



2011 ASSEMBLY BILL 668

March 6, 2012 – Introduced by Representatives HONADEL, ENDSLEY, JACQUE, A. OTT, RIVARD, SPANBAUER, STASKUNAS, STROEBEL and ZIEGELBAUER. Referred to Committee on Housing.

1 **AN ACT** *to amend* 710.10 (1); and *to create* 704.18 and 823.073 of the statutes;
2 **relating to:** terminating a tenancy for criminal activity and requiring notice
3 to landlord of nuisance investigation by law enforcement agency.

Analysis by the Legislative Reference Bureau

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, a property owner may terminate the tenancy of a residential tenant if criminal activity caused by any person takes place in the tenant's rental unit or if criminal activity caused by the tenant, a member of the tenant's household, or an invited guest or associate of the tenant or of a member of the tenant's household takes place on the property owner's rental property. Criminal activity is defined in the bill as any act or behavior that is punishable in this state by a fine or period of imprisonment or that is a violation of an ordinance of the county, city, village, or town in which the rental property is located.

The property owner must provide written notice to the tenant to vacate the property on or before a date that is at least five days after the notice is given. The notice, which does not give the tenant the right to cure the breach, must advise the tenant of the basis for its issuance and of the tenant's right to contest the termination of tenancy in an eviction action. If the tenant contests the termination of tenancy in

ASSEMBLY BILL 668

an eviction action, the property owner must prove the allegation of criminal activity by the greater preponderance of the credible evidence. The termination of tenancy does not relieve the tenant of any obligation, such as payment of rent, to the property owner.

Also under the bill, if a county, city, village, or town has an ordinance regulating nuisances, the local law enforcement agency must notify the owner or property manager of residential rental property whenever the law enforcement agency investigates an alleged nuisance at the residential rental property.

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

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

1 **SECTION 1.** 704.18 of the statutes is created to read:

2 **704.18 Termination of tenancy for criminal activity.** (1) In this section,
3 “criminal activity” means any act or behavior committed by a person that satisfies
4 any of the following:

5 (a) It is punishable in this state by a fine or period of imprisonment.

6 (b) It is a violation of an ordinance of the county, city, village, or town in which
7 the rental property is located.

8 **(2)** (a) A property owner may terminate the tenancy of a residential tenant on
9 the basis of any of the following by giving the tenant written notice that complies with
10 sub. (3) requiring the tenant to vacate on or before a date at least 5 days after the
11 giving of the notice:

12 1. That criminal activity caused by any person has taken place in the tenant’s
13 rental unit.

14 2. That criminal activity caused by the tenant, a member of the tenant’s
15 household, or an invited guest or associate of the tenant or of a member of the tenant’s
16 household has taken place on the property owner’s rental property.

ASSEMBLY BILL 668

1 (b) The notice under this subsection does not give the tenant the right to cure
2 the breach.

3 (3) (a) The notice under sub. (2) shall state the basis for its issuance and the
4 right of the tenant to contest the termination of tenancy in an eviction action under
5 ch. 799. If the tenant contests the termination of tenancy, the tenancy may not be
6 terminated unless the property owner proves, by the greater preponderance of the
7 credible evidence of the allegation under sub. (2) (a) 1. or 2.

8 (b) The notice must be in writing and given as specified in s. 704.21. If so given,
9 the tenant is not entitled to possession or occupancy of the premises after the date
10 of termination specified in the notice.

11 (4) Nothing in this section shall be construed to relieve a tenant whose tenancy
12 is terminated under this section from any obligation under a rental agreement or any
13 other liability to the property owner.

14 **SECTION 2.** 710.10 (1) of the statutes is amended to read:

15 710.10 (1) A person holding in violation of s. 704.17 (4), ~~or of s. 704.18 (3) (b),~~
16 or 704.19 (8).

17 **SECTION 3.** 823.073 of the statutes is created to read:

18 **823.073 Notice to landlord of nuisance investigation. (1)** In this section:

19 (a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

20 (b) "Municipality" means a county, city, village, or town.

21 (2) If a municipality has an ordinance regulating nuisances, the local law
22 enforcement agency shall notify the owner or property manager of residential rental
23 property, at the owner's or property manager's last known address, whenever the law
24 enforcement agency investigates an alleged nuisance at the residential rental
25 property.

