

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB183)

Received: **5/1/2013** Received By: **pkahler**
Wanted: **Soon** Same as LRB:
For: **Duey Stroebel (608) 267-2369** By/Representing: **John Soper**
May Contact: Drafter: **pkahler**
Subject: **Courts - civil procedure** Addl. Drafters: **phurley**
Real Estate - landlord/tenant
Extra Copies:

Submit via email: **YES**
Requester's email: **rep.stroebel@legis.wisconsin.gov**
Carbon copy (CC) to: **Peggy.Hurley@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Miscellaneous changes relating to evictions

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 5/2/2013			_____			
/P1	pkahler 5/7/2013	scalvin 5/2/2013	phenry 5/3/2013	_____	lparisi 5/3/2013		
/1		scalvin 5/7/2013	rschlue 5/7/2013	_____	sbasford 5/7/2013	sbasford 5/7/2013	

FE Sent For:

<END>

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/?	phurley 5/2/2013			_____			
/P1		scalvin 5/2/2013	phenry 5/3/2013	_____	lparisi 5/3/2013		

FE Sent For: *1 sac*
05/07/2013

[Handwritten signature]
[Handwritten initials]
<END>

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/?	pkahler		S/3 ph	ph ph			

FE Sent For:

<END>

5-1

me, John, Peggy

all in [amendment

as preliminary

need introduced by
May 8 at latestPJK ✓ p 9 articles or renewals onlyPJK ✓ p 10 of eviction, it does not have to have
provided tenant notice
to get rid of property

For. OS (s) (b) + (bf) do not apply in evictions

get rid of reference to eviction in (bf)
& add any necessary
references to removals

limit (b) + (bf) to removals (not eviction)

need initial op now?

PJK ✓ p 11 put ~~eviction~~ eviction in (4)(c) → not (b)
keep repeal of (4)(d) "or been removed"PJH p 12 § 2 change 14 to 25PJK ✓ p 12 § 9 add agent of the personPJH p 13 re. eviction, at a jury trial, issue of possession
of premisesPJH p 14 re. entering judgment immediately
in a. 799.45(1)PJK ✓ p 23 1st day of 3rd month



SAC

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 183**

By Fri
a.m.
D-note

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 9, line 4: delete lines 4 to 17 and substitute:

3 “**SECTION 10c.** 704.05 (5) (b) 2. (intro.) of the statutes is amended to read:

4 704.05 (5) (b) 2. (intro.) If the ^{plain}abandoned tenant removes from the premises and
5 leaves behind personal property that is a manufactured home, mobile home, or titled
6 vehicle, before disposing of the abandoned property the landlord shall give notice of
7 the landlord’s intent to dispose of the property by sale or other appropriate means
8 to all of the following:

9 History: 1993 a. 374, 486; 2001 a. 16; 2003 a. 33; 2005 a. 253; 2011 a. 32, 143.

9 **SECTION 10m.** 704.05 (5) (bf) of the statutes is amended to read:

10 704.05 (5) (bf) *Notice that landlord will not store property.* If the landlord does
11 not intend to store personal property left behind by a tenant who removes from the
12 premises, except as provided in par. (am), the landlord shall provide written notice

1 to a tenant, when the tenant enters into, ~~and when the tenant~~ or renews, a rental
2 agreement, that the landlord will not store any items of personal property that the
3 tenant leaves behind when the tenant removes from the premises, except as provided
4 in par. (am). Notwithstanding pars. (a), (am), and (b), if the landlord ~~does not provide~~
5 has not provided to a tenant the notice required under this paragraph, the landlord
6 shall comply with s. 704.05, 2009 stats., with respect to any personal property left
7 behind by the tenant when the tenant removes from the premises.”.

History: 1993 a. 374, 486; 2001 a. 16; 2003 a. 33; 2005 a. 253; 2011 a. 32, 143.

8 **2.** Page 11, line 4: delete lines 4 to 9 and substitute:

9 **SECTION 15c.** 704.28 (4) (c) of the statutes is amended to read:

10 704.28 (4) (c) If the tenant vacates the premises after the termination date of
11 the rental agreement or if the tenant is evicted, the date on which the landlord learns
12 that the tenant has vacated the premises or has been removed from the premises
13 under s. 799.45 (2)..”.

History: 2011 a. 143.

14 **3.** Page 12, line 2: delete “14” and substitute “25”.

15 **4.** Page 12, line 9: after “member” insert “, agent,”.

16 **5.** Page 13, line 1: delete “an” and substitute “a residential”.

17 **6.** Page 13, line 2: after “schedule a” insert “court or jury”.

18 **7.** Page 13, line 2: delete “all the issues” and substitute “the issue of possession
19 of the premises”.

20 **8.** Page 14, line 3: after that line insert:

21 **SECTION 27m.** 799.44 (1) of the statutes is amended to read:

22 799.44 (1) ORDER FOR JUDGMENT. In an eviction action, if the court finds that
23 the plaintiff is entitled to possession, the court shall immediately enter an order for

1 judgment shall be for the restitution of the premises to the plaintiff and, if, ^{plain} ~~if~~ an
 2 additional cause of action is joined under s. 799.40 (2) and plaintiff prevails thereon,
 3 the court shall enter judgment for such other relief as the court orders. Judgment
 4 shall be entered accordingly as provided in s. 799.24.”

History: 1977 c. 449 s. 497; 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.44; 1997 a. 250.

5 **9.** Page 16, line 11: after “704.05” insert “(5) (a), (am), (c), and (cm)”.

6 **10.** Page 20, line 8: after that line insert:

7 “(1m) NOTICE REGARDING NONSTORAGE OF PROPERTY. The treatment of section
 8 704.05 (5) (bf) of the statutes first applies to personal property left behind by a tenant
 9 under a rental agreement that is renewed on the effective date of this subsection.”

10 **11.** Page 20, line 14: after that line insert:

11 “(3m) VOID RENTAL AGREEMENT. The treatment of section 704.44 (9) of the
 12 statutes first applies to rental agreements that are entered into or renewed on the
 13 effective date of this subsection.”

14 **12.** Page 20, line 10: delete “(b)” and substitute “(c)”.

15 **13.** Page 20, line 18: delete “799.05 (3) (b)” and substitute “704.05 (5) (a) 1.,
 16 799.05 (3) (b), 799.06 (2)”.

17 **14.** Page 20, line 19: after “799.206 (3),” insert “799.40 (1) and (1m),”.

18 **15.** Page 20, line 19: delete “and 799.44 (2)” and substitute “799.44 (2), and
 19 799.45 (title), (1), (2) (b), (bg), and (c), (3) (title), (a), (am) (intro.), 1., 2., 3., 4., 5., 6.,
 20 and 7., (b), and (c), and (4)”.

21 **16.** Page 20, line 23: delete “first day of the first” and substitute “first day of
 22 the 3rd”.

23

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0342/?dn

PJK:f:....

sac

-date-

In addition to the changes we explicitly discussed, I have added all of the provisions in the bill that affect eviction actions, and that were not included in the initial applicability section before, including the personal property disposal provisions, to subsection (5) of the initial applicability section. Although some of these provisions apply by their text to the commencement of an eviction action, they were conspicuous by their absence. I have also added a separate initial applicability subsections for s. 704.05 (5) (bf), which no longer relates to eviction actions, and for s. 704.44 (9), relating to void and unenforceable rental agreements.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0342/P1dn

PJK:sac:ph

May 3, 2013

In addition to the changes we explicitly discussed, I have added all of the provisions in the bill that affect eviction actions, and that were not included in the initial applicability section before, including the personal property disposal provisions, to subsection (5) of the initial applicability section. Although some of these provisions apply by their text to the commencement of an eviction action, they were conspicuous by their absence. I have also added a separate initial applicability subsections for s. 704.05 (5) (bf), which no longer relates to eviction actions, and for s. 704.44 (9), relating to void and unenforceable rental agreements.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

John Pop Stroschel by phone 7-2369
5-7

✓ (1) addition: s. 704.07 (2) (bm) 1.
→ go back to current law

✓ (2a) p 11, l 6

(b) or is evicted before the termination date of the rental agreement

(c) or is evicted after ~~date~~ that date

✓ (2b) in amend p 2, l 11 (c) or is evicted after term. of rental agreement

✓ (3) change 704.44 (9)

"allows the ll
to be the
tax of a tax" → contrary to s. 106.50 (5m)(dn)
or s. 704.16

~~Pop Stroschel by phone 7-2369~~

✓ (5) 704.16 ~~(3)(b)~~ → add 1st degree sexual
in (3)(b) assault of a child
add nursing + mobile if not in these laws
home community

✓ (6) member, as defined in s. 183.0102 (15)
p 12, l 9



ymis run

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 183

needed today

Insert 1-1

1 At the locations indicated, amend the bill as follows:

2 1. Page 9, line 4: delete lines 4 to 17 and substitute:

3 "SECTION 10c. 704.05 (5) (b) 2. (intro.) of the statutes is amended to read:

4 704.05 (5) (b) 2. (intro.) If the abandoned tenant removes from the premises and

5 leaves behind personal property that is a manufactured home, mobile home, or titled

6 vehicle, before disposing of the abandoned property the landlord shall give notice of

7 the landlord's intent to dispose of the property by sale or other appropriate means

8 to all of the following:

9 SECTION 10m. 704.05 (5) (bf) of the statutes is amended to read:

10 704.05 (5) (bf) *Notice that landlord will not store property.* If the landlord does

11 not intend to store personal property left behind by a tenant who removes from the

12 premises, except as provided in par. (am), the landlord shall provide written notice

1 to a tenant, when the tenant enters into, ~~and when the tenant or~~ renews, a rental
2 agreement, that the landlord will not store any items of personal property that the
3 tenant leaves behind when the tenant removes from the premises, except as provided
4 in par. (am). Notwithstanding pars. (a), (am), and (b), if the landlord ~~does not provide~~
5 has not provided to a tenant the notice required under this paragraph, the landlord
6 shall comply with s. 704.05, 2009 stats., with respect to any personal property left
7 behind by the tenant when the tenant removes from the premises.”.

8 **2.** Page 11, line 4: delete lines 4 to 9 and substitute:

9 “SECTION 15c. 704.28 (4) (c) of the statutes is amended to read:

10 704.28 (4) (c) If the tenant vacates the premises after the termination date of
11 the rental agreement or if the tenant is evicted, the date on which the landlord learns
12 that the tenant has vacated the premises or has been removed from the premises
13 under s. 799.45 (2).”

14 **3.** Page 12, line 2: delete “14” and substitute “25”.

15 **4.** Page 12, line 9: after “member” insert “agent”.

as defined in
s. 183.0102 (15)

16 **5.** Page 13, line 1: delete “an” and substitute “a residential”.

17 **6.** Page 13, line 2: after “schedule a” insert “court or jury”.

18 **7.** Page 13, line 2: delete “all the issues” and substitute “the issue of possession
19 of the premises”.

20 **8.** Page 14, line 3: after that line insert:

21 “SECTION 27m. 799.44 (1) of the statutes is amended to read:

22 799.44 (1) ORDER FOR JUDGMENT. In an eviction action, if the court finds that
23 the plaintiff is entitled to possession, the court shall immediately enter an order for
24 judgment shall be for the restitution of the premises to the plaintiff and, if. If an

Insert 2-7
Insert 2-8

In s. 21
PJK
2,20

1 additional cause of action is joined under s. 799.40 (2) and plaintiff prevails thereon,
2 the court shall enter judgment for such other relief as the court orders. Judgment
shall be entered accordingly as provided in s. 799.24.”.

Insert 3
3.3

9. Page 16, line 11: after “704.05” insert “(5) (a), (am), (c), and (cm)”.

5 10. Page 20, line 8: after that line insert:

6 “(1m) NOTICE REGARDING NONSTORAGE OF PROPERTY. The treatment of section
7 704.05 (5) (bf) of the statutes first applies to personal property left behind by a tenant
8 under a rental agreement that is renewed on the effective date of this subsection.”.

Insert 3-9

11. Page 20, line 10: delete “(b)” and substitute “(c)”.

12. Page 20, line 14: after that line insert:

11 “(3m) VOID RENTAL AGREEMENT. The treatment of section 704.44 (9) of the
12 statutes first applies to rental agreements that are entered into or renewed on the
13 effective date of this subsection.”.

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14 13. Page 20, line 18: delete “799.05 (3) (b)” and substitute “704.05 (5) (a) 1.,
15 799.05 (3) (b), 799.06 (2)”.

14. Page 20, line 19: after “799.206 (3),” insert “799.40 (1) and (1m),”.

17 15. Page 20, line 19: delete “and 799.44 (2)” and substitute “799.44 (2), and
18 799.45 (title), (1), (2) (b), (bg), and (c), (3) (title), (a), (am) (intro.), 1., 2., 3., 4., 5., 6.,
19 and 7., (b), and (c), and (4)”.

20 16. Page 20, line 23: delete “first day of the first” and substitute “first day of
21 the 3rd”.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0342/lins
PJK&PJH:.....

INSERT 1-1

1 **1.** Page 2, line 1: after “landlords,” insert “terminating the tenancy of an
2 offending tenant in a manufactured or mobile home community.” ✓

(END OF INSERT 1-1)

INSERT 2-7

3 **2.** Page 9, line 18: delete lines 18 to 20.

4 **3.** Page 10, line 16: after that line insert:

5 “**SECTION 13c.** 704.16 (3) (a) of the statutes is renumbered 704.16 (3) (a) (intro.)
6 and amended to read:

7 704.16 (3) (a) (intro.) In this subsection, ~~“offending;~~

8 4. “Offending tenant” is a tenant whose tenancy is being terminated under this
9 subsection.

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

10 **SECTION 13e.** 704.16 (3) (a) 1. of the statutes is created to read:

11 704.16 (3) (a) 1. “Community” has the meaning given in s. 710.15 (1) (ad). ✓

12 **SECTION 13g.** 704.16 (3) (a) 2. of the statutes is created to read:

13 704.16 (3) (a) 2. “Manufactured home” has the meaning given in s. 101.91 (2). ✓

14 **SECTION 13j.** 704.16 (3) (a) 3. of the statutes is created to read:

15 704.16 (3) (a) 3. “Mobile home” has the meaning given in s. 710.15 (1) (b). ✓

16 **SECTION 13m.** 704.16 (3) (b) 1. of the statutes is amended to read:

17 704.16 (3) (b) 1. The offending tenant commits one or more acts, including
18 verbal threats, that cause another tenant, or a child of that other tenant, who
19 occupies a dwelling unit in the same single-family rental unit, multiunit dwelling,
20 or apartment complex, or a manufactured home or mobile home in the same



Ins. 2-7 cont'd

1 community, as the offending tenant to face an imminent threat of serious physical
2 harm from the offending tenant if the offending tenant remains on the premises.”.

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

(END OF INSERT 2-7)

INSERT 2-8

3 “SECTION 15c. 704.28 (4) (b) of the statutes is amended to read:

4 704.28 (4) (b) If the tenant vacates the premises or is evicted before the
5 termination date of the rental agreement, the date on which the tenant’s rental
6 agreement terminates or, if the landlord rerents the premises before the tenant’s
7 rental agreement terminates, the date on which the new tenant’s tenancy begins.

History: 2011 a. 143.

8 SECTION 15m. 704.28 (4) (c) of the statutes is amended to read:

9 704.28 (4) (c) If the tenant vacates the premises or is evicted after the
10 termination date of the rental agreement, the date on which the landlord learns that
11 the tenant has vacated the premises or has been removed from the premises under
12 s. 799.45 (2).”.

History: 2011 a. 143.

13 4. Page 11, line 14: delete that line and substitute:

14 “SECTION 18c. 704.44 (9) of the statutes is amended to read:

15 704.44 (9) Allows the landlord to terminate the tenancy of a tenant ~~if a crime~~
16 ~~is committed in or on the rental property, even if the tenant could not reasonably have~~
17 ~~prevented the crime in a manner contrary to s. 106.50 (5m) (dm) or 704.16.~~”.

History: 2007 a. 184; 2011 a. 143.

18 5. Page 11, line 21: after that line insert:

19 “SECTION 19m. 710.15 (5t) of the statutes is created to read:



Ins 2-8 contd

1 710.15 (5t) TERMINATION OF TENANCY FOR THREAT OF SERIOUS HARM.
2 Notwithstanding sub. (5m), nothing in this section prevents termination of a tenancy
3 because of an imminent threat of serious physical harm, as provided in s. 704.16.”.

(END OF INSERT 2-8)

INSERT 3-9

4 **6.** Page 20, line 10: after “(b)” insert “, (c),”.

(END OF INSERT 3-9)

INSERT 3-13

5 **7.** Page 20, line 17: after that line insert:

6 “(4m) TERMINATION OF TENANCY IN MANUFACTURED OR MOBILE HOME COMMUNITY.
7 The treatment of sections 704.16 (3) (b) 1. and 710.15 (5t) of the statutes, the
8 renumbering and amendment of section 704.16 (3) (a) of the statutes, and the
9 creation of section 704.16 (3) (a) 1., 2., and 3. of the statutes first apply to acts causing
10 an imminent threat of serious physical harm committed on the effective date of this
11 subsection.”.

(END OF INSERT 3-13)

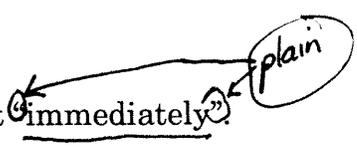
2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0342/1ins
PJK&PJH:sac:ph

1 INSERT PJH 2.20:

2 **1.** Page 13, line 2: delete that line and substitute "shall hold and complete a
3 court or jury trial of the issue of possession of the premises involved in the action
4 within 30 days of the".

5 INSERT PJH3.3:

6 **2.** Page 14, line 6: after "shall" insert immediately. 

7 **3.** Page 14, line 6: delete "~~, and~~" and substitute ", and".

8 **4.** Page 14, line 7: delete "~~the writ may be within 5 days and~~" and substitute
9 "the writ may be".