



2009 SENATE BILL 607

March 10, 2010 - Introduced by Senators PLALE, HANSEN and A. LASEE, cosponsored by Representatives HONADEL, J. OTT, TOWNSEND, STASKUNAS and VOS. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT** *to amend* 704.17 (1) (b), 704.17 (2) (b) and 704.17 (3) (a); and *to create*
2 704.17 (1) (d), 704.17 (2) (d) and 704.17 (3) (c) of the statutes; **relating to:**
3 terminating a tenancy on the basis that certain crimes or other activities are
4 being committed on or near the premises.

Analysis by the Legislative Reference Bureau

Under current law, a tenant's tenancy may be terminated by the landlord for nonpayment of rent, for committing waste, for 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 tenant by using the method provided in the bill if the tenant or a guest of the tenant is committing or has committed on or near the premises a breach of the lease that jeopardizes the health, safety, or welfare of the property owner or his or her agent or another tenant; criminal gang activity; or any of a number of crimes specified in the bill relating to prostitution, harassment, battery, endangering safety by use of a dangerous weapon, or damage to property. The property owner must provide notice to the tenant to vacate the property on or before a date that is at least five days after the giving of the notice. The notice must advise the tenant of the reason for termination of the tenancy 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 an eviction action, the property owner must prove by the greater

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preponderance of the evidence that the tenant or a guest of the tenant is committing or has committed the crime or other action on which the termination of tenancy is based.

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

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

2 704.17 (1) (b) If Except as provided in par. (d), if a month-to-month tenant
3 commits waste or a material violation of s. 704.07 (3) or breaches any covenant or
4 condition of the tenant's agreement, other than for payment of rent, the tenancy can
5 be terminated if the landlord gives the tenant notice requiring the tenant to vacate
6 on or before a date at least 14 days after the giving of the notice.

7 **SECTION 2.** 704.17 (1) (d) of the statutes is created to read:

8 704.17 (1) (d) 1. A property owner may terminate the tenancy of a
9 week-to-week or month-to-month tenant by using the procedure under subd. 2. if
10 the tenant or a guest of the tenant is committing or has committed on or near the
11 premises any of the following:

12 a. Any of the crimes relating to battery that are specified under s. 940.19.

13 b. Any of the crimes relating to endangering safety by use of a dangerous
14 weapon that specified under s. 941.20.

15 c. Criminal gang activity, as defined in s. 941.38.

16 d. Any of the crimes relating to damage to property that are specified under s.
17 943.01.

18 e. Any of the crimes relating to prostitution that are specified under ss. 944.30,
19 944.31, 944.33, and 944.34.

20 f. Any of the crimes relating to harassment that are specified under s. 947.013.

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1 g. Any breach of the rental agreement that jeopardizes the health, safety, or
2 welfare of the property owner or his or her agent or another tenant.

3 2. A property owner terminating a tenancy on the basis of a crime or other
4 activity specified in subd. 1. must give the tenant written notice requiring the tenant
5 to vacate on or before a date not less than 5 days after the giving of the notice. The
6 notice shall state the basis for its issuance and the right of the tenant to contest the
7 termination of tenancy in an eviction action under ch. 799. If the tenant contests the
8 termination of tenancy, the tenancy may not be terminated without proof by the
9 property owner by the greater preponderance of the credible evidence that the tenant
10 or a guest of the tenant is committing or has committed on or near the premises a
11 crime or other activity specified in subd. 1.

12 **SECTION 3.** 704.17 (2) (b) of the statutes is amended to read:

13 704.17 (2) (b) If Except as provided in par. (d), if a tenant under a lease for a
14 term of one year or less, or a year-to-year tenant, commits waste or a material
15 violation of s. 704.07 (3) or breaches any covenant or condition of the tenant's lease,
16 other than for payment of rent, the tenant's tenancy is terminated if the landlord
17 gives the tenant a notice requiring the tenant to remedy the default or vacate the
18 premises on or before a date at least 5 days after the giving of the notice, and if the
19 tenant fails to comply with such notice. A tenant is deemed to be complying with the
20 notice if promptly upon receipt of such notice the tenant takes reasonable steps to
21 remedy the default and proceeds with reasonable diligence, or if damages are
22 adequate protection for the landlord and the tenant makes a bona fide and
23 reasonable offer to pay the landlord all damages for the tenant's breach. If Except
24 as provided in par. (d), if within one year from the giving of any such notice, the
25 tenant again commits waste or breaches the same or any other covenant or condition

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1 of the tenant's lease, other than for payment of rent, the tenant's tenancy is
2 terminated if the landlord, prior to the tenant's remedying the waste or breach, gives
3 the tenant notice to vacate on or before a date at least 14 days after the giving of the
4 notice.

5 **SECTION 4.** 704.17 (2) (d) of the statutes is created to read:

6 704.17 (2) (d) 1. A property owner may terminate the tenancy of a tenant who
7 is under a lease for a term of one year or less or who is a year-to-year tenant by using
8 the procedure under subd. 2. if the tenant or a guest of the tenant is committing or
9 has committed on or near the premises any of the following:

- 10 a. Any of the crimes relating to battery that are specified under s. 940.19.
- 11 b. Any of the crimes relating to endangering safety by use of a dangerous
12 weapon that specified under s. 941.20.
- 13 c. Criminal gang activity, as defined in s. 941.38.
- 14 d. Any of the crimes relating to damage to property that are specified under s.
15 943.01.
- 16 e. Any of the crimes relating to prostitution that are specified under ss. 944.30,
17 944.31, 944.33, and 944.34.
- 18 f. Any of the crimes relating to harassment that are specified under s. 947.013.
- 19 g. Any breach of the rental agreement that jeopardizes the health, safety, or
20 welfare of the property owner or his or her agent or another tenant.
- 21 2. A property owner terminating a tenancy on the basis of a crime or other
22 activity specified in subd. 1. must give the tenant written notice requiring the tenant
23 to vacate on or before a date not less than 5 days after the giving of the notice. The
24 notice shall state the basis for its issuance and the right of the tenant to contest the
25 termination of tenancy in an eviction action under ch. 799. If the tenant contests the

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1 termination of tenancy, the tenancy may not be terminated without proof by the
2 property owner by the greater preponderance of the credible evidence that the tenant
3 or a guest of the tenant is committing or has committed on or near the premises a
4 crime or other activity specified in subd. 1.

5 **SECTION 5.** 704.17 (3) (a) of the statutes is amended to read:

6 704.17 (3) (a) If Except as provided in par. (c), if a tenant under a lease for more
7 than one year fails to pay rent when due, or commits waste, or breaches any other
8 covenant or condition of the tenant's lease, the tenancy is terminated if the landlord
9 gives the tenant notice requiring the tenant to pay the rent, repair the waste, or
10 otherwise comply with the lease on or before a date at least 30 days after the giving
11 of the notice, and if the tenant fails to comply with the notice. A tenant is deemed
12 to be complying with the notice if promptly upon receipt of the notice the tenant takes
13 reasonable steps to remedy the default and proceeds with reasonable diligence, or if
14 damages are adequate protection for the landlord and the tenant makes a bona fide
15 and reasonable offer to pay the landlord all damages for the tenant's breach; but in
16 case of failure to pay rent, all rent due must be paid on or before the date specified
17 in the notice.

18 **SECTION 6.** 704.17 (3) (c) of the statutes is created to read:

19 704.17 (3) (c) 1. A property owner may terminate the tenancy of a tenant who
20 is under a lease for a term of more than one year by using the procedure under subd.
21 2. if the tenant or a guest of the tenant is committing or has committed on or near
22 the premises any of the following:

23 a. Any of the crimes relating to battery that are specified under s. 940.19.

24 b. Any of the crimes relating to endangering safety by use of a dangerous
25 weapon that specified under s. 941.20.

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1 c. Criminal gang activity, as defined in s. 941.38.

2 d. Any of the crimes relating to damage to property that are specified under s.
3 943.01.

4 e. Any of the crimes relating to prostitution that are specified under ss. 944.30,
5 944.31, 944.33, and 944.34.

6 f. Any of the crimes relating to harassment that are specified under s. 947.013.

7 g. Any breach of the rental agreement that jeopardizes the health, safety, or
8 welfare of the property owner or his or her agent or another tenant.

9 2. A property owner terminating a tenancy on the basis of a crime or other
10 activity specified in subd. 1. must give the tenant written notice requiring the tenant
11 to vacate on or before a date not less than 5 days after the giving of the notice. The
12 notice shall state the basis for its issuance and the right of the tenant to contest the
13 termination of tenancy in an eviction action under ch. 799. If the tenant contests the
14 termination of tenancy, the tenancy may not be terminated without proof by the
15 property owner by the greater preponderance of the credible evidence that the tenant
16 or a guest of the tenant is committing or has committed on or near the premises a
17 crime or other activity specified in subd. 1.

18 **SECTION 7. Initial applicability.**

19 (1) This act first applies to crimes or other actions committed during tenancies
20 commenced or renewed on the effective date of this subsection.

21 (END)