rule to clarify current rules related to security deposits and carpet cleaning charges. The department will consult with landlord and tenant groups in an effort to resolve, on a more "permanent" basis, current disagreements related to state policy on security deposit withholding and routine carpet cleaning charges.

Enc.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

## Chapter ATCP 134

### RESIDENTIAL RENTAL PRACTICES

ATCP 134.01	Scope and application.
ATCP 134.02	Definitions.
ATCP 134.03	Rental agreements and receipts.
ATCP 134.04	Disclosure requirements.
ATCP 134.05	Earnest money deposits and credit check fees.

ATCP 134.06	Security deposits.
ATCP 134.07	Promises to repair.
ATCP 134.08	Prohibited rental agreement provisions.
ATCP 134.09	Prohibited practices.
ATCP 134.10	Effect of rules on local ordinances.

**Note:** Chapter Ag 134 was renumbered chapter ATCP 134 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

**Note:** This chapter is adopted under authority of s. 100.20 (2), Stats., and is administered by the Wisconsin department of agriculture, trade and consumer protection. Violations of this chapter may be prosecuted under s. 100.20 (6), 100.26 (3) or (6), Stats. A person who suffers a monetary loss because of a violation of this chapter may sue the violator directly under s. 100.20 (5), Stats., and may recover twice the amount of the loss, together with costs and reasonable attorneys' fees.

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

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

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

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

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

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

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

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

**History:** Cr. Register, February, 1980, No. 290, eff. 5-1-80; am. (intro.), (1) to (6), Register, December, 1998, No. 516, eff. 1-1-99; am. (7), Register, June, 1999, No. 522, eff. 7-1-99.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**History:** Cr. Register, February, 1980, No. 290, eff. 5-1-80; am. (2), Register, February, 1987, No. 374, eff. 3-1-87; correction in (12) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1993, No. 448; cr. (1m), (1r) and (14), am. (3) and (10), r. (4), Register, December, 1998, No. 516, eff. 1-1-99.

#### ATCP 134.03 Rental agreements and receipts.

(1) COPIES OF RENTAL AGREEMENTS, RULES. Rental agreements and rules and regulations established by the landlord, if in writing, shall be furnished to prospective tenants for their inspection be-

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fore a rental agreement is entered into, and before any earnest money or security deposit is accepted from the prospective tenant. Copies shall be given to the tenant at the time of agreement.

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

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

History: Cr. Register, February, 1980, No. 290, eff. 5-1-80; renum. (2) to be (2) (a), cr. (2) (b), Register, December, 1998, No. 516, eff. 1-1-99.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History: Cr. Register, February, 1980, No. 290, eff. 5-1-80; am. (1) (b), (2) (b) 1. and 2., cr. (2) (b) 5. and 6., Register, December, 1998, No. 516, eff. 1-1-99.

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

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

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

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

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

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

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

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

2. Return the earnest money deposit to the tenant.

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

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

(b) A landlord may withhold from an earnest money deposit, under par. (a), an amount sufficient to compensate the landlord for actual costs and damages incurred because of the prospective tenant's failure to enter into a rental agreement. The landlord may not withhold for lost rents unless the landlord has made a reasonable effort to mitigate those losses, as provided under s. 704.29, Stats.

Note: See *Pierce v. Norwick*, 202 Wis. 2d 588 (1996), regarding the award of damage claims for failure to comply with provisions of this chapter related to security de-

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posits. The same method of computing a tenant's damages may apply to violations related to earnest money deposits.

**(4) CREDIT CHECK FEE.** (a) Except as provided under par. (b), a landlord may require a prospective tenant to pay the landlord's actual cost, up to \$20, to obtain a consumer credit report on the prospective tenant from a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. The landlord shall notify the prospective tenant of the charge before requesting the consumer credit report, and shall provide the prospective tenant with a copy of the report.

(b) A landlord may not require a prospective tenant to pay for a consumer credit report under par. (a) if, before the landlord requests a consumer credit report, the prospective tenant provides the landlord with a consumer credit report, from a consumer credit reporting agency that compiles and maintains files on consumers on a nationwide basis that is less than 30 days old.

**Note:** Paragraph (b) does not prohibit a landlord from obtaining a more current consumer credit check at the landlord's expense.

**History:** Cr. Register, February, 1980, No. 290, eff. 5-1-80; reprinted to correct error in (1) (a), Register, March, 1984, No. 339; r. and recr., Register, December, 1998, No. 516, eff. 1-1-99.

**ATCP 134.06 Security deposits. (1) CHECK-IN PROCEDURES; PRE-EXISTING DAMAGES.** (a) Before a landlord accepts a security deposit, or converts an earnest money deposit to a security deposit under s. ATCP 134.05, the landlord shall notify the tenant in writing that the tenant may do any of the following by a specified deadline date which is not less than 7 days after the start of tenancy:

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Tenant damage, waste or neglect of the premises.
2. Unpaid rent for which the tenant is legally responsible, subject to s. 704.29, Stats.
3. Payment which the tenant owes under the rental agreement for utility service provided by the landlord but not included in the rent.
4. Payment which the tenant owes for direct utility service provided by a government-owned utility, to the extent that the landlord becomes liable for the tenant's nonpayment.
5. Unpaid mobile home parking fees which a local unit of government has assessed against the tenant under s. 66.058 (3), Stats., to the extent that the landlord becomes liable for the tenant's nonpayment.
6. Other reasons authorized in the rental agreement according to par. (b).

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

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

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

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

**(4) SECURITY DEPOSIT WITHHOLDING; STATEMENT OF CLAIMS.**

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

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

**(5) TENANT FAILURE TO LEAVE FORWARDING ADDRESS.** A landlord who has otherwise complied with this section shall not be considered in violation solely because the postal service has been unable to complete mail delivery to the person addressed. This

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subsection does not affect any other rights that a tenant may have under law to the return of a security deposit.

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

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

**(2) INITIAL PROMISES IN WRITING.** All promises made before the initial rental agreement shall be in writing with a copy furnished to the tenant.

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

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

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

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

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

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

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

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

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

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

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

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

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

**ATCP 134.09 Prohibited practices. (1) ADVERTISING OR RENTAL OF CONDEMNED PREMISES.** No landlord may rent or advertise for rent any premises which have been placarded and condemned for human habitation, or on which a notice of intent to placard and condemn, or an order to raze, or to rehabilitate or raze, or any similar order has been received under state or local laws or

ordinances, until and unless all repairs required to bring the property into compliance with the laws or ordinances have been completed.

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

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

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

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

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

2. A health or safety emergency exists.

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

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

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

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

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

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

**(4) CONFISCATING PERSONAL PROPERTY.** (a) No landlord may seize or hold a tenant's personal property, or prevent the tenant from taking possession of the tenant's personal property, except as authorized under s. 704.05(5), Stats., or a written lien agreement between the landlord and tenant.

(b) A lien agreement under par. (a), if any, shall be executed in writing at the time of the initial rental agreement. The landlord shall include the lien agreement in a separate written document entitled "NONSTANDARD RENTAL PROVISIONS" which the landlord provides to the tenant. The landlord shall specifically identify and discuss the lien agreement with the tenant before the tenant enters into any rental agreement with the landlord. The lien agreement is not effective unless signed or initialed by the tenant.

**Note:** See s. 704.11, Stats.

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



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dwelling unit, in retaliation against a tenant because the tenant has:

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

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

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

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

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

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

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

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

**(9) MISREPRESENTATIONS.** (a) No landlord may do any of the

following for the purpose of inducing any person to enter into a rental agreement:

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

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

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

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

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

History: Cr. Register, February, 1980, No. 290, eff. 5-1-80; am. (2) and (4), Register, December, 1993, No. 516, eff. 1-1-99.

**ATCP 134.10 Effect of rules on local ordinances.**

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

(2).

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

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

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