



**SENATE SUBSTITUTE AMENDMENT ,
TO 2011 SENATE BILL 466**

1 **AN ACT to repeal** 704.05 (5) (a) 3. and 704.05 (5) (d); **to renumber and amend**
2 704.44 (except 704.44 (title)); **to consolidate, renumber and amend** 704.05
3 (5) (a) (intro.) and 1.; **to amend** 321.62 (15) (a), 704.03 (1), 704.05 (1), 704.05
4 (5) (title), 704.05 (5) (a) 2., 704.05 (5) (c), 704.07 (1), 704.11, 704.27 and 704.44
5 (title); **to repeal and recreate** 704.05 (5) (a) (title); and **to create** 66.1010,
6 704.02, 704.05 (5) (b), 704.05 (5) (cm), 704.07 (2) (bm), 704.08, 704.17 (2) (d),
7 704.28, 704.44 (2m) and 799.40 (1m) of the statutes; **relating to:** miscellaneous
8 landlord-tenant provisions, prohibiting a local government from imposing a
9 moratorium on eviction actions, and providing a penalty.

Analysis by the Legislative Reference Bureau

This substitute amendment differs from 2011 Senate Bill 466 (the bill) in the following respects:

1. The bill requires a tenant to notify the landlord in writing of any repair or maintenance that the premises requires before reporting the problem to a building inspector, elected public official, or local housing code enforcement agency. The substitute amendment removes this requirement.

2. The bill provides that any provision in a rental agreement is void and unenforceable if it allows a landlord to take various actions, such as increasing rent or refusing to renew a rental agreement, because the tenant has contacted an entity for law enforcement services, health services, or safety services. The substitute amendment provides that any landlord that includes such a provision in a rental agreement may be subject to a forfeiture of not more than \$500.

3. The bill incorporates the Wisconsin Administrative Code (Code) provisions for what a landlord may deduct from a tenant's security deposit into the statutes, and also provides that, if a tenant removes from the premises before the end of his or her lease term, the landlord must return the tenant's security deposit within 21 days after the end of the lease term or, if the landlord rerents the premises before the end of that lease term, within 21 days after the new tenant's tenancy begins. The substitute amendment incorporates from the Code the requirements for when a landlord must return a security deposit in other situations, namely 21 days after the end of the term of a rental agreement if the tenant vacates at the end of the term; 21 days after the landlord learns that the tenant has vacated the premises if the tenant vacates the premises after the end of the term of the rental agreement; and 21 days after a writ of restitution is executed or the landlord learns that the tenant has vacated the premises, whichever is later, if the tenant is evicted from the premises. The substitute amendment also incorporates from the Code the requirement that a landlord deliver or mail to a tenant a written, itemized statement of every deduction from the tenant's security deposit if the landlord makes any deductions.

4. The bill requires a landlord to provide to a new tenant a standardized information check-in sheet with an itemized description of the condition of the premises at the time of the tenant's check-in. The substitute amendment provides that the tenant must be given seven days to complete the check-in sheet and return it to the landlord.

5. The bill provides that, in the absence of a written agreement to the contrary between the landlord and tenant, the landlord may presume that any personal property that a tenant leaves behind has been abandoned and may dispose of it in any manner that the landlord determines is appropriate. The bill also provides that the tenant is responsible for any costs, including storage charges, that the landlord incurs in the the disposal of the property. The substitute amendment provides specific notice requirements if the property that the tenant leaves behind is a manufactured or mobile home and also specifies how storage charges are to be determined in that case.

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

- 1 **SECTION 1.** 66.1010 of the statutes is created to read:
- 2 **66.1010 Moratorium on evictions.** (1) In this section, "political subdivision"
- 3 has the meaning given in s. 66.1011 (1m) (e).

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

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

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

8 321.62 (15) (a) Notwithstanding ~~ss. 704.05 (5) and s. 704.90~~, no person may
9 enforce a lien for storage of any household goods, furniture, or personal effects of a
10 service member during the period in which the service member is in state active duty
11 and for 90 days after the member's completion of state active duty, except as
12 permitted by a court order under par. (b).

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

14 **704.02 Severability of rental agreement provisions.** The provisions of a
15 rental agreement are severable. If any provision of a rental agreement is rendered
16 void or unenforceable by reason of any statute, rule, regulation, or judicial order, the
17 invalidity or unenforceability of that provision does not affect other provisions of the
18 rental agreement that can be given effect without the invalid provision.

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

20 704.03 (1) ORIGINAL AGREEMENT. ~~A. Notwithstanding s. 704.02~~, a lease for more
21 than a year, or a contract to make such a lease, is not enforceable unless it meets the
22 requirements of s. 706.02 and in addition sets forth the amount of rent or other
23 consideration, the time of commencement and expiration of the lease, and a
24 reasonably definite description of the premises, or unless a writing, including by
25 means of electronic mail or facsimile transmission, signed by the landlord and the

1 tenant sets forth the amount of rent or other consideration, the duration of the lease,
2 and a reasonably definite description of the premises and the commencement date
3 is established by entry of the tenant into possession under the writing. Sections
4 704.05 and 704.07 govern as to matters within the scope of such sections and not
5 provided for in such written lease or contract.

6 **SECTION 5.** 704.05 (1) of the statutes is amended to read:

7 704.05 (1) **WHEN SECTION APPLICABLE.** So far as applicable, this section governs
8 the rights and duties of the landlord and tenant in the absence of any inconsistent
9 provision in writing signed by both the landlord and the tenant. This Except as
10 otherwise provided, ^{in this section} this section applies to any tenancy.

11 **SECTION 6.** 704.05 (5) (title) of the statutes is amended to read:

12 704.05 (5) (title) ~~STORAGE OR DISPOSITION~~ DISPOSITION OF PERSONALTY LEFT BY
13 TENANT.

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

15 704.05 (5) (a) (title) *At the landlord's discretion.*

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

18 704.05 (5) (a) 1. If a tenant removes from the premises and leaves personal
19 property, the landlord may do all of the following: 1. ~~Store the personalty, on or off~~
20 ~~the premises, with a lien on the personalty for the actual and reasonable cost of~~
21 ~~removal and storage or, if stored by the landlord, for the actual and reasonable value~~
22 ~~of storage. The landlord shall give written notice of the storage to the tenant within~~
23 ~~10 days after the charges begin. The landlord shall give the notice either personally~~
24 ~~or by ordinary mail addressed to the tenant's last known address and shall state the~~
25 ~~daily charges for storage. The landlord may not include the cost of damages to the~~

1 ~~premises or past or future rent due in the amount demanded for satisfaction of the~~
2 ~~lien. The landlord may not include rent charged for the premises in calculating the~~
3 ~~cost of storage. Medicine and medical equipment are not subject to the lien under~~
4 ~~this subdivision, and presume, in the absence of a written agreement between the~~
5 ~~landlord shall promptly return them to and the tenant upon request to the contrary,~~
6 ~~that the tenant has abandoned the personal property and may dispose of the~~
7 ~~abandoned personal property in any manner that the landlord, in its sole discretion,~~
8 ~~determines is appropriate. The tenant is responsible for any costs that the landlord~~
9 ~~incurs with respect to disposition of the abandoned personal property.~~

10 **SECTION 9.** 704.05 (5) (a) 2. of the statutes, as affected by 2011 Wisconsin Act
11 32, is amended to read:

12 704.05 (5) (a) 2. ~~Give the tenant notice, personally or by ordinary mail~~
13 ~~addressed to the tenant's last known address, of the landlord's intent to dispose of~~
14 ~~the personal property by sale or other appropriate means if the property is not~~
15 ~~repossessed by the tenant. If the tenant fails to repossess the property within 30 days~~
16 ~~after the date of personal service or the date of the mailing of the notice, Subject to~~
17 ~~par. (b), if the landlord may dispose disposes of the property by private or public sale~~
18 ~~or any other appropriate means. The, the landlord may deduct from send the~~
19 ~~proceeds of the sale minus any costs of sale and any storage charges if the landlord~~
20 ~~has first stored the personalty under subd. 1. If the proceeds minus the costs of sale~~
21 ~~and minus any storage charges are not claimed within 60 days after the date of the~~
22 ~~sale of the personalty, the landlord is not accountable to the tenant for any of the~~
23 ~~proceeds of the sale or the value of the property. The landlord shall send the proceeds~~
24 ~~of the sale minus the costs of the sale and minus any storage charges to the~~

1 department of administration for deposit in the appropriation account under s.
2 20.505 (7) (h).

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

4 SECTION 11. 704.05 (5) (b) of the statutes is created to read:

5 704.05 (5) (b) *If property is a manufactured or mobile home.* 1. In this
6 paragraph:

7 a. "Manufactured home" has the meaning given in s. 101.91 (2).

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

10 2. If the abandoned personal property is a manufactured home or mobile home,
11 before disposing of the abandoned property the landlord shall give the tenant and
12 any documented secured party notice, personally or by regular or certified mail
13 addressed to the tenant's or secured party's last-known address, of the landlord's
14 intent to dispose of the property by sale or other appropriate means. If the landlord
15 disposes of the property by private or public sale, storage charges, for purposes of a
16 deduction from the proceeds of the sale, may be determined by the landlord, but may
17 not exceed an amount that is a daily proration of the monthly rent under the tenant's
18 most recent rental agreement.

19 SECTION 12. 704.05 (5) (c) of the statutes is amended to read:

20 704.05 (5) (c) *Rights of 3rd persons.* The landlord's ~~lien and~~ power to dispose
21 as provided by this subsection ~~apply~~ applies to any property left on the premises by
22 the tenant, whether owned by the tenant or by others. ~~That lien has priority over~~
23 ~~any ownership or security interest, and the~~ The power to dispose under this
24 subsection applies notwithstanding any rights of others existing under any claim of
25 ownership or security interest, but is subject to s. 321.62. The tenant or any secured

1 party has the right to redeem the property at any time before the landlord has
2 disposed of it or entered into a contract for its disposition by payment of the landlord's
3 ~~charges under par. (a) for removal, storage, disposition and arranging for the sale~~ any
4 expenses that the landlord has incurred with respect to the disposition of the
5 property.

6 **SECTION 13.** 704.05 (5) (cm) of the statutes is created to read:

7 704.05 (5) (cm) *Inapplicability to self-storage facilities.* This subsection does
8 not apply to a lessee of a self-storage unit or space within a self-storage facility
9 under s. 704.90.

10 **SECTION 14.** 704.05 (5) (d) of the statutes is repealed.

11 **SECTION 15.** 704.07 (1) of the statutes is amended to read:

12 704.07 (1) APPLICATION OF SECTION. This section applies to any nonresidential
13 tenancy if there is no contrary provision in writing signed by both parties and to all
14 residential tenancies. An agreement to waive the requirements of this section in a
15 residential tenancy, including an agreement in a rental agreement, is void. Nothing
16 in this section is intended to affect rights and duties arising under other provisions
17 of the statutes.

18 **SECTION 16.** 704.07 (2) (bm) of the statutes is created to read:

19 704.07 (2) (bm) A landlord shall disclose to a prospective tenant, before
20 entering into a rental agreement with or accepting any earnest money or security
21 deposit from the prospective tenant, any building code or housing code violation to
22 which all of the following apply:

23 1. The landlord has received notice of the violation from a local housing code
24 enforcement agency.

1 2. The violation affects the dwelling unit that is the subject of the prospective
2 rental agreement or a common area of the premises.

3 3. The violation has not been corrected.

4 4. The date by which the violation must be corrected has passed.

5 **SECTION 17.** 704.08 of the statutes is created to read:

6 **704.08 Information check-in sheet.** A landlord shall provide to a new
7 residential tenant when the tenant commences his or her occupancy of the premises
8 a standardized information check-in sheet that contains an itemized description of
9 the condition of the premises at the time of check-in. The tenant shall be given 7 days
10 from the date the tenant commences his or her occupancy to complete the check-in
11 sheet and return it to the landlord. The landlord is not required to provide the
12 information check-in sheet to a tenant upon renewal of a rental agreement.

13 **SECTION 18.** 704.11 of the statutes is amended to read:

14 **704.11 Lien of landlord.** Except as provided in ss. ~~704.05 (5)~~, 704.90 and
15 779.43 or by express agreement of the parties, the landlord has no right to a lien on
16 the property of the tenant; the common-law right of a landlord to distrain for rent
17 is abolished.

18 **SECTION 19.** 704.17 (2) (d) of the statutes is created to read:

19 704.17 (2) (d) This subsection does not apply to week-to-week or
20 month-to-month tenants.

21 **SECTION 20.** 704.27 of the statutes is amended to read:

22 **704.27 Damages for failure of tenant to vacate at end of lease or after**
23 **notice.** If a tenant remains in possession without consent of the tenant's landlord
24 after expiration of a lease or termination of a tenancy by notice given by either the
25 landlord or the tenant, or after termination by valid agreement of the parties, the

1 landlord ~~may shall~~, at the landlord's discretion, recover from the tenant damages
2 suffered by the landlord because of the failure of the tenant to vacate within the time
3 required. In absence of proof of greater damages, the landlord ~~may shall~~ recover as
4 minimum damages twice the rental value apportioned on a daily basis for the time
5 the tenant remains in possession. As used in this section, rental value means the
6 amount for which the premises might reasonably have been rented, but not less than
7 the amount actually paid or payable by the tenant for the prior rental period, and
8 includes the money equivalent of any obligations undertaken by the tenant as part
9 of the rental agreement, such as payment of taxes, insurance and repairs. Nothing
10 in this section prevents a landlord from seeking and recovering any other damages
11 to which the landlord may be entitled.

12 SECTION 21. 704.28 of the statutes is created to read:

13 **704.28 Withholding from and return of security deposits.** (1) STANDARD
14 WITHHOLDING PROVISIONS. When a landlord returns a security deposit to a tenant after
15 the tenant vacates the premises, the landlord may withhold from the full amount of
16 the security deposit only amounts reasonably necessary to pay for any of the
17 following:

- 18 (a) Tenant damage, waste, or neglect of the premises.
- 19 (b) Unpaid rent for which the tenant is legally responsible, subject to s. 704.29.
- 20 (c) Payment that the tenant owes under the rental agreement for utility service
21 provided by the landlord but not included in the rent.
- 22 (d) Payment that the tenant owes for direct utility service provided by a
23 government-owned utility, to the extent that the landlord becomes liable for the
24 tenant's nonpayment.

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

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

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

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

21 **(4) STATEMENT OF CLAIMS.** (a) If a landlord withholds any amount from a
22 security deposit, the landlord shall, within the time specified in sub. (5), deliver or
23 mail to the tenant a written, itemized statement accounting for all amounts
24 withheld. The statement shall describe each item of physical damage or other claim

1 made against the security deposit and the amount that was withheld for the item as
2 reasonable compensation.

3 (b) A landlord may not intentionally misrepresent or falsify any claim against
4 a security deposit, including the cost of repairs, or withhold any portion of a security
5 deposit on the basis of an intentionally falsified claim.

6 (5) TIMING FOR RETURN. A landlord shall deliver or mail to a tenant the full
7 amount of any security deposit paid by the tenant, less any amounts that may be
8 withheld under subs. (1) and (2), within 21 days after any of the following:

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

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

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

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

21 **SECTION 22.** 704.44 (title) of the statutes is amended to read:

22 **704.44 (title) Rental Provision in rental agreement that restricts access**
23 **to certain services is void.**

24 **SECTION 23.** 704.44 (except 704.44 (title)) of the statutes is renumbered 704.44
25 (1m), and 704.44 (1m) (intro.) and (e), as renumbered, are amended to read:

1 704.44 (1m) (intro.) A provision in a rental agreement is void and
2 unenforceable if it that allows a landlord in a residential tenancy to do any of the
3 following because a tenant has contacted an entity for law enforcement services,
4 health services, or safety services is void and unenforceable:

5 (e) Threaten to take any action under ~~subs. (1) to (4)~~ pars. (a) to (d).

6 **SECTION 24.** 704.44 (2m) of the statutes is created to read:

7 704.44 (2m) Any landlord that includes a provision specified in sub. (1m) in a
8 rental agreement may be required to forfeit not more than \$500.

9 **SECTION 25.** 799.40 (1m) of the statutes is created to read:

10 799.40 (1m) ACCEPTANCE OF RENT. If a landlord commences an action under this
11 section against a tenant whose tenancy has been terminated for failure to pay rent,
12 the action under this section may not be dismissed solely because the landlord
13 accepts past due rent from the tenant after the termination of the tenant's tenancy.

14 **SECTION 26. Initial applicability.**

15 (1) DISPOSAL OF PROPERTY. The treatment of sections 321.62 (15) (a), 704.05 (5)
16 (title), (a) (title), (intro.), 1., 2., and 3., (b), (c), and (d), and 704.11 of the statutes first
17 applies to property left behind by a tenant under a tenancy commenced, or a lease
18 entered into or renewed, on the effective date of this subsection.

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

22 (3) RETURN OF SECURITY DEPOSITS.

23 (a) *Timing for return.* Except as provided in paragraph (b), the treatment of
24 section 704.28 (5) (b) of the statutes first applies to tenants vacating before the

1 termination date of a rental agreement who vacate the premises on the effective date
2 of this paragraph.

3 (b) *Inconsistent provision.* If a rental agreement that is in effect on the effective
4 date of this paragraph contains a provision that is inconsistent with the treatment
5 of section 704.28 (5) (b) of the statutes, the treatment of section 704.28 (5) (b) of the
6 statutes first applies to that rental agreement with respect to the timing of returning
7 a security deposit upon renewal.

8 (4) VOID PROVISION AND SEVERABILITY OF PROVISIONS. The renumbering and
9 amendment of section 704.44 of the statutes, the amendment of section 704.44 (title)
10 of the statutes, and the creation of sections 704.02 and 704.44 (2m) of the statutes
11 first apply to rental agreements that are entered into or renewed on the effective date
12 of this subsection.

13

(END)

Kahler, Pam

From: Kelley, Margit
Sent: Friday, February 17, 2012 12:30 PM
To: Kahler, Pam
Subject: FW: sub for 2011 SB 466

Hold on, I'm checking on two more items.

Margit Kelley
Wisconsin Legislative Council
608-266-9280
Margit.Kelley@legis.wi.gov

From: Kelley, Margit
Sent: Friday, February 17, 2012 12:26 PM
To: Kahler, Pam
Cc: Urso, Tony; Kovach, Robert
Subject: sub for 2011 SB 466

Hi Pam,

Here are the last two additional items Sen. Lasee would like to include in the sub for 2011 SB 466:

- In the section from LRBa2339/2 for notice to a secured party if the abandoned property is a manufactured home or mobile home, please also apply that to a titled vehicle.
- In the sections for the procedure on return of a security deposit (Sections 20 and 21 of the bill), please specify that a tenant who has suffered a pecuniary loss because of a violation of these procedures may sue for damages in any court of competent jurisdiction and shall recover twice the amount of such pecuniary loss.

Thank you!

Margit Kelley
Wisconsin Legislative Council
608-266-9280
Margit.Kelley@legis.wi.gov

Kahler, Pam

From: Kelley, Margit
Sent: Friday, February 17, 2012 12:58 PM
To: Kahler, Pam
Cc: Kovach, Robert; Urso, Tony
Subject: sub for 2011 SB 466

Hi Pam,

I think this is really the last item for the sub on 2011 SB 466. Sen. Lasee's office is sending the stripes back.

- In Section 16, a "rental agreement" that needs the check-in sheet should be limited to a rental agreement **for a dwelling**, since manufactured homes and mobile homes are renting the lot space, and not the structure.

Thank you, Pam!

Margit Kelley
Wisconsin Legislative Council
608-266-9280
Margit.Kelley@legis.wi.gov

Kahler, Pam

From: Gary, Aaron
Sent: Friday, February 17, 2012 1:37 PM
To: Kahler, Pam
Cc: Mueller, Eric
Subject: RE: terminology

It kind of depends on how broad you want to be. You could use "a vehicle for which a certificate of title has been issued under ch. 342." That should cover the vast majority of vehicles - cars, motorcycles, etc. - anything titled by WisDOT. If a vehicle is kept in WI and registered here, it needs to be titled here. However, this would not cover the rare vehicle that has only been titled/registered out of state. It also does not cover such things as snowmobiles, ATVs, strictly off-road motorcycles, boats, etc. If you want to go as broad as possible, you could say a vehicle for which a certificate of title has been issued by any agency of this state or another state" - however, this doesn't cover everything, as I believe most off-road/recreational vehicles aren't issued title by any agency.

Aaron

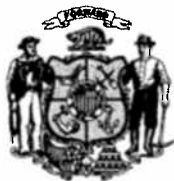
From: Kahler, Pam
Sent: Friday, February 17, 2012 1:29 PM
To: Gary, Aaron; Mueller, Eric
Subject: terminology

Hi, Aaron and Eric:

What term or phrase should I use for "titled vehicle"? This is for the purpose of a tenant who leaves a "titled vehicle" behind when he or she moves and the landlord wants to dispose of it. Most likely it would be a car, but it could be a motor cycle or any other vehicle that is titled.

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682



State of Wisconsin
2011 - 2012 LEGISLATURE



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SENATE SUBSTITUTE AMENDMENT,
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→ The substitute amendment also incorporates from the Code the requirement that a landlord deliver or mail to a tenant a written, itemized statement of every deduction from the tenant's security deposit if the landlord makes any deductions. *insert A*

4. The bill requires a landlord to provide to a new tenant a standardized information check-in sheet with an itemized description of the condition of the premises at the time of the tenant's check-in. The substitute amendment provides that the tenant must be given seven days to complete the check-in sheet and return it to the landlord.

→ *and that the requirement does not apply to the rental of a plot of ground on which to locate a manufactured or mobile home*

5. The bill provides that, in the absence of a written agreement to the contrary between the landlord and tenant, the landlord may presume that any personal property that a tenant leaves behind has been abandoned and may dispose of it in any manner that the landlord determines is appropriate. The bill also provides that the tenant is responsible for any costs, including storage charges, that the landlord incurs in the the disposal of the property. The substitute amendment provides specific notice requirements if the property that the tenant leaves behind is a manufactured or mobile home, and also specifies how storage charges are to be determined in that case.

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- 3 has the meaning given in s. 66.1011 (1m) (e).

*titled
or a titled motor vehicle*

of a plot of ground on which to locate a manufactured or mobile home

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

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

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

8 321.62 (15) (a) Notwithstanding ~~ss. 704.05 (5) and s. 704.90~~, no person may
9 enforce a lien for storage of any household goods, furniture, or personal effects of a
10 service member during the period in which the service member is in state active duty
11 and for 90 days after the member's completion of state active duty, except as
12 permitted by a court order under par. (b).

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

14 **704.02 Severability of rental agreement provisions.** The provisions of a
15 rental agreement are severable. If any provision of a rental agreement is rendered
16 void or unenforceable by reason of any statute, rule, regulation, or judicial order, the
17 invalidity or unenforceability of that provision does not affect other provisions of the
18 rental agreement that can be given effect without the invalid provision.

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

20 704.03 (1) ORIGINAL AGREEMENT. ~~A Notwithstanding s. 704.02~~, a lease for more
21 than a year, or a contract to make such a lease, is not enforceable unless it meets the
22 requirements of s. 706.02 and in addition sets forth the amount of rent or other
23 consideration, the time of commencement and expiration of the lease, and a
24 reasonably definite description of the premises, or unless a writing, including by
25 means of electronic mail or facsimile transmission, signed by the landlord and the

1 tenant sets forth the amount of rent or other consideration, the duration of the lease,
2 and a reasonably definite description of the premises and the commencement date
3 is established by entry of the tenant into possession under the writing. Sections
4 704.05 and 704.07 govern as to matters within the scope of such sections and not
5 provided for in such written lease or contract.

6 **SECTION 5.** 704.05 (1) of the statutes is amended to read:

7 704.05 (1) WHEN SECTION APPLICABLE. So far as applicable, this section governs
8 the rights and duties of the landlord and tenant in the absence of any inconsistent
9 provision in writing signed by both the landlord and the tenant. This Except as
10 otherwise provided in this section, this section applies to any tenancy.

11 **SECTION 6.** 704.05 (5) (title) of the statutes is amended to read:

12 704.05 (5) (title) ~~STORAGE OR DISPOSITION~~ DISPOSITION OF PERSONALTY LEFT BY
13 TENANT.

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

15 704.05 (5) (a) (title) *At the landlord's discretion.*

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

18 704.05 (5) (a) 1. If a tenant removes from the premises and leaves personal
19 property, the landlord may do all of the following: ~~1. Store the personalty, on or off~~
20 ~~the premises, with a lien on the personalty for the actual and reasonable cost of~~
21 ~~removal and storage or, if stored by the landlord, for the actual and reasonable value~~
22 ~~of storage. The landlord shall give written notice of the storage to the tenant within~~
23 ~~10 days after the charges begin. The landlord shall give the notice either personally~~
24 ~~or by ordinary mail addressed to the tenant's last-known address and shall state the~~
25 ~~daily charges for storage. The landlord may not include the cost of damages to the~~

1 ~~premises or past or future rent due in the amount demanded for satisfaction of the~~
2 ~~lien. The landlord may not include rent charged for the premises in calculating the~~
3 ~~cost of storage. Medicine and medical equipment are not subject to the lien under~~
4 ~~this subdivision, and presume, in the absence of a written agreement between the~~
5 ~~landlord shall promptly return them to and the tenant upon request to the contrary,~~
6 ~~that the tenant has abandoned the personal property and may dispose of the~~
7 ~~abandoned personal property in any manner that the landlord, in its sole discretion,~~
8 ~~determines is appropriate. The tenant is responsible for any costs that the landlord~~
9 ~~incurs with respect to disposition of the abandoned personal property.~~

10 **SECTION 9.** 704.05 (5) (a) 2. of the statutes, as affected by 2011 Wisconsin Act
11 32, is amended to read:

12 704.05 (5) (a) 2. ~~Give the tenant notice, personally or by ordinary mail~~
13 ~~addressed to the tenant's last-known address, of the landlord's intent to dispose of~~
14 ~~the personal property by sale or other appropriate means if the property is not~~
15 ~~repossessed by the tenant. If the tenant fails to repossess the property within 30 days~~
16 ~~after the date of personal service or the date of the mailing of the notice, Subject to~~
17 ~~par. (b), if the landlord may dispose disposes of the property by private or public sale~~
18 ~~or any other appropriate means. The, the landlord may deduct from send the~~
19 ~~proceeds of the sale minus any costs of sale and any storage charges if the landlord~~
20 ~~has first stored the personalty under subd. 1. If the proceeds minus the costs of sale~~
21 ~~and minus any storage charges are not claimed within 60 days after the date of the~~
22 ~~sale of the personalty, the landlord is not accountable to the tenant for any of the~~
23 ~~proceeds of the sale or the value of the property. The landlord shall send the proceeds~~
24 ~~of the sale minus the costs of the sale and minus any storage charges to the~~
25 department of administration for deposit in the appropriation under s. 20.505 (7) (h).

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

2 SECTION 11. 704.05 (5) (b) of the statutes is created to read:

3 704.05 (5) (b) *If property is a manufactured or mobile home.* 1. In this
4 paragraph:

5 a. "Manufactured home" has the meaning given in s. 101.91 (2).

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

8 2. If the abandoned personal property is a manufactured home ~~or~~ mobile home,
9 before disposing of the abandoned property the landlord shall give the tenant and
10 any documented secured party notice, personally or by regular or certified mail
11 addressed to the tenant's or secured party's last-known address, of the landlord's
12 intent to dispose of the property by sale or other appropriate means. If the landlord
13 disposes of the property by private or public sale, storage charges, for purposes of a
14 deduction from the proceeds of the sale, may be determined by the landlord, but may
15 not exceed an amount that is a daily proration of the monthly rent under the tenant's
16 most recent rental agreement.

17 SECTION 12. 704.05 (5) (c) of the statutes is amended to read:

18 704.05 (5) (c) *Rights of 3rd persons.* The landlord's ~~lien and~~ power to dispose
19 as provided by this subsection ~~apply~~ applies to any property left on the premises by
20 the tenant, whether owned by the tenant or by others. ~~That lien has priority over~~
21 ~~any ownership or security interest, and the~~ The power to dispose under this
22 subsection applies notwithstanding any rights of others existing under any claim of
23 ownership or security interest, but is subject to s. 321.62. The tenant or any secured
24 party has the right to redeem the property at any time before the landlord has
25 disposed of it or entered into a contract for its disposition by payment of the landlord's

Subst 6-7

or titled vehicles

1 ~~charges under par. (a) for removal, storage, disposition and arranging for the sale any~~
2 ~~expenses that the landlord has incurred with respect to the disposition of the~~
3 ~~property.~~

4 **SECTION 13.** 704.05 (5) (cm) of the statutes is created to read:

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

8 **SECTION 14.** 704.05 (5) (d) of the statutes is repealed.

9 **SECTION 15.** 704.07 (1) of the statutes is amended to read:

10 704.07 (1) APPLICATION OF SECTION. This section applies to any nonresidential
11 tenancy if there is no contrary provision in writing signed by both parties and to all
12 residential tenancies. An agreement to waive the requirements of this section in a
13 residential tenancy, including an agreement in a rental agreement, is void. Nothing
14 in this section is intended to affect rights and duties arising under other provisions
15 of the statutes.

16 **SECTION 16.** 704.07 (2) (bm) of the statutes is created to read:

17 704.07 (2) (bm) A landlord shall disclose to a prospective tenant, before
18 entering into a rental agreement with or accepting any earnest money or security
19 deposit from the prospective tenant, any building code or housing code violation to
20 which all of the following apply:

21 1. The landlord has received notice of the violation from a local housing code
22 enforcement agency.

23 2. The violation affects the dwelling unit that is the subject of the prospective
24 rental agreement or a common area of the premises.

25 3. The violation has not been corrected.

1 4. The date by which the violation must be corrected has passed.

2 SECTION 17. 704.08 of the statutes is created to read:

3 **704.08 Information check-in sheet.** A landlord shall provide to a new
4 residential tenant when the tenant commences his or her occupancy of the premises
5 a standardized information check-in sheet that contains an itemized description of
6 the condition of the premises at the time of check-in. The tenant shall be given 7 days
7 from the date the tenant commences his or her occupancy to complete the check-in
8 sheet and return it to the landlord. The landlord is not required to provide the
9 information check-in sheet to a tenant upon renewal of a rental agreement.

Insert 8-9

10 SECTION 18. 704.11 of the statutes is amended to read:

11 **704.11 Lien of landlord.** Except as provided in ss. 704.05 ~~(5)~~, 704.90 and
12 779.43 or by express agreement of the parties, the landlord has no right to a lien on
13 the property of the tenant; the common-law right of a landlord to distrain for rent
14 is abolished.

15 SECTION 19. 704.17 (2) (d) of the statutes is created to read:

16 704.17 (2) (d) This subsection does not apply to week-to-week or
17 month-to-month tenants.

18 SECTION 20. 704.27 of the statutes is amended to read:

19 **704.27 Damages for failure of tenant to vacate at end of lease or after**
20 **notice.** If a tenant remains in possession without consent of the tenant's landlord
21 after expiration of a lease or termination of a tenancy by notice given by either the
22 landlord or the tenant, or after termination by valid agreement of the parties, the
23 landlord ~~may shall, at the landlord's discretion,~~ recover from the tenant damages
24 suffered by the landlord because of the failure of the tenant to vacate within the time
25 required. In absence of proof of greater damages, the landlord ~~may shall~~ recover as

1 minimum damages twice the rental value apportioned on a daily basis for the time
2 the tenant remains in possession. As used in this section, rental value means the
3 amount for which the premises might reasonably have been rented, but not less than
4 the amount actually paid or payable by the tenant for the prior rental period, and
5 includes the money equivalent of any obligations undertaken by the tenant as part
6 of the rental agreement, such as payment of taxes, insurance and repairs. Nothing
7 in this section prevents a landlord from seeking and recovering any other damages
8 to which the landlord may be entitled.

9 **SECTION 21.** 704.28 of the statutes is created to read:

10 **704.28 Withholding from and return of security deposits.** (1) STANDARD
11 WITHHOLDING PROVISIONS. When a landlord returns a security deposit to a tenant after
12 the tenant vacates the premises, the landlord may withhold from the full amount of
13 the security deposit only amounts reasonably necessary to pay for any of the
14 following:

15 (a) Tenant damage, waste, or neglect of the premises.

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

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

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

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

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

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

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

18 (4) STATEMENT OF CLAIMS. (a) If a landlord withholds any amount from a
19 security deposit, the landlord shall, within the time specified in sub. (5), deliver or
20 mail to the tenant a written, itemized statement accounting for all amounts
21 withheld. The statement shall describe each item of physical damage or other claim
22 made against the security deposit and the amount that was withheld for the item as
23 reasonable compensation.

1 (b) A landlord may not intentionally misrepresent or falsify any claim against
2 a security deposit, including the cost of repairs, or withhold any portion of a security
3 deposit on the basis of an intentionally falsified claim.

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

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

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

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

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

Insert 11-18 →

19 **SECTION 22.** 704.44 (title) of the statutes is amended to read:

20 **704.44 (title) Rental Provision in rental agreement that restricts access**
21 **to certain services is void.**

22 **SECTION 23.** 704.44 of the statutes is renumbered 704.44 (1m), and 704.44 (1m)
23 (intro.) and (e), as renumbered, are amended to read:

24 704.44 (1m) (intro.) A provision in a rental agreement is void and
25 unenforceable if it that allows a landlord in a residential tenancy to do any of the

1 following because a tenant has contacted an entity for law enforcement services,
2 health services, or safety services is void and unenforceable:

3 (e) Threaten to take any action under ~~subs. (1) to (4)~~ pars. (a) to (d).

4 **SECTION 24.** 704.44 (2m) of the statutes is created to read:

5 704.44 (2m) Any landlord that includes a provision specified in sub. (1m) in a
6 rental agreement may be required to forfeit not more than \$500.

7 **SECTION 25.** 799.40 (1m) of the statutes is created to read:

8 799.40 (1m) ACCEPTANCE OF RENT. If a landlord commences an action under this
9 section against a tenant whose tenancy has been terminated for failure to pay rent,
10 the action under this section may not be dismissed solely because the landlord
11 accepts past due rent from the tenant after the termination of the tenant's tenancy.

12 **SECTION 26. Initial applicability.**

13 (1) DISPOSAL OF PROPERTY. The treatment of sections 321.62 (15) (a), 704.05 (5)
14 (title), (a) (title), (intro.), 1., 2., and 3., (b), (c), and (d), and 704.11 of the statutes first
15 applies to property left behind by a tenant under a tenancy commenced, or a lease
16 entered into or renewed, on the effective date of this subsection.

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

20 (3) RETURN OF SECURITY DEPOSITS.

21 (a) *Timing for return.* Except as provided in paragraph (b), the treatment of
22 section 704.28 (5) (b) of the statutes first applies to tenants vacating before the
23 termination date of a rental agreement who vacate the premises on the effective date
24 of this paragraph.

1 (b) *Inconsistent provision.* If a rental agreement that is in effect on the effective
2 date of this paragraph contains a provision that is inconsistent with the treatment
3 of section 704.28 (5) (b) of the statutes, the treatment of section 704.28 (5) (b) of the
4 statutes first applies to that rental agreement with respect to the timing of returning
5 a security deposit upon renewal.

6 (4) VOID PROVISION AND SEVERABILITY OF PROVISIONS. The renumbering and
7 amendment of section 704.44 of the statutes, the amendment of section 704.44 (title)
8 of the statutes, and the creation of sections 704.02 and 704.44 (2m) of the statutes
9 first apply to rental agreements that are entered into or renewed on the effective date
10 of this subsection.

11 (END)

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0335/lins
PJK:.....

INSERT A

wo ft The substitute amendment also provides that any person who suffers a pecuniary loss from a violation of the requirements related to returning security deposits may sue for twice the amount of his or her pecuniary loss. ✓

(END OF INSERT A)

INSERT 6-7

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

(END OF INSERT 6-7)

INSERT 8-9

3 This section does not apply to the rental of a plot of ground on which a
4 manufactured home, as defined in s. 704.05 (5) (b) 1. a., or a mobile home, as defined
5 in s. 704.05 (5) (b) 1. b., may be located.

(END OF INSERT 8-9)

INSERT 11-18

6 (6) RECOVERY FOR PECUNIARY LOSS. Any person who suffers a pecuniary loss
7 because of a violation of this section may sue for damages in any court of competent
8 jurisdiction to recover twice the amount of the pecuniary loss.

(END OF INSERT 11-18)

50335

Kahler, Pam

From: Kelley, Margit
Sent: Tuesday, February 21, 2012 8:58 AM
To: Kahler, Pam
Subject: FW: SB466 Amendment

Hi Pam,

The instructions below are from Sen. Lasee's office.

Thank you.

Margit Kelley
Wisconsin Legislative Council
608-266-9280
Margit.Kelley@legis.wi.gov

From: Urso, Tony
Sent: Monday, February 20, 2012 4:15 PM
To: Kelley, Margit
Cc: Kovach, Robert
Subject: SB466 Amendment

Margit:

Two changes:

- 1) Page 6, lines 17 to 21. Strike the sentence "If the landlord ... rental agreement."
- 2) Page 6, line 16 , insert - "certified mail addressed to the tenant, and if the landlord has actual notice, to any documented secured party addressed to the tenant's or secured party's last-known address ..."

Sincerely,

Tony Urso
Office of Senator Lasee
Phone: 608-266-3512
Fax: 608-267-6792

Wisconsin State Capitol
Office of Senator Frank Lasee
Rm 316 South
Box 7882
Madison, WI 53707-7882

2/21/2012

Kahler, Pam

From: Kovach, Robert
Sent: Tuesday, February 21, 2012 12:17 PM
To: Kahler, Pam; Kelley, Margit
Subject: More changes for landlord bill sub for SB-466

Strike page 5 line 11&12 where it says The tenant is responsible for any costs that the landlord incurs with respect to disposition of the abandoned property.
Senator believes if we remain silent it will achieve the same purpose.

~~Page 7 line 25 change all to any~~ ← *per Rob, don't do*

That should cover everything!

Rob Kovach
Chief of Staff
Office of State Senator Frank Lasee
608-266-3512

*(changing to "any"
doesn't make sense
in the context)*



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0335/3

PJK&MES:med:jza

not sure
S. J. J.

SENATE SUBSTITUTE AMENDMENT,
TO 2011 SENATE BILL 466

*today (Tues),
please*

Degen

1 AN ACT *to repeal* 704.05 (5) (a) 3. and 704.05 (5) (d); *to renumber and amend*
2 704.44; *to consolidate, renumber and amend* 704.05 (5) (a) (intro.) and 1.;
3 *to amend* 321.62 (15) (a), 704.03 (1), 704.05 (1), 704.05 (5) (title), 704.05 (5) (a)
4 2., 704.05 (5) (c), 704.07 (1), 704.11, 704.27 and 704.44 (title); *to repeal and*
5 *recreate* 704.05 (5) (a) (title); and *to create* 66.1010, 704.02, 704.05 (5) (b),
6 704.05 (5) (cm), 704.07 (2) (bm), 704.08, 704.17 (2) (d), 704.28, 704.44 (2m) and
7 799.40 (1m) of the statutes; **relating to:** miscellaneous landlord-tenant
8 provisions, prohibiting a local government from imposing a moratorium on
9 eviction actions, and providing a penalty.

Analysis by the Legislative Reference Bureau

This substitute amendment differs from 2011 Senate Bill 466 (the bill) in the following respects:

1. The bill requires a tenant to notify the landlord in writing of any repair or maintenance that the premises requires before reporting the problem to a building inspector, elected public official, or local housing code enforcement agency. The substitute amendment removes this requirement.

2. The bill provides that any provision in a rental agreement is void and unenforceable if it allows a landlord to take various actions, such as increasing rent or refusing to renew a rental agreement, because the tenant has contacted an entity for law enforcement services, health services, or safety services. The substitute amendment provides that any landlord that includes such a provision in a rental agreement may be subject to a forfeiture of not more than \$500.

3. The bill incorporates the Wisconsin Administrative Code (Code) provisions for what a landlord may deduct from a tenant's security deposit into the statutes, and also provides that, if a tenant removes from the premises before the end of his or her lease term, the landlord must return the tenant's security deposit within 21 days after the end of the lease term or, if the landlord re-rents the premises before the end of that lease term, within 21 days after the new tenant's tenancy begins. The substitute amendment incorporates from the Code the requirements for when a landlord must return a security deposit in other situations, namely 21 days after the end of the term of a rental agreement if the tenant vacates at the end of the term; 21 days after the landlord learns that the tenant has vacated the premises if the tenant vacates the premises after the end of the term of the rental agreement; and 21 days after a writ of restitution is executed or the landlord learns that the tenant has vacated the premises, whichever is later, if the tenant is evicted from the premises. The substitute amendment incorporates from the Code the requirement that a landlord deliver or mail to a tenant a written, itemized statement of every deduction from the tenant's security deposit if the landlord makes any deductions. The substitute amendment also provides that any person who suffers a pecuniary loss from a violation of the requirements related to returning security deposits may sue for twice the amount of his or her pecuniary loss.

4. The bill requires a landlord to provide to a new tenant a standardized information check-in sheet with an itemized description of the condition of the premises at the time of the tenant's check-in. The substitute amendment provides that the tenant must be given seven days to complete the check-in sheet and return it to the landlord and that the requirement does not apply to the rental of a plot of ground on which to locate a manufactured or mobile home.

5. The bill provides that, in the absence of a written agreement to the contrary between the landlord and tenant, the landlord may presume that any personal property that a tenant leaves behind has been abandoned and may dispose of it in any manner that the landlord determines is appropriate. The bill also provides that the tenant is responsible for any costs, including storage charges, that the landlord incurs in the disposal of the property. The substitute amendment provides specific notice requirements if the property that the tenant leaves behind is a manufactured or mobile home or a titled motor vehicle and also specifies how storage charges are to be determined in that case.

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

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

2 **66.1010 Moratorium on evictions. (1)** In this section, “political subdivision”
3 has the meaning given in s. 66.1011 (1m) (e).

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

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

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

11 321.62 **(15)** (a) Notwithstanding ~~ss. 704.05 (5) and s.~~ 704.90, no person may
12 enforce a lien for storage of any household goods, furniture, or personal effects of a
13 service member during the period in which the service member is in state active duty
14 and for 90 days after the member’s completion of state active duty, except as
15 permitted by a court order under par. (b).

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

17 **704.02 Severability of rental agreement provisions.** The provisions of a
18 rental agreement are severable. If any provision of a rental agreement is rendered
19 void or unenforceable by reason of any statute, rule, regulation, or judicial order, the
20 invalidity or unenforceability of that provision does not affect other provisions of the
21 rental agreement that can be given effect without the invalid provision.

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

23 704.03 **(1) ORIGINAL AGREEMENT.** ~~A~~ Notwithstanding s. 704.02, a lease for more
24 than a year, or a contract to make such a lease, is not enforceable unless it meets the
25 requirements of s. 706.02 and in addition sets forth the amount of rent or other

1 consideration, the time of commencement and expiration of the lease, and a
2 reasonably definite description of the premises, or unless a writing, including by
3 means of electronic mail or facsimile transmission, signed by the landlord and the
4 tenant sets forth the amount of rent or other consideration, the duration of the lease,
5 and a reasonably definite description of the premises and the commencement date
6 is established by entry of the tenant into possession under the writing. Sections
7 704.05 and 704.07 govern as to matters within the scope of such sections and not
8 provided for in such written lease or contract.

9 **SECTION 5.** 704.05 (1) of the statutes is amended to read:

10 704.05 (1) WHEN SECTION APPLICABLE. So far as applicable, this section governs
11 the rights and duties of the landlord and tenant in the absence of any inconsistent
12 provision in writing signed by both the landlord and the tenant. This Except as
13 otherwise provided in this section, this section applies to any tenancy.

14 **SECTION 6.** 704.05 (5) (title) of the statutes is amended to read:

15 704.05 (5) (title) ~~STORAGE OR DISPOSITION~~ DISPOSITION OF PERSONALTY LEFT BY
16 TENANT.

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

18 704.05 (5) (a) (title) *At the landlord's discretion.*

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

21 704.05 (5) (a) 1. If a tenant removes from the premises and leaves personal
22 property, the landlord may ~~do all of the following:~~ 1. ~~Store the personalty, on or off~~
23 ~~the premises, with a lien on the personalty for the actual and reasonable cost of~~
24 ~~removal and storage or, if stored by the landlord, for the actual and reasonable value~~
25 ~~of storage. The landlord shall give written notice of the storage to the tenant within~~

1 ~~10 days after the charges begin. The landlord shall give the notice either personally~~
 2 ~~or by ordinary mail addressed to the tenant's last known address and shall state the~~
 3 ~~daily charges for storage. The landlord may not include the cost of damages to the~~
 4 ~~premises or past or future rent due in the amount demanded for satisfaction of the~~
 5 ~~lien. The landlord may not include rent charged for the premises in calculating the~~
 6 ~~cost of storage. Medicine and medical equipment are not subject to the lien under~~
 7 ~~this subdivision, and presume, in the absence of a written agreement between the~~
 8 ~~landlord shall promptly return them to and the tenant upon request to the contrary,~~
 9 ~~that the tenant has abandoned the personal property and may dispose of the~~
 10 ~~abandoned personal property in any manner that the landlord, in its sole discretion,~~
 11 ~~determines is appropriate. The tenant is responsible for any costs that the landlord~~
 12 ~~incurs with respect to disposition of the abandoned personal property.~~

13 **SECTION 9.** 704.05 (5) (a) 2. of the statutes, as affected by 2011 Wisconsin Act
 14 32, is amended to read:

15 704.05 (5) (a) 2. ~~Give the tenant notice, personally or by ordinary mail~~
 16 ~~addressed to the tenant's last known address, of the landlord's intent to dispose of~~
 17 ~~the personal property by sale or other appropriate means if the property is not~~
 18 ~~repossessed by the tenant. If the tenant fails to repossess the property within 30 days~~

19 ~~after the date of personal service or the date of the mailing of the notice, Subject to~~
 20 ~~par. (b), if the landlord may dispose disposes of the property by private or public sale~~
 21 ~~or any other appropriate means. The, the landlord may deduct from send the~~
 22 ~~proceeds of the sale minus any costs of sale and any storage charges if the landlord~~
 23 ~~has first stored the personalty under subd. 1. If the proceeds minus the costs of sale~~
 24 ~~and minus any storage charges are not claimed within 60 days after the date of the~~
 25 ~~sale of the personalty, the landlord is not accountable to the tenant for any of the~~

Notice required

1 proceeds of the sale or the value of the property. The landlord shall send the proceeds
2 of the sale minus the costs of the sale and minus any storage charges to the
3 department of administration for deposit in the appropriation under s. 20.505 (7) (h).

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

5 SECTION 11. 704.05 (5) (b) of the statutes is created to read:

6 704.05 (5) (b) ~~If property is a manufactured or mobile home.~~ ^I 1. In this
7 paragraph:

8 a. "Manufactured home" has the meaning given in s. 101.91 (2).

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

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

13 2. If the abandoned personal property is a manufactured home, mobile home,
14 or titled vehicle, before disposing of the abandoned property the landlord shall give
15 the tenant and any documented secured party notice, personally or by regular or
16 certified mail addressed to the tenant's or secured party's last-known address, of the
17 landlord's intent to dispose of the property by sale or other appropriate means. If the
18 landlord disposes of the property by private or public sale, storage charges, for
19 purposes of a deduction from the proceeds of the sale, may be determined by the
20 landlord, but may not exceed an amount that is a daily proration of the monthly rent
21 under the tenant's most recent rental agreement.

22 SECTION 12. 704.05 (5) (c) of the statutes is amended to read:

23 704.05 (5) (c) *Rights of 3rd persons.* The landlord's ~~lien and power to dispose~~
24 as provided by this subsection ~~apply~~ applies to any property left on the premises by
25 the tenant, whether owned by the tenant or by others. ~~That lien has priority over~~

or a vehicle

Insert 6-21

1 ~~any ownership or security interest, and the~~ The power to dispose under this
2 subsection applies notwithstanding any rights of others existing under any claim of
3 ownership or security interest, but is subject to s. 321.62. The tenant or any secured
4 party has the right to redeem the property at any time before the landlord has
5 disposed of it or entered into a contract for its disposition by payment of ~~the landlord's~~
6 ~~charges under par. (a) for removal, storage, disposition and arranging for the sale~~ any
7 expenses that the landlord has incurred with respect to the disposition of the
8 property.

9 **SECTION 13.** 704.05 (5) (cm) of the statutes is created to read:

10 704.05 (5) (cm) *Inapplicability to self-storage facilities.* This subsection does
11 not apply to a lessee of a self-storage unit or space within a self-storage facility
12 under s. 704.90.

13 **SECTION 14.** 704.05 (5) (d) of the statutes is repealed.

14 **SECTION 15.** 704.07 (1) of the statutes is amended to read:

15 704.07 (1) APPLICATION OF SECTION. This section applies to any nonresidential
16 tenancy if there is no contrary provision in writing signed by both parties and to all
17 residential tenancies. An agreement to waive the requirements of this section in a
18 residential tenancy, including an agreement in a rental agreement, is void. Nothing
19 in this section is intended to affect rights and duties arising under other provisions
20 of the statutes.

21 **SECTION 16.** 704.07 (2) (bm) of the statutes is created to read:

22 704.07 (2) (bm) A landlord shall disclose to a prospective tenant, before
23 entering into a rental agreement with or accepting any earnest money or security
24 deposit from the prospective tenant, any building code or housing code violation to
25 which all of the following apply:

1 1. The landlord has received notice of the violation from a local housing code
2 enforcement agency.

3 2. The violation affects the dwelling unit that is the subject of the prospective
4 rental agreement or a common area of the premises.

5 3. The violation has not been corrected.

6 4. The date by which the violation must be corrected has passed.

7 **SECTION 17.** 704.08 of the statutes is created to read:

8 **704.08 Information check-in sheet.** A landlord shall provide to a new
9 residential tenant when the tenant commences his or her occupancy of the premises
10 a standardized information check-in sheet that contains an itemized description of
11 the condition of the premises at the time of check-in. The tenant shall be given 7 days
12 from the date the tenant commences his or her occupancy to complete the check-in
13 sheet and return it to the landlord. The landlord is not required to provide the
14 information check-in sheet to a tenant upon renewal of a rental agreement. This
15 section does not apply to the rental of a plot of ground on which a manufactured
16 home, as defined in s. 704.05 (5) (b) 1. a., or a mobile home, as defined in s. 704.05
17 (5) (b) 1. b., may be located.

18 **SECTION 18.** 704.11 of the statutes is amended to read:

19 **704.11 Lien of landlord.** Except as provided in ss. ~~704.05 (5)~~, 704.90 and
20 779.43 or by express agreement of the parties, the landlord has no right to a lien on
21 the property of the tenant; the common-law right of a landlord to distrain for rent
22 is abolished.

23 **SECTION 19.** 704.17 (2) (d) of the statutes is created to read:

24 704.17 (2) (d) This subsection does not apply to week-to-week or
25 month-to-month tenants.

1 **SECTION 20.** 704.27 of the statutes is amended to read:

2 **704.27 Damages for failure of tenant to vacate at end of lease or after**
3 **notice.** If a tenant remains in possession without consent of the tenant's landlord
4 after expiration of a lease or termination of a tenancy by notice given by either the
5 landlord or the tenant, or after termination by valid agreement of the parties, the
6 landlord ~~may shall, at the landlord's discretion,~~ recover from the tenant damages
7 suffered by the landlord because of the failure of the tenant to vacate within the time
8 required. In absence of proof of greater damages, the landlord ~~may shall~~ recover as
9 minimum damages twice the rental value apportioned on a daily basis for the time
10 the tenant remains in possession. As used in this section, rental value means the
11 amount for which the premises might reasonably have been rented, but not less than
12 the amount actually paid or payable by the tenant for the prior rental period, and
13 includes the money equivalent of any obligations undertaken by the tenant as part
14 of the rental agreement, such as payment of taxes, insurance and repairs. Nothing
15 in this section prevents a landlord from seeking and recovering any other damages
16 to which the landlord may be entitled.

17 **SECTION 21.** 704.28 of the statutes is created to read:

18 **704.28 Withholding from and return of security deposits. (1) STANDARD**
19 **WITHHOLDING PROVISIONS.** When a landlord returns a security deposit to a tenant after
20 the tenant vacates the premises, the landlord may withhold from the full amount of
21 the security deposit only amounts reasonably necessary to pay for any of the
22 following:

23 (a) Tenant damage, waste, or neglect of the premises.

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

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

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

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

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

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

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

1 **(4) STATEMENT OF CLAIMS.** (a) If a landlord withholds any amount from a
2 security deposit, the landlord shall, within the time specified in sub. (5), deliver or
3 mail to the tenant a written, itemized statement accounting for all amounts
4 withheld. The statement shall describe each item of physical damage or other claim
5 made against the security deposit and the amount that was withheld for the item as
6 reasonable compensation.

7 (b) A landlord may not intentionally misrepresent or falsify any claim against
8 a security deposit, including the cost of repairs, or withhold any portion of a security
9 deposit on the basis of an intentionally falsified claim.

10 **(5) TIMING FOR RETURN.** A landlord shall deliver or mail to a tenant the full
11 amount of any security deposit paid by the tenant, less any amounts that may be
12 withheld under subs. (1) and (2), within 21 days after any of the following:

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

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

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

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

1 **(6) RECOVERY FOR PECUNIARY LOSS.** Any person who suffers a pecuniary loss
2 because of a violation of this section may sue for damages in any court of competent
3 jurisdiction to recover twice the amount of the pecuniary loss.

4 **SECTION 22.** 704.44 (title) of the statutes is amended to read:

5 **704.44 (title) Rental Provision in rental agreement that restricts access**
6 **to certain services is void.**

7 **SECTION 23.** 704.44 of the statutes is renumbered 704.44 (1m), and 704.44 (1m)
8 (intro.) and (e), as renumbered, are amended to read:

9 704.44 **(1m)** (intro.) A provision in a rental agreement is void and
10 unenforceable if it that allows a landlord in a residential tenancy to do any of the
11 following because a tenant has contacted an entity for law enforcement services,
12 health services, or safety services is void and unenforceable:

13 (e) Threaten to take any action under subs. (1) to (4) pars. (a) to (d).

14 **SECTION 24.** 704.44 (2m) of the statutes is created to read:

15 704.44 **(2m)** Any landlord that includes a provision specified in sub. (1m) in a
16 rental agreement may be required to forfeit not more than \$500.

17 **SECTION 25.** 799.40 (1m) of the statutes is created to read:

18 799.40 **(1m) ACCEPTANCE OF RENT.** If a landlord commences an action under this
19 section against a tenant whose tenancy has been terminated for failure to pay rent,
20 the action under this section may not be dismissed solely because the landlord
21 accepts past due rent from the tenant after the termination of the tenant's tenancy.

22 **SECTION 26. Initial applicability.**

23 **(1) DISPOSAL OF PROPERTY.** The treatment of sections 321.62 (15) (a), 704.05 (5)
24 (title), (a) (title), (intro.), 1., 2., and 3., (b), (c), and (d), and 704.11 of the statutes first

1 applies to property left behind by a tenant under a tenancy commenced, or a lease
2 entered into or renewed, on the effective date of this subsection.

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

6 (3) RETURN OF SECURITY DEPOSITS.

7 (a) *Timing for return.* Except as provided in paragraph (b), the treatment of
8 section 704.28 (5) (b) of the statutes first applies to tenants vacating before the
9 termination date of a rental agreement who vacate the premises on the effective date
10 of this paragraph.

11 (b) *Inconsistent provision.* If a rental agreement that is in effect on the effective
12 date of this paragraph contains a provision that is inconsistent with the treatment
13 of section 704.28 (5) (b) of the statutes, the treatment of section 704.28 (5) (b) of the
14 statutes first applies to that rental agreement with respect to the timing of returning
15 a security deposit upon renewal.

16 (4) VOID PROVISION AND SEVERABILITY OF PROVISIONS. The renumbering and
17 amendment of section 704.44 of the statutes, the amendment of section 704.44 (title)
18 of the statutes, and the creation of sections 704.02 and 704.44 (2m) of the statutes
19 first apply to rental agreements that are entered into or renewed on the effective date
20 of this subsection.

21 (END)

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

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

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