



## 1997 ASSEMBLY BILL 64

February 10, 1997 – Introduced by Representatives KUNICKI, LA FAVE, WASSERMAN, BAUMGART, PORTER, NOTESTEIN, GREEN, DOBYNS, GOETSCH, TURNER, ALBERS, HASENOHRL, HANSON, KAUFERT, RYBA, AINSWORTH, SERATTI, WARD, OLSEN, L. YOUNG, WALKER, PLALE, RILEY and GROTHMAN, cosponsored by Senators PLACHE, ROSENZWEIG, BUETTNER, WELCH and DARLING. Referred to Committee on Housing.

1     **AN ACT to amend** 704.17 (1) (c), 704.17 (2) (c), 704.17 (3) (b), 823.113 (title),  
2             823.115 (2) (a), 823.115 (2) (b), 823.16 and 893.80 (7); and **to create** 823.113 (1g)  
3             of the statutes; **relating to:** evictions of tenants in buildings used for  
4             prostitution.

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### *Analysis by the Legislative Reference Bureau*

Under current law, any building or structure that is used as a drug house or for criminal gang activity is declared a nuisance and the local government where the property is located may bring an action to abate the nuisance and enjoin the continued use of the property for that purpose. The court, under current law, may do all of the following if a nuisance exists: 1) issue a temporary injunction to prevent the recurrence of the nuisance; 2) order closure of the property; 3) direct removal and sale of personal property; 4) order the sale of the property; or 5) order the razing of the building or structure and sale of the land. Current law allows a property owner to terminate the tenancy of a week-to-week or month-to-month tenant, or of a tenant who is occupying the property under a lease, by giving a 5-day notice to terminate if a law enforcement agency notifies the property owner that the property has been declared a nuisance based on drug use or criminal gang activity. If the tenant objects, the tenancy may not be terminated without proof that the drug use or criminal gang activity exists in that tenant's rental unit or was caused by that tenant. Under current law, no suit may be brought against a law enforcement agency that, in good faith, acts or fails to act to provide the notice to a property owner regarding the existence of one of these nuisances.

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This bill extends these provisions to buildings or structures used for the purpose of prostitution.

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

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

1           **SECTION 1.** 704.17 (1) (c) of the statutes is amended to read:

2           704.17 (1) (c) A property owner may terminate the tenancy of a week-to-week  
3 or month-to-month tenant if the property owner receives written notice from a law  
4 enforcement agency of a city, town or village that a nuisance under s. 823.113 (1), (1g)  
5 or (1m) (b) exists in that tenant's rental unit or was caused by that tenant on the  
6 property owner's property and if the property owner gives the tenant written notice  
7 requiring the tenant to vacate on or before a date at least 5 days after the giving of  
8 the notice. The notice shall state the basis for its issuance and the right of the tenant  
9 to contest the termination of tenancy in an eviction action under ch. 799. If the  
10 tenant contests the termination of tenancy, the tenancy may not be terminated  
11 without proof by the property owner by the greater preponderance of the credible  
12 evidence of the allegation in the notice from the law enforcement agency of a city,  
13 town or village that a nuisance under s. 823.113 (1), (1g) or (1m) (b) exists in that  
14 tenant's rental unit or was caused by that tenant.

15           **SECTION 2.** 704.17 (2) (c) of the statutes is amended to read:

16           704.17 (2) (c) A property owner may terminate the tenancy of a tenant who is  
17 under a lease for a term of one year or less or who is a year-to-year tenant if the  
18 property owner receives written notice from a law enforcement agency of a city, town  
19 or village that a nuisance under s. 823.113 (1), (1g) or (1m) (b) exists in that tenant's  
20 rental unit or was caused by that tenant on the property owner's property and if the

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1 property owner gives the tenant written notice requiring the tenant to vacate on or  
2 before a date at least 5 days after the giving of the notice. The notice shall state the  
3 basis for its issuance and the right of the tenant to contest the termination of tenancy  
4 in an eviction action under ch. 799. If the tenant contests the termination of tenancy,  
5 the tenancy may not be terminated without proof by the property owner by the  
6 greater preponderance of the credible evidence of the allegation in the notice from  
7 the law enforcement agency of a city, town or village that a nuisance under s. 823.113  
8 (1), (1g) or (1m) (b) exists in that tenant's rental unit or was caused by that tenant.

9 **SECTION 3.** 704.17 (3) (b) of the statutes is amended to read:

10 704.17 (3) (b) A property owner may terminate the tenancy of a tenant who is  
11 under a lease for a term of more than one year if the property owner receives written  
12 notice from a law enforcement agency of a city, town or village that a nuisance under  
13 s. 823.113 (1), (1g) or (1m) (b) exists in that tenant's rental unit or was caused by that  
14 tenant on the property owner's property and if the property owner gives the tenant  
15 written notice to vacate on or before a date at least 5 days after the giving of the  
16 notice. The notice shall state the basis for its issuance and the right of the tenant  
17 to contest the termination of tenancy in an eviction action under ch. 799. If the  
18 tenant contests the termination of tenancy, the tenancy may not be terminated  
19 without proof by the property owner by the greater preponderance of the credible  
20 evidence of the allegation in the notice from the law enforcement agency of a city,  
21 town or village that a nuisance under s. 823.113 (1), (1g) or (1m) (b) exists in that  
22 tenant's rental unit or was caused by that tenant.

23 **SECTION 4.** 823.113 (title) of the statutes is amended to read:

24 **823.113 (title) ~~Drug or~~ criminal gang or prostitution house a public**  
25 **nuisance.**

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1           **SECTION 5.** 823.113 (1g) of the statutes is created to read:

2           823.113 (1g) Any building or structure that is used for the purpose of  
3 prostitution is a public nuisance and may be proceeded against under this section.

4           **SECTION 6.** 823.115 (2) (a) of the statutes is amended to read:

5           823.115 (2) (a) The law enforcement agency of the city, town or village that  
6 brought the action, to be used for prostitution-related, gang-related and  
7 drug-related law enforcement activities.

8           **SECTION 7.** 823.115 (2) (b) of the statutes is amended to read:

9           823.115 (2) (b) The treasurer of the city, town or village that brought the action,  
10 to be placed in a fund that is used to provide grants to organizations for prostitution  
11 abatement, gang abatement and drug and alcohol treatment programs for residents  
12 of the city, town or village that brought the action.

13           **SECTION 8.** 823.16 of the statutes is amended to read:

14           **823.16 Remedy of lessor of place of prostitution.** If In addition to the  
15 remedies under s. 704.17 (1) (c), (2) (c) and (3) (b), if the lessee of a place has been  
16 convicted of keeping that place as a place of prostitution or if such place has been  
17 adjudged a nuisance under this chapter, the lease by which such place is held is void  
18 and the lessor shall have the same remedies for regaining possession of the premises  
19 as the lessor would have against a tenant holding over the tenant's term.

20           **SECTION 9.** 893.80 (7) of the statutes is amended to read:

21           893.80 (7) No suit may be brought against any city, town or village or any  
22 governmental subdivision or agency thereof or against any officer, official, agent or  
23 employe of any of those entities who, in good faith, acts or fails to act to provide a

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1 notice to a property owner that a public nuisance under s. 823.113 (1), (1g) or (1m)

2 (b) exists.

3 (END)