



1997 ASSEMBLY BILL 668

December 23, 1997 - Introduced by Representatives OLSEN, VRAKAS, DOBYNS, SYKORA, BOYLE, GROTHMAN, HASENOHRL, HUEBSCH, MEYER, SPRINGER, UNDERHEIM, KAUFERT, WALKER, WARD, L. YOUNG and TURNER, cosponsored by Senators SHIBILSKI, FITZGERALD, C. POTTER and ZIEN. Referred to Committee on Housing.

1 **AN ACT to repeal** 101.122 (2) (a) 3. and 101.122 (3) (a) 1. and 2.; **to renumber**
2 **and amend** 101.122 (3) (a) (intro.); **to amend** 101.122 (1) (e) 2. and 3., 101.122
3 (2) (a) 1., 101.122 (4) (a), 778.25 (1) (b), 778.25 (2) (intro.), 778.25 (2) (b) and
4 778.25 (3); and **to create** 101.122 (3) (c), 101.122 (7) (e), 778.25 (1) (a) 7. and
5 778.25 (1) (c) of the statutes; **relating to:** changing rental unit energy efficiency
6 requirements and creating a procedure for issuing citations for failure to
7 comply with existing stipulations relating to rental unit energy efficiency
8 requirements.

Analysis by the Legislative Reference Bureau

Under current law, the department of commerce (department) administers a rental unit energy efficiency program, under which the department promulgates rules establishing minimum energy efficiency standards for certain rental units. Buildings constructed after December 1, 1978, that contain up to 2 dwelling units and are less than 10 years old and buildings constructed after April 15, 1976, that contain more than 2 dwelling units and are less than 10 years old are not subject to the requirements of the rental unit energy efficiency program. The department may vary standards according to classes of energy use systems and climatic regions. In addition, the owner of a rental unit may transfer the rental unit if an inspector has

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certified within the previous 5 years that the rental unit meets the minimum energy efficiency standards established by the department. The requirement for certification that a rental unit covered by the minimum energy efficiency standards meets the standards does not apply if: 1) the inspector waives the requirement because the rental unit is scheduled for demolition within 2 years after the transfer of ownership; or 2) the new owner of the rental unit and the department or the city, village or town in which the rental unit is located enter into a stipulation that provides that the owner will bring the rental unit into compliance with the minimum energy efficiency standards no later than 12 months after the date of the first transfer of the rental unit.

This bill provides that those buildings that were constructed after December 1, 1978, and that contain up to 2 dwelling units and buildings that were constructed after April 15, 1976, and contain more than 2 dwelling units are not subject to the requirements of the rental unit energy efficiency program. The bill also provides that an owner of a rental unit that is subject to the requirements of the rental unit energy efficiency program may transfer the rental unit if an inspector has certified at least once in the past that the rental unit meets the minimum energy efficiency standards established by the department. The bill limits the scope of the department's rule-making authority concerning the rental unit energy efficiency program to minimum energy efficiency standards for the attics, furnaces, boilers and storm windows and doors of rental units and repeals the provisions allowing the department to vary standards according to classes of energy use systems and climatic regions.

Current law provides penalties for violations of various statutory provisions relating to the rental unit energy efficiency program, including a forfeiture of not more than \$500 for a person who fails to comply with the requirements of a stipulation. In addition, current law provides for the issuance of citations to recover forfeitures for violations of certain statutes and administrative rules. The issuance of citations to recover forfeitures for violations of these statutes and rules is similar to the issuance of traffic citations or tickets for traffic violations. The department, however, does not have the authority to issue citations for violations of stipulations of compliance with the minimum energy efficiency standards.

This bill grants the department or a city, village or town that is party to a stipulation the authority to use the existing citation procedure in actions to recover a forfeiture for violations of stipulations of compliance with the minimum energy efficiency standards. A citation may be issued once the person is one month past the date for compliance specified in the stipulation. A citation issued under this bill does not relieve the person from complying with the stipulation, and a person may be charged with multiple violations if each violation covers a period of at least 90 consecutive days of continued failure to comply and if the periods of noncompliance do not overlap.

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For further information see the *state and 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.** 101.122 (1) (e) 2. and 3. of the statutes are amended to read:

2 101.122 (1) (e) 2. Any building constructed after December 1, 1978, which
3 contains up to 2 dwelling units and which is less than 10 years old.

4 3. Any building constructed after April 15, 1976, which contains more than 2
5 dwelling units and which is less than 10 years old.

6 **SECTION 2.** 101.122 (2) (a) 1. of the statutes is amended to read:

7 101.122 (2) (a) 1. Promulgate rules which establish a code of minimum energy
8 efficiency standards for the attics, furnaces, boilers and storm windows and doors of
9 rental units. The rules shall require installation of specified energy conservation
10 measures. The present value benefits of each energy measure, in terms of saved
11 energy over a 5-year period after installation, shall be more than the total present
12 value cost of installing the measures.

13 **SECTION 3.** 101.122 (2) (a) 3. of the statutes is repealed.

14 **SECTION 4.** 101.122 (3) (a) (intro.) of the statutes is renumbered 101.122 (3) (a)
15 and amended to read:

16 101.122 (3) (a) In rules adopted under sub. (2) (a), incorporate nationally
17 recognized energy efficiency standards and vary standards according to:

18 **SECTION 5.** 101.122 (3) (a) 1. and 2. of the statutes are repealed.

19 **SECTION 6.** 101.122 (3) (c) of the statutes is created to read:

20 101.122 (3) (c) Enforce stipulations entered into under sub. (4) (c) by use of the
21 citation procedure under s. 778.25.

ASSEMBLY BILL 668**SECTION 7**

1 **SECTION 7.** 101.122 (4) (a) of the statutes is amended to read:

2 101.122 (4) (a) ~~The rules adopted under sub. (2) (a) shall take effect on the first~~
3 ~~day of the 24th month after adoption of the rules. After the rules take effect, except~~
4 Except as provided under pars. (b) and (c), no owner may transfer a rental unit
5 unless, ~~within the previous 5 years,~~ an inspector has inspected the unit and has
6 issued a certificate stating that the unit satisfies applicable standards under sub. (2)
7 (a) 1. or 2.

8 **SECTION 8.** 101.122 (7) (e) of the statutes is created to read:

9 101.122 (7) (e) *Citation.* If a person fails to comply with the requirements of
10 a stipulation under sub. (4) (c) by the date specified in the stipulation, the
11 department or the city, village or town that entered into the stipulation with the
12 person may, anytime after the first day of the first month beginning after the date
13 specified in the stipulation, proceed under s. 778.25 to recover a forfeiture under par.
14 (d). A person may be charged with multiple violations under par. (d) if each violation
15 covers a period of at least 90 consecutive days of continued failure to comply, if there
16 is no overlap between periods and if each period begins after the date by which a
17 rental unit was to have been brought into compliance.

18 **SECTION 9.** 778.25 (1) (a) 7. of the statutes is created to read:

19 778.25 (1) (a) 7. Under s. 101.122 (7) (d).

20 **SECTION 10.** 778.25 (1) (b) of the statutes is amended to read:

21 778.25 (1) (b) The citation form provided by this section may serve as the initial
22 pleading for the action and, except as provided in par. (c), is adequate process to give
23 a court jurisdiction over the person if the citation is filed with the court.

24 **SECTION 11.** 778.25 (1) (c) of the statutes is created to read:

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1 778.25 (1) (c) If served as provided under s. 801.11, the citation form issued
2 under par. (a) 7. is adequate process to give a court jurisdiction over the person.

3 **SECTION 12.** 778.25 (2) (intro.) of the statutes is amended to read:

4 778.25 (2) (intro.) A citation under this section shall be signed by the issuing
5 agent or officer or by an officer who has authority to make arrests for the violation
6 and shall contain substantially the following information:

7 **SECTION 13.** 778.25 (2) (b) of the statutes is amended to read:

8 778.25 (2) (b) The name and department of the issuing agent or officer.

9 **SECTION 14.** 778.25 (3) of the statutes, as affected by 1997 Wisconsin Act 27,
10 is amended to read:

11 778.25 (3) If a person is issued a citation under this section the person may
12 deposit the amount of money the issuing agent or officer directs by mailing or
13 delivering the deposit and a copy of the citation to the clerk of court of the county
14 where the violation occurred or the sheriff's office or police headquarters of the agent
15 or officer who issued the citation prior to the court appearance date. The basic
16 amount of the deposit shall be determined under a deposit schedule established by
17 the judicial conference. The judicial conference shall annually review and revise the
18 schedule. In addition to the basic amount determined by the schedule the deposit
19 shall include costs, including any applicable fees prescribed in ch. 814, penalty
20 assessment, jail assessment and crime laboratories and drug law enforcement
21 assessment.

22 **SECTION 15. Effective dates.** This act takes effect on the day after
23 publication, except as follows:

