

FEB 29 '96 10:16AM DIR OF STATE COURTS

1995 SP. 2/3

FISCAL ESTIMATE  
DOA-2048 N(R10/94)

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
6642/1

Amendment No. if Applicable

Subject

Residential Rental Practices and Powers of Court Commissioners

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No

Decrease Costs

Local:  No local government costs

- 1.  Increase Costs
  - Permissive  Mandatory
- 2.  Decrease Costs
  - Permissive  Mandatory

- 3.  Increase Revenues
  - Permissive  Mandatory
- 4.  Decrease Revenues
  - Permissive  Mandatory

5. Types of Local Governmental Units Affected:

- Towns  Villages  Cities
- Counties  Others \_\_\_\_\_
- School Districts  WTCS Districts

Fund Sources Affected

- GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill establishes residential rental practices regulations in the statutes. Presently, the administrative code provides these regulations. It also permits court commissioners to conduct eviction actions in small claims cases except with trials to a jury.

It is estimated that 23,000 eviction actions are filed in the circuit courts annually. Of these, approximately 10% are contested and would most likely be affected by this bill. Presently, these contested cases would be handled by a judge and a court reporter, both of which are paid by the state. Under this bill court commissioners could handle them. Court commissioners and their court reporters are county paid employees. It is expected that the more populous counties are the ones that would have court commissioners and may want them to handle evictions. The increase in county costs and the corresponding decrease in state costs cannot be predicted with the data available.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Director of State Courts

Authorized Signature/Telephone No 6-6884

*Sheryl Denver*

Date

2/29/96

FEB 29 '96 10:16AM DIR OF STATE COURTS

1995 Session

# FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect  
7A-2047 (R10/94)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
4442/1

Amendment No.

Subject

Powers of Court Commissioners

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal Impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category	\$	\$ -
State Operations - Salaries and Fringes		
(FTE Position Changes)	( FTE)	(- FTE)
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
<b>TOTAL State Costs by Category</b>	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues - <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
<b>TOTAL State Revenues</b>	\$	\$ -

### NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$ -indeter.

\$ +indeter.

NET CHANGE IN REVENUES

\$

\$

Agency/Prepared by: (Name & Phone No.)

Director of State Courts

Authorized Signature/Telephone No.

*Sheryl Deven*

Date

2/29/96

LRB or Bill No./Adm. Rule No.  
 (- 4442/3) AB 1038  
 Amendment No. if Applicable

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

FISCAL ESTIMATE  
 DOA-2048 N(R10/94)

Subject

Residential Rental Practices and Powers of Court Commissioners

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation  
 or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb  
 Within Agency's Budget     Yes     No

Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Decrease Costs

Local:  No local government costs

- |  |  |   |
|--|--|---|
| 1. <input checked="" type="checkbox"/> Increase Costs<br><input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory<br>2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory<br>4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:<br><input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities<br><input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others _____<br><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
|--|--|---|

Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill establishes residential rental practices regulations in the statutes. Presently, the administrative code provides these regulations. It also permits court commissioners to conduct eviction actions in small claims cases except with trials to a jury. In contested cases the bill requires that the judge or court commissioner must hold the trial within five working days of the return date.

It is estimated that 23,000 eviction actions are filed in the circuit courts annually. Of these, approximately 10% are contested and would be affected by this bill. Presently, these contested cases would be handled by a judge and a court reporter, both of which are paid by the state. Under this bill court commissioners would be able to handle them. Court commissioners and their court reporters are county paid employees. It should be noted that many counties do not have court commissioners. It is not expected that all judges and court commissioners would be able to meet the five working day deadline for the trial as there are already many statutory timelines that exist in juvenile and criminal cases that take priority. The increase in county costs and the corresponding decrease in state costs cannot be predicted with the data available.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)  
 Director of State Courts

Authorized Signature/Telephone No. 6-6984

*Sheryl Sewan*

Date  
 3/19/96

**FISCAL ESTIMATE WORKSHEET**

**1995 Session**

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
4442/3

Amendment No.

Subject

Powers of Court Commissioners

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	( FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	\$	\$ -
<b>B. State Costs by Source of Funds</b>		
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>III. State Revenues -</b> Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	\$	\$ -

**NET ANNUALIZED FISCAL IMPACT**

STATE

LOCAL

NET CHANGE IN COSTS

\$ - indeter.

\$ + indeter.

NET CHANGE IN REVENUES

\$

\$

Agency/Prepared by: (Name & Phone No.)

Director of State Courts

Authorized Signature/Telephone No.

*Sheyl Deuman*

Date

3/19/96

1995 Session

LRB or Bill No./Adm. Rule No.

LRB-4442/3 **AB 1038**

Amendment No. if Applicable

**FISCAL ESTIMATE**  
DOA-2048 (R 10/94)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

**Subject**

Relating to residential rental practices and powers of court commissioners

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
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- Decrease Existing Revenues

- Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No
- Decrease Costs

Local:  No local government costs

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- 3.  Increase Revenues
  - Permissive  Mandatory
- 4.  Decrease Revenues
  - Permissive  Mandatory

- 5. Types of Local Governmental Units Affected:
  - Towns  Villages  Cities
  - Counties  Others
  - School Districts  VTAE Districts

**Fund Sources Affected**

- GPR  FED  PRO  PRS  SEG  SEG-S

**Affected Ch. 20 Appropriations**

20.115(1)(a)

**Assumptions Used in Arriving at Fiscal Estimate**

Currently, all consumer complaint investigations are handled through the Bureau's four regional offices which are comprised of 25.5 FTE positions. In addition, 5.0 FTE positions operate and administer the DATCP's Consumer Hotline. Approximately one-third of all total staff hours associated with the regional offices and Consumer Hotline are devoted to complaints and inquiries on residential rental practices. In 1995, DATCP received more than 32,000 landlord-tenant inquiries and over 1,850 written complaints.

This bill makes substantive revisions to landlord-tenant law under Chapter 704 of the Statutes, creating overlap and conflict with the DATCP's current rule on residential rental practices. The bill also excludes jail sentences for criminal violations of residential rental practices law or violations of ch. ATCP 134, Wis. Adm. Code, thereby impairing current agreements between DATCP, local building inspectors, and county district attorney offices which are aimed at addressing the rental of condemned and dangerous housing. In DATCP's Milwaukee regional office, an estimated 2.5 FTE positions are devoted to administering the Department's duties under a tri-agency agreement, and to investigate other landlord-tenant complaints.

An increase in consumer complaints on residential rental practices can be anticipated as a result of the bill, especially on issues related to security deposits and earnest money deposits. The Department also projects increased costs associated with rulemaking necessary to maintain consistency between the current residential rental practices code and proposed law changes. Any potential investigative staff time savings from termination of current tri-agency agreements will be absorbed by ongoing consumer complaint investigation backlogs. Thus, the Department estimates no savings to current staff workloads, and few if any increased costs to the Department.

**Long-Range Fiscal Implications**

None. Long-range fiscal implications for municipalities with building code enforcement programs are unpredictable.

Agency/Prepared by: (Name & Phone No.)

DATCP  
Tom Stoebig, 224-4944

Authorized Signature/Telephone No.

*Barbara Knapp*  
Barbara Knapp

224-4746

Date

03/15/96

**PROPOSAL**

**Drafting Language For The  
1995 Tenant - Landlord Omnibus Reform Act  
Office of State Representative Glenn Grothman**

**Incorporating Input From The August 8, 1995 Meeting Of Tenant And Landlord Groups**

**Prepared by Steven Krieser  
Chief of Staff**

**August 30, 1995**

7) Amend ATCP 134.04 (3)(b)3, adding the following language to the end of the current text: "Separately-metered services which have been disconnected for nonpayment or at the request of the previous occupant shall not constitute a violation hereof unless the landlord has actual knowledge of the disconnected service before or at the time of entering into the rental agreement."

- In some cases, landlords have been prosecuted for housing code violations because utilities have been disconnected between the time the potential tenant last inspects the dwelling unit and the point at which the lease is signed. Because the lease was "officially" executed at a time when the utilities were not operable, the landlord is punished under this section. The new language should rectify such problems.

8) Amend ATCP 134.05 (1)(a), striking the word "immediately," and adding the words "less actual owner cost for application verification or credit check if it is found that the application contains omissions or falsifications which contribute, wholly or in part, to the rejection."

- Current law is written in such a way that landlords who pursue credit checks generally get stuck with the costs of such a check, even if it results in the rejection of an application because of an intentional omission or falsification by the applicant. This change will correct that problem, and will create a disincentive for applicants to falsify rental applications.

9) Amend ATCP 134.05 (2)(b), inserting the word "written" between "Upon" and "request."

This will assist busy landlords in complying with this section by requiring more from the applicant than just a passing comment in the hallway. It does not, however, create a novel or unusual burden on the applicant.

10) Repeal and recreate ATCP 134.06 (1)(a), to read as follows: "Prior to the acceptance of the security deposit by the landlord, inform the tenant that the tenant may inspect the dwelling unit. Upon inception of the tenancy, the tenant shall have at least 7 days thereafter to provide the landlord with written notification of existing damages or defects. If such written notice is not delivered within the greater of 7 days or the period of time specified by the landlord, the tenant will bear the burden of proof for claims of existing damage upon vacation of the dwelling unit."

- This change will permit the prospective tenant to determine the level of existing damages, and to make a lease/no lease decision prior to the tendering of any money. It will also give the tenant 7 days from the beginning of the lease to turn in a

written list of existing damages to the landlord.

11) Repeal and recreate ATCP 134.06(1)(b) to read as follows: "Within 10 days after receipt of a tenant's written notice, deliver to the tenant a written itemized description of any physical damages or defects for which deductions from the previous tenant's security deposit were made. If tenant's notice is received during the 21-day period under sub (2), landlord's delivery deadline shall be extended to within 10 days of the later of delivery or mailing of the security deposit withholding notice under sub. (4) or the expiration of the 21-day deadline under sub. (2). If damages or defects have been repaired by the landlord, this may be noted in connection with the damage description. Disclosure of the previous tenant's identity, or the amounts withheld from the previous tenant's security deposit, is not required.

-These changes are included because the requirement as it stands is largely ignored. Most landlords do not provide tenants with the list of damages by the previous tenant, and most tenants do not pursue the list. This change would require the tenant to request the list of prior damages, and provides a more reasonable time frame for the subsequent delivery of the list.

12) Amend ATCP 134.06 (2), inserting the words "the end of the month within which falls the last date the tenant is liable for rent under Chapter 704, Stats" between the first occurrence of the word "after" and "surrender." Strike the words "or surrender of the premises." Insert the sentence "If surrender of the premises is not made face-to-face with the landlord, the burden of proof of such surrender is on the tenant." after the final occurrence of the word "tenant" in this paragraph.

- The code is currently vague as to what act by the tenant specifically triggers the countdown of the 21-day time limit for return of the security deposit. In some cases, courts have determined that tenants who abandon the apartment before the end of the lease, and without the knowledge of the landlord, are entitled to double damages because the landlord did not return the deposit within 21 days of that date. Others have determined that the return of the keys to the landlord marks the beginning of the 21-day countdown. This change will clarify the rules and prevent such confusion in the judicial system.

13) Amend ATCP 134.06 (3)(a)1, inserting the words "or other charges" between the words "Rent" and "for."

- This change will assure that landlords may pass on to tenants the cost of charges directly related to the tenancy, subject to statutory limitation as outlined in s. 704.29, Stats.



14) Create ATCP 134.06 (1)(a)5, to read as follows: "It shall be inferred that all damage occurring to the dwelling unit during the time of possession shall have been caused by the tenant. For purposes hereof, time of possession shall terminate on the first day the landlord has knowledge that the tenant has vacated the premises."

- This is simply a common-sense adjustment to the code. In most cases, damage inflicted to a dwelling unit during a particular tenancy is the direct result of the actions of the tenant, the tenant's children, or the tenant's guests. As a result, tenants should be held liable for that damage. The practical effect of the current law is to force many landlords into paying for damages inflicted by tenants, as the current burden of proof all but requires the landlord to witness the damage as it is being perpetrated.

In cases where the damage is the result of criminal activity committed against the tenant, the filing of a police report will most often result in payment for repair of related damage by the insurer for either the tenant or the landlord. As a result, this should not inflict undue harm to tenants in most cases, provided that an afflicted tenant notifies police of a crime against the dwelling.

15) Create ATCP 134.06 (4)(c), to read as follows: "If the landlord had a reasonable basis for making a deduction, the same shall not be considered a violation hereof, even if the basis is shown to be erroneous and the wrongfully withheld sums are refunded to the tenant. The burden of proof to establish the 'reasonable basis' is on the landlord."

- This protects landlords making seemingly legitimate withholdings from security deposits from civil and/or criminal action by the department for those withholdings. The language requiring landlords to establish the proof that a withholding was reasonable will protect tenants from frivolous withholdings from landlords.

16) Amend ATCP 134.07 (1), inserting the word "written" after the first occurrence of the word "Every." Insert the word "anticipated" between the phrases "improvements are" and "to be completed." Insert the words "unless they are to be completed within 30 days" after the final occurrence of the word "completed" in this paragraph.

17) Amend ATCP 134.07 (2), inserting the words "unless such repairs have been completed prior to the move-in date" after the word "tenant."

18) Amend ATCP 134.07 (3), inserting the word "unreasonably" after the first occurrence of the word "shall." Insert the words "war, acts of God, governmental regulation or decree, strikes" after the phrase "unless the delay is for reason of." Insert the words "shortage of labor" after the phrase "unavailability of supplies or." Insert the words "unseasonable weather conditions" after the words "unavoidable casualties." Insert the words "shall state" before the last occurrence of the word "stating" in this paragraph. Insert the words "are anticipated" after the words "improvements will." Strike the following words: "labor stoppage, unavailability of supplies or," "unavoidable casualties," "stating," and the word "will" which follows the last occurrence of the word "improvements."

- The changes enumerated in sections 16-18, above, will establish a more equitable standard for the performance of repair obligations by a landlord. Frequently, tenants throw a verbal list of needed repairs at a landlord as he or she is passing in the hallway. The landlord will respond by voicing an intent to repair the problems. If the landlord forgets, he or she may be liable for damages in court, or even for prosecution by the state. These changes are designed to eliminate, or at least substantially reduce, this problem.

19) Repeal ATCP 134.08 (3).

20) Amend ATCP 134.08 (6)(b), appending the words "nor does this affect damage caused by the tenant's negligence in maintaining adequate control over the premises or otherwise meeting their obligations under the rental agreement or Chapter 704, Stats."

- This change goes hand-in-hand with change 14, above, in assuring that tenants be held responsible for damages they inflict upon dwelling units by such negligence as leaving windows open in winter, or in leaving them unlocked to permit entry by vandals.

21) Amend ATCP 134.09 (2), inserting the words "the tenant requested repairs to be done and they are done during normal working hours" after the comma following the second occurrence of the word "time."

- This change will avoid the additional expense incurred by the landlord when a tenant-requested service call must be turned away and called back another time because the tenant is not home when the serviceperson arrives. Under the changes, the landlord would be empowered to grant entry to the serviceperson on the first visit without complying with the twelve-hour notice requirement. This change will apply only to service work requested by the tenant.

22) Create ATCP 134.09 (5)(d), to read as follows: "Nothing in this section shall prevent a landlord from evicting a tenant for failure to pay rent or other violation of a rental agreement."

- This change simply reiterates that a landlord may evict tenants for actual violations of a lease, retaliatory eviction restrictions notwithstanding.



August 18, 1995

Scott Jensen  
State Representative  
P.O. Box 8952  
Madison, WI 53708-8952

Dear Representative Jensen:

Members of *The Apartment Association of Southeastern Wisconsin, Inc.*, and I encounter "stupid laws" every day. In fact, for your contest, I have enclosed one of my favorites, Statute 800.095(b)(3).

This statute, intended to make criminals do community service for the damages they cause is a farce. Society continues to deteriorate right in front of our eyes. Criminals continue to serve little or no time for their offenses. Yet, we as rental property owners, continue to bear the burden of bad tenants. Our members desire to provide safe and affordable housing for the citizens of Southeastern Wisconsin, yet how can we if the courts won't stand behind us? Something has to be done to make it known to criminals that their destructive ways will no longer be tolerated.

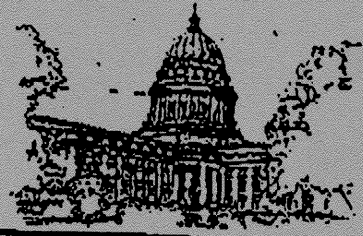
With regards to statute 800.095(b)(3), I have drawn a line through the language our members would like to see eliminated. We'd like you to examine the enclosed document and if possible begin the process to make the necessary changes in removing it from the statute.

If this law can be changed, we'll feel like we've won your "stupid laws" contest.

Sincerely,

Orv Seymer, Legislative Chairman  
*The Apartment Association of Southeastern Wisconsin, Inc.*

# JOHN LA FAVE



## STATE REPRESENTATIVE 23RD ASSEMBLY DISTRICT

TO: All Legislators

September 13, 1995

FR: John La Fave

RE: LRB-3941/2, Gang House Eviction

Currently, landlords are able to give a five-day eviction notice to tenants of a dwelling that has been declared a "drug house" by local authorities.

This bill allows a landlord to also give a five-day eviction notice to tenants when local authorities have declared the dwelling to be a criminal gang house.

One landlord's experience in coping with a tenant involved in criminal gang activity illustrates the need for this bill. This tenant discharged a firearm in a hallway, shooting a bullet through another tenant's unit. The landlord reported the setting off of fire alarms in the project, vandalism of cars of project residents, breaking windows, and the stealing of fire extinguishers. Needless to say, such incidents frightened innocent residents of the project.

The landlord was concerned that he would lose all of the tenants if immediate action to remove the offending tenant was not taken. He related a long history of police contacts, but the problems continued unabated. Since drug activity could not be substantiated, the landlord was not able to expedite the process.

The law should allow landlords the right to deal as swiftly with a gang activity nuisance as with a drug activity nuisance.

This bill will provide consistency in the law, give law enforcement agencies another tool in dealing with criminal gangs, give landlords the right to quickly deal with tenants associating with criminal gangs, and give innocent tenants the comfort of knowing that those tenants who associate with criminal gangs will be removed from the premises more swiftly than would otherwise be possible without the expedited procedures.

The LRB analysis is printed on the reverse side. If you would like to co-sponsor this legislation, please call Judy in my office at 6-0486 by September 25th.

1 **AN ACT to amend 704.17 (1) (c), 704.17 (2) (c), 704.17 (3) (b) and 893.80 (7) of the**  
 2 **statutes; relating to: eviction of tenants of a criminal gang house.**

***Analysis by the Legislative Reference Bureau***

Under current law, if a building or structure is used in the delivery or manufacture of controlled substances or to facilitate criminal gang activities, the building or structure is a public nuisance and the local unit of government may bring an action to stop the activities related to controlled substances. Under current law, if a law enforcement agency of the local unit of government sends written notice to the property owner that his or her building or structure is a public nuisance because the building or structure is used in the delivery or manufacture of controlled substances, the property owner may give the tenant a 5-day notice to leave the building or structure.

This bill allows a property owner to give a tenant a 5-day notice to leave the building or structure if a law enforcement agency of the local unit of government sends written notice to the property owner that his or her building or structure is a public nuisance because the building or structure is used to facilitate criminal gang activities.

Current law prohibits commencing a suit against a city, town or village or an official, employe or agent of a city, town or village who, in good faith, notifies or fails to notify a property owner that a public nuisance exists because the property is used in the delivery or manufacture of controlled substances. This bill extends the same law suit prohibition regarding the notification about properties that are public nuisances because they facilitate criminal gang activities.

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

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

**Chapter Ag 134**

**RESIDENTIAL RENTAL PRACTICES**

Ag134.01 Scope and application of rules

As agreed 1/25/95, 2/27/95 and 3/27/95

Ag134.02 Definitions

Ag134.03 Rental documents; deposit receipts

Ag134.04 Disclosure requirements

\*\* requires statutory change

Ag134.05 Earnest money deposits

Ag134.06 Security deposits

Ag134.07 Promises to repair

Ag134.08 Prohibited rental agreement provisions

Ag134.09 Prohibited practices

Ag134.10 Effect of rules on local ordinances

Ag 134.01 Scope and application of rules. This chapter is adopted under authority of s. 100.20, Stats., and applies to the rental of dwelling units located in this state. It does not apply to the rental or occupancy of dwelling units:

- (1) Operated by an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar services;
- (2) Operated by a fraternal or social organization for the benefit of its members only;
- (3) Under a contract of sale, if the occupant is the purchaser or a person who succeeds to the purchaser's interest;
- (4) In a hotel, motel, boarding house, lodging house or other similar premises on a transient basis;
- (5) Furnished free of charge, or free of charge to employees conditioned upon employment in and about the premises;
- (6) Under a rental agreement covering premises used by the occupant primarily for agricultural purposes;
- ~~(7) Owned and operated by government, or a subdivision or agency of government;~~

Ag 134.02 Definitions. (1) "Building and housing codes" means laws, ordinances, or governmental regulations concerning the construction, maintenance, habitability, operation, occupancy, use or appearance of any premises or dwelling unit.

(2) "Dwelling unit" means a structure or that part of a structure that is primarily used as a home, residence, or place of abode. The term includes a mobile home or mobile home site as defined in s. Ag 125.01 ( 1 ) and (7).

(3) "Earnest money deposit" means the total of any payments or deposits, however denominated or described, given by a prospective tenant to a landlord in return for the option of entering into a rental

agreement in the future, or for having a rental application considered by the landlord.

(4) "Form provision" means a written rule, regulation, or rental or contract provision that has not been specifically and separately negotiated and agreed to by the tenant in writing. Any provision appearing as part of a preprinted form is rebuttably presumed to be a form provision ~~unless handwritten or if preprinted, it shall be in at least 8 point bold type or in capital letters if typewritten.~~

(5) "Landlord" means the owner or lessor of a dwelling unit under any rental agreement, and any agent acting on the owner's or lessor's behalf. The term includes sublessors, other than persons subleasing individual units occupied by them.

(6) "Lease" means a lease as defined in s. 704.01(1), Stats.

(7) "Owner" means one or more persons, jointly or severally, vested with all or part of the legal title to the premises or all or part of the beneficial ownership and right to present use and enjoyment of the premises. The term includes a mortgagee in possession.

(8) "Person" means an individual, partnership, corporation, association, estate, trust, and any other legal or business entity.

(9) "Premises" means a dwelling unit and the structure of which it is a part and all appurtenances, grounds, areas, furnishings and facilities held out for the use or enjoyment of the tenant or tenants generally.

(10) "Rental agreement" means any agreement, whether written or oral, for the rental or lease of a dwelling unit or premises, and includes contracts or rules and regulations which are incidental to, or adopted pursuant to a rental agreement.

4 (11) "Security deposit" means the total of all payments and deposits given by a tenant to the landlord as security for the performance of the tenant's obligations, ~~and includes all rent payments in excess of 1 month's prepaid rent.~~

4a (12) ~~"Surrender of the premises" means that the tenant has vacated the premises and the landlord has received written notice of tenant having vacated or landlord knows tenant has vacated. Except where a tenant surrenders the premises at the termination of a written lease as defined in Wis Stats 704.01(1), the burden of proof of such surrender is on the tenant.~~

5 (13) "Tenant" means a person occupying, or entitled to present or future occupancy of a dwelling unit under a rental agreement, and includes persons occupying dwelling units under periodic tenancies and tenancies at will. The term applies to persons holding over after termination of tenancy until removed from the dwelling unit by sheriff's execution of a judicial writ of restitution issued under s. 299.44 [799.44] Stats. It also applies to persons entitled to the return of a security deposit, or an accounting for the security deposit.

(14) "Tenancy" means occupancy, or a right to present occupancy under a rental agreement, and includes periodic tenancies and tenancies at will. The term does not include the occupancy of a dwelling unit without consent of the landlord after expiration of a lease or termination of tenancy under ch. 704, Stats.



**(15) Pecuniary Loss means the amount owed by the landlord to the tenant if the claims of the tenant have been offset by the claims of the Landlord as defined by AG 134.06(3).**

**Ag 134.03 Rental documents; deposit receipts. (1) COPIES OF RENTAL AGREEMENTS, RULES.** Rental agreements and rules and regulations established by the landlord, if in writing, shall be furnished to prospective tenants for their inspection before a rental agreement is entered into, and before any earnest money or security deposit is accepted from the prospective tenant. Copies shall be given to the tenant at the time of agreement.

**(2) RECEIPTS FOR TENANT DEPOSITS.** Immediately upon accepting any earnest money or security deposit, the landlord shall provide the tenant or prospective tenant with a written receipt for the deposit, stating the nature of the deposit and its amount. A receipt is not required where payment is made by check bearing a notation describing the purpose for which it was given, unless requested by the tenant.

**Ag 134.04 Disclosure requirements. (1) IDENTIFICATION OF LANDLORD OR AUTHORIZED AGENTS.** (a) The landlord shall, except as provided under par. (c), disclose to the tenant in writing, at or before the time a rental agreement is entered into, the name and address of.

1. The person or persons authorized to collect or receive rent and manage and maintain the premises, and who can readily be contacted by the tenant; and

2. The owner of the premises or other person authorized to accept service of legal process and other notices and demands on behalf of the owner. The address disclosed under this subdivision shall be an address within the state at which service of process can be made in person.

(b) The landlord and any successor of the landlord shall keep tenants informed of any changes in the information required under par.

(a).

(c) This subsection does not apply to an owner-occupied structure containing no more than 4 dwelling units.

**(2) CODE VIOLATIONS AND CONDITIONS AFFECTING HABITABILITY.** Before entering into a rental agreement or accepting any earnest money or security deposit from the prospective tenant, the landlord shall disclose to the prospective tenant:

(a) All uncorrected building and housing code violations ~~and any conditions affecting the habitability of the dwelling unit~~ of which the landlord has received notice from code enforcement authorities, and which affect the individual dwelling unit and common areas of the premises. ~~Written~~ disclosure shall be made by exhibiting ~~delivered~~ to the prospective tenant of those portions of the building and housing code notices or orders which have not been fully complied with. Code violations shall not be considered corrected until their correction has been reported to code enforcement authorities.

(b) The following conditions affecting habitability, the existence of which the landlord knows or could know on basis of reasonable inspection, whether or not notice has been received from code enforcement authorities:

1. The dwelling unit lacks hot and cold running water, plumbing or sewage disposal facilities in good safe operating condition.
- 0 2. Heating facilities serving the dwelling unit are not in safe operating condition, or are not capable of maintaining a temperature in the dwelling unit of at least 67DF (19DC) during all seasons of the year ~~in which the dwelling unit may be occupied.~~ ~~at a distance of 3 feet above floor level, in the center of a room when the outside temperature is above 10 degrees Fahrenheit.~~
- 1 3. The dwelling unit is not served by electricity, or the electrical wiring, outlets, fixtures or other components of the electrical system are not in safe operating condition. ~~Separate metered services which have been disconnected for nonpayment or at the request of the previous occupant shall not constitute a violation hereof unless the landlord has actual knowledge of the disconnected service before or at the time of entering into the rental agreement.~~
4. Any structural or other conditions in the dwelling unit or premises which constitute a substantial hazard to the health or safety of the tenant, or create an unreasonable risk of personal injury as a result of any reasonably foreseeable use of the premises other than negligent use or abuse of the premises by the tenant.

(3) UTILITY CHARGES. IF Charges for water, heat or electricity are not included in the rent, the landlord shall disclose this fact to the tenant before entering into a rental agreement or accepting any earnest money or security deposit from the prospective tenant. If individual dwelling units and common areas are not separately metered, and if the charges are not included in the rent, the landlord shall disclose the basis on which charges for utility services will be allocated among individual dwelling units.

- 2 Ag 134.05 Earnest money deposits. (1) REFUND OR CREDIT OF EARNEST MONEY DEPOSIT. (a) If a rental application is rejected by the landlord, the entire amount of any earnest money deposit shall be immediately refunded to the prospective tenant ~~less actual costs of application verification and/or credit check if there was a prior disclosure of such costs to the tenant.~~
- 3 (b) If a rental agreement is entered into, the entire amount of any earnest money deposit shall be applied toward the payment of rent or a security deposit, or returned to the tenant. ~~less actual owner cost for application verification and/or credit check if there is a prior disclosure of costs to tenant.~~

(2) LIMITATIONS ON EARNEST MONEY WITHHOLDING. (a) No portion of an earnest money deposit may be permanently withheld by a landlord in excess of actual costs and damages incurred because of the failure of a prospective tenant to enter into a rental agreement. Deposits may not be permanently withheld as compensation for lost rents unless the landlord has made reasonable efforts to mitigate the rental loss in accordance with s. 704.29, Stats.

- 4 (b) Upon ~~written~~ request by any person giving an earnest money deposit, the landlord shall provide that person with a written statement accounting for all amounts permanently withheld from the deposit.

Ag 134.06 Security deposits. (1) CHECK-IN PROCEDURES; PRE-EXISTING DAMAGES. Whenever a security deposit is required, the landlord shall:

- 5 (a) Upon acceptance of the deposit ~~at the time of the deposit~~ inform the tenant that the tenant may inspect the dwelling unit and notify the landlord ~~in writing~~ of any damages or defects which existed

before the beginning of the tenancy. The tenant shall be given at least 7 days after the beginning of the tenancy for the inspection and ~~written~~ notification.

16 (b) ~~Within 10 days after receipt of a tenant's written notice, deliver to~~ furnish the tenant with a written itemized description of any physical damages or defects for which deductions from the previous tenant's security deposit were made. ~~If tenant's notice is received during the 21 day period under sub. (2) landlord's delivery deadline shall be extended to within ten days of the later of delivery or mailing of the security deposit withholding notice under (4) or the expiration of the 21 day deadline under (2). The description shall be furnished to the new tenant before a security deposit is accepted, or at the same time the previous tenant is notified of security deposit deduction under sub. (4), whichever occurs later.~~ If damages or defects have been repaired by the landlord, this may be noted in connection with the damage description. Disclosure of the previous tenant's identity, or the amounts withheld from the previous tenant's security deposit, is not required.

17 (2) RETURN OF SECURITY DEPOSITS. The landlord shall, within 21 days after ~~the end of the month after the last date the tenant is liable for rent under Ch. 704 Stats. or~~ surrender of the premises, return all security deposits less any amounts withheld by the landlord. Deposits shall be returned in person, or by mail to the last known address of the tenant.

18 (3) LIMITATIONS ON SECURITY DEPOSIT WITHHOLDING. (a) Except for other reasons clearly agreed upon in writing at the time the rental agreement is entered into, other than in a form provision ~~unless handwritten or if part of a written agreement at least in eight point bold type if printed or in capital letters if typewritten,~~ security deposits may be withheld only for tenant damage, waste or neglect of the premises, or the nonpayment of:

1. Rent ~~or other charges~~ for which the tenant is legally responsible, subject to s. 704.29, Stats.
2. Actual amounts owed for utility service provided by the landlord under terms of the rental agreement and not included in the rent.
3. Actual amounts owed by the tenant for direct utility service provided by a government-owned utility, to the extent that the landlord becomes liable for the tenant's nonpayment.
4. Mobile home parking fees assessed against the tenant by a local unit of government under s. 66.058(3), Stats., to the extent that the landlord becomes liable for the tenant's nonpayment.

19 ~~5. Attorney fees and court costs expended to enforce the lease or other provisions of the~~

20 ~~6. If shall be reasonably determined that all damage occurring to the dwelling during the time of possession shall have been caused by tenant. For purposes hereof time of possession shall terminate on the first day the landlord has knowledge that the tenant has vacated the premises.~~

(b) Nothing in this subsection shall be construed as authorizing any withholding for normal wear and tear or other damages or losses for which the tenant is not otherwise responsible under applicable law.

21 (4) SECURITY DEPOSIT WITHHOLDING; STATEMENT OF CLAIMS. (a) If any portion of a security deposit is withheld by a landlord, the landlord shall, within the time period and in the manner specified ~~landlord, the landlord shall, within the time period and in the manner specified~~ under sub. (2), deliver or

mail to the tenant a written statement accounting for all amounts withheld. The statement shall describe each item of physical damages or other claim made against the security deposit, and the amount withheld as reasonable compensation for each item or claim.

(b) No landlord may intentionally misrepresent or falsify any claim against a security deposit, including the cost of repairs, or withhold any portion of a security deposit pursuant to an intentionally falsified claim.

2 ~~(c) If the landlord had a reasonable basis for making a deduction, the same shall not be considered a violation hereof even if the basis is shown to have been erroneous and the wrongfully withheld sums are refunded to the tenant.~~

(5) TENANT FAILURE TO LEAVE FORWARDING ADDRESS. A landlord who has otherwise complied with this section shall not be considered in violation solely because the postal service has been unable to complete mail delivery to the person addressed. This subsection does not affect any other rights that a tenant may have under law to the return of a security deposit.

3 Ag 134.07 Promises to repair. (1) DATE OF COMPLETION. Every ~~written~~ promise or representation made by a landlord to a tenant or prospective tenant to the effect that the dwelling unit or any other portion of the premises, including furnishings or facilities, will be cleaned, repaired or otherwise improved by the landlord shall specify the date or time period on or within which the cleaning, repairs or improvements are ~~anticipated~~ to be completed ~~unless they are to be completed within 30 days.~~

4 (2) INITIAL PROMISES IN WRITING. All promises made before the initial rental agreement shall be in writing with a copy furnished to the tenant ~~unless such repairs have been completed prior to the move-in date.~~

5 (3) PERFORMANCE; UNAVOIDABLE DELAYS. No landlord shall ~~intentionally~~ fail to complete the promised cleaning, repairs or improvements on the date or within the time period represented under sub. (1), unless the delay is for reason of ~~war, acts of God, government requisition, or other causes beyond the landlord's control.~~ labor stoppage, unavailability of supplies or ~~shortage of labor or~~ materials, unavoidable casualties ~~and~~ ~~reasonable~~ ~~weather conditions~~, or other causes beyond the landlord's control. The landlord shall give timely notice to the tenant of the reasons beyond the landlord's control for any delay in performance, and ~~indicate~~ stating when the cleaning, repairs or improvements will ~~be completed.~~ to be completed.

Ag 134.08 Prohibited rental agreement provisions. No rental agreement may:

(1) Authorize the eviction or exclusion of a tenant from the premises, other than by judicial eviction procedures as provided under ch. 299, [799] Stats.

(2) Provide for an acceleration of rent payments in the event of tenant default or breach of obligations under the rental agreement, or otherwise purport to waive the landlord's obligation to mitigate damages as provided under s. 704.29, Stats.

6 ~~(3) Require payment, by the tenant, of attorney's fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement. This does not prevent the recovery of costs or attorney's fees by a landlord or tenant pursuant to a court order under ch. 299 [799] or 814 Stats.~~

(4) Authorize the landlord or any agent of the landlord to confess judgment against the tenant in any

action arising under the rental agreement.

(5) Relieve, or purport to relieve the landlord from liability for property damage or personal injury caused by negligent acts or omissions of the landlord. This does not affect ordinary maintenance obligations assumed by a tenant under a rental agreement, in accordance with sub. (7) and s. 704.07, Stats.

(6) Impose, or purport to impose liability on a tenant for:

(a) Personal injury arising from causes clearly beyond the tenant's control.

(b) Property damage caused by natural disasters, or by persons other than the tenant or the tenant's guests or invitees. This does not affect ordinary maintenance obligations assumed by a tenant under the rental agreement, in accordance with sub. (7) and s. 704.07, Stats. ~~nor does this affect damage caused by the tenant's failure to maintain adequate control over the premises or otherwise meet their obligations under the rental agreement or Ch. 704, Wis. Stats.~~

(7) Provide, by means of a form provision, for the waiver of any statutory or other legal obligation on the part of the landlord to deliver the premises in a fit or habitable condition, or maintain the premises during tenancy.

Ag 134.09 Prohibited practices. (1) **ADVERTISING OR RENTAL OF CONDEMNED PREMISES.** No landlord may rent or advertise for rent any premises which have been placarded and condemned for human habitation, or on which a notice of intent to placard and condemn, or an order to raze, or to rehabilitate or raze, or any similar order has been received under state or local laws or ordinances, until and unless all repairs required to bring the property into compliance with the laws or ordinances have been completed.

(2) **UNAUTHORIZED ENTRY.** No landlord may enter a dwelling unit during tenancy except to inspect the premises, make repairs, or show the premises to prospective tenants or purchasers, as authorized under s. 704.05(2), Stats. Entry may not be made except upon advance notice and at reasonable times. Advance notice means at least 12 hours advance notice unless the tenant, upon being notified of the proposed entry, consents to a shorter time period. This subsection does not apply to situations where the tenant requests or consents to a proposed entry at a specified time, ~~the tenant requested repairs to be done and they are done during the proposed entry~~, a health or safety emergency exists, the tenant is absent and the landlord reasonably believes that entry is necessary to protect the premises from damage, or entry is otherwise authorized in writing other than in a form provision.

(3) **AUTOMATIC LEASE RENEWAL WITHOUT NOTICE.** No landlord shall enforce, or attempt to enforce, an automatic renewal or extension provision in any lease ~~unless, as provided under s. 704.15, Stats., the tenant was given separate written notice of the pending automatic renewal or extension at least 15 days, but no more than 30 days before its stated effective date~~ ~~unless, as provided under s. 704.15, Stats., the tenant was given separate written notice of the pending automatic renewal or extension at least 15 days, but no more than 30 days before its stated effective date~~

(4) **CONFISCATION OF PERSONAL PROPERTY.** No landlord shall seize or hold a tenant's personal property, or otherwise prevent the tenant from having access to or removing the tenant's personal property, except as authorized under s. 704.05(5), Stats., or a lien agreement entered into in writing other than in a form provision.

**(5) RETALIATORY EVICTION.** No landlord shall terminate a tenancy or give notice preventing the automatic renewal of a lease, or constructively evict a tenant by any means including the termination or substantial reduction of heat, water or electricity to the dwelling unit, in retaliation against a tenant because the tenant has:

- (a) Reported a violation of this chapter or a building or housing code to any governmental authority, or filed suit alleging such violation; or
- (b) Joined or attempted to organize a tenant's union or association; or
- (c) Asserted, or attempted to assert any right specifically accorded to tenants under state or local law.

~~(d) Nothing in this section shall prevent an owner from evicting a tenant for any other cause or other violation of a rental agreement.~~

**(6) FAILURE TO DELIVER POSSESSION.** No landlord shall fail to deliver possession of the dwelling unit to the tenant at the time agreed upon in the rental agreement, except where the landlord is unable to deliver possession because of circumstances beyond the landlord's control.

**Ag 134.10 Effect of rules on local ordinances.** (1) This chapter does not prohibit or nullify any local government ordinance with which it is not in direct conflict as provided in sub. (2).

(2) In the event of any direct conflict between this chapter and any local government ordinance, such that compliance with one can only be achieved by violating the other, this chapter shall be controlling.

(3) Compliance with local government ordinances shall not relieve any person from the duty of complying with this chapter.

~~\*\* Ag 134.11 (b) Provisions of this chapter are civil, not criminal. No criminal penalties shall apply to the violation thereof.~~

~~(2) If a tenant is liable for damages to the dwelling unit, the tenant shall be liable for the amount of the security deposit.~~

\*\* (3) Attorney fees awarded for violations hereunder shall not exceed two times the Security Deposit.

1 AN ACT to create 704.07 (3m) of the statutes, relating to a rebuttable  
2 presumption about damage to leased property.

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Analysis by the Legislative Reference Bureau

Under current law, a landlord is required to repair leased premises unless the repair is made necessary because of the tenant's negligence or improper use of the premises, in which case the tenant is responsible for the repair. These rules apply to all residential tenancies, and they apply to all nonresidential tenancies unless the landlord and tenant agree in writing to other rules.

This bill specifies that damage that occurs during a tenancy is rebuttably presumed to have been caused by the tenant's action or negligent failure to protect the premises.

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

3 SECTION 1. 704.07 (3m) of the statutes is created to read:

4 704.07 (3m) REBUTTABLE PRESUMPTION. Damage to a premises that occurs  
5 during a tenancy is rebuttably presumed to have been caused by the  
6 tenant's action or by the tenant's negligent failure to protect the  
7 premises.

8 SECTION 2. INITIAL APPLICABILITY. This act first applies to ten-  
9 ancies that begin on the effective date of this SECTION.

10 (End)

## SUMMARY

Under current law, when the courts rule a tenant shall be evicted, a writ of restitution is executed by the sheriff. The sheriff removes the tenant and may either remove the tenant's property himself or hire a mover for this purpose. Under this proposal, the owner, at his option and under the supervision of a sheriff, may remove the property himself and place it in storage.

Under this proposal, the stored property then falls under the existing abandoned property law. As is the case with a mover under current eviction procedure, the landlord is allowed to charge for moving and storage costs. The existing abandoned property law adds a prohibiter against withholding medicine and medicinal equipment. It also prohibits withholding property for payment of rent, and allows the landlord, after 30 day notice to dispose of the property and deduct storage and moving costs. If the balance is not claimed by the tenant within 60 days of sale, the balance is forwarded to the state for funding of shelter for homeless families.

799.45 and 704.05 of ss. are amended to read:

**799.45 Execution of writ of restitution.** (1) **WHEN EXECUTED.** Upon delivery of a writ of restitution to the sheriff, and after payment to the sheriff of the fee required by s. 814.70(8), the sheriff shall execute the writ. The sheriff may require that prior to the execution of any writ of restitution the plaintiff deposit a reasonable sum representing the probable cost of removing the defendant's property chargeable to the plaintiff under s. 814.70(8) and (10) and of the services of deputies under s. 814.70(8). In case of dispute as to the amount of such required deposit, the amount thereof shall be determined by the court under s. 814.70(10).

(2) **HOW EXECUTED; DUTIES OF SHERIFF.** In executing the writ of restitution, the sheriff shall:

(a) Remove from the premises described in the writ the person of the defendant and all other persons found upon the premises claiming under the defendant, using such reasonable force as is necessary.

(b) Remove from the premises described in the writ, using such reasonable force as may be necessary, all personal property found therein not the property of the plaintiff.

(c) Exercise ordinary care in the removal of all persons and property from the premises and in the handling and storage of all property removed therefrom.

(3) **MANNER OF REMOVAL AND DISPOSITION OF REMOVED GOODS.** (a) Except as provided in paragraph (b), in accomplishing the removal of property from the premises described in the writ, the sheriff is authorized to engage the services of a mover or trucker.

(b) Upon delivery of a writ of restitution to the sheriff, the plaintiff or his attorney or agent may declare the plaintiff to be the mover or trucker, whereupon the sheriff, in accomplishing the removal of property from the premises, shall engage the services of the plaintiff or his agent. In addition to the provisions of this subsection, when property is removed under this paragraph, the plaintiff may store or dispose of the property under 704.05.

~~(b)~~ (c) Except as provided in par. ~~(c)~~(d), the property removed from such premises shall be taken to some place of safekeeping within the county selected by the sheriff, or if the



procedure provided in par (b) is selected, the property removed shall be taken to some place of safekeeping within the county selected by the plaintiff. Within 3 days of the removal of the goods, the sheriff shall mail a notice to the defendant as specified in sub. (4) stating the place where the goods are kept and shall deliver to the defendant any receipt or other document required to obtain possession of the goods. Warehouse or other similar receipts issued with respect to goods stored by the sheriff under this subsection shall be taken in the name of the defendant. All expenses incurred for storage and other like charges after delivery by the sheriff to a place of safekeeping shall be the responsibility of the defendant, and any person accepting goods from the sheriff for storage under this subsection shall have all of the rights and remedies accorded by law against the defendant personally and against the property stored for the collection of such charges, including the lien of a warehouse keeper under s. 407.209. Risk of damages to or loss of such property shall be borne by the defendant after delivery by the sheriff to the place of safekeeping.

(c) (d) When, in the exercise of ordinary care, the sheriff determines that property removed from premises described in the writ is without monetary value, the sheriff may deliver or cause the same to be delivered to some appropriate place established for the collection, storage and disposal of refuse. In such case the sheriff shall notify the defendant as specified in sub. (4) of the place to which the goods have been delivered within 3 days of the removal of the goods. The exercise of ordinary care by the sheriff under this subsection does not include searching apparently valueless property for hidden or secreted articles of value.

(d) (e) All of the rights and duties of the sheriff under this section may be exercised by or delegated to any of the deputies.

(4) MANNER OF GIVING NOTICE TO DEFENDANT. All notices required by sub. (3) to be given to the defendant by the sheriff shall be in writing and shall be personally served upon the defendant or mailed to the defendant at the last-known address, even if such address be the premises which are the subject of the eviction action.

(5) RETURN OF WRIT; TAXATION OF ADDITIONAL COSTS. (a) Within 10 days of the receipt of the writ, the sheriff shall execute the writ and perform all of the duties required by this section and return the same to the court with the sheriff's statement of the expenses and charges incurred in the execution of the writ and paid by the plaintiff.

(b) Upon receipt of the returned writ and statement from the sheriff, the clerk shall tax and insert in the judgment as prescribed by s. 799.25 the additional costs incurred by the plaintiff.

ss. 704.05 (5) Is amended to read:

(5) STORAGE OR DISPOSITION OF PERSONALTY LEFT BY TENANT.

a) *Procedure.* If a tenant removes from the premises and leaves personal property, or is removed under 799.45(3)(b) and leaves personal property, the landlord may do the following:

1. Store the personalty, on or off the premises, with a lien on the personalty for the actual and reasonable cost of removal and storage or, if stored by the landlord, for the actual and reasonable value of storage. The landlord shall give written notice of the storage to the tenant within 10 days after the charges begin. The landlord shall give the notice either personally or by ordinary mail addressed to the tenant's last-known address and shall state the daily charges for storage. The landlord may not include the cost of damages to the premises or past or future rent due in the amount demanded for satisfaction of the lien. The landlord may not include rent charged for the premises in calculating the cost of storage. Medicine and medical equipment are

not subject to the lien under this subdivision, and the landlord shall promptly return them to the tenant upon request.

2. Give the tenant notice, personally or by ordinary mail addressed to the tenant's last-known address, of the landlord's intent to dispose of the personalty by sale or other appropriate means if the property is not repossessed by the tenant. If the tenant fails to repossess the property within 30 days after the date of personal service or the date of the mailing of the notice, the landlord may dispose of the property by private or public sale or any other appropriate means. The landlord may deduct from the proceeds of sale any costs of sale and any storage charges if the landlord has first stored the personalty under subd. 1. If the proceeds minus the costs of sale and minus any storage charges are not claimed within 60 days after the date of the sale of the personalty, the landlord is not accountable to the tenant for any of the proceeds of the sale or the value of the property. The landlord shall send the proceeds of the sale minus the costs of the sale and minus any storage charges to the department of administration for deposit in the appropriation under s. 20.505(7)(gm).

3. Store the personalty without a lien and return it to the tenant.

(c) *Rights of third persons.* The landlord's lien and power to dispose as provided by this subsection apply to any property left on the premises by the tenant, whether owned by the tenant or by others. That lien has priority over any ownership or security interest, and the power to dispose under this subsection applies notwithstanding rights of others existing under any claim of ownership or security interest. The tenant or any secured party has the right to redeem the property at any time before the landlord has disposed of it or entered into a contract for its disposition by payment of the landlord's charges under par. (a) for removal, storage, disposition and arranging for the sale.

(d) *Other procedure.* The remedies of this subsection are not exclusive and shall not prevent the landlord from resorting to any other available judicial procedure.

**EVICTION TOTALS  
MILWAUKEE COUNTY  
1992 TO PRESENT**

1992*	1993*	1994*	1995*
January -- 969	January -- 909	January -- 659	January -- 803
February -- 828	February -- 771	February -- 818	February -- 799
March -- 889	March -- 1087	March -- 801	March -- 773
April -- 924	April -- 928	April -- 822	April -- 680
May -- 826	May -- 817	May -- 891	May -- 756
June -- 1087	June -- 1062	June -- 844	June -- 922
July -- 1054	July -- 911	July -- 944	July -- 799
August -- 1096	August -- 1159	August -- 1063	August -- 1080
September -- 1051	September -- 966	September -- 913	September -- 953
October -- 925	October -- 815	October -- 1037	
November -- 884	November -- 735	November -- 739	
December -- 941	December -- 798	December -- 821	
<b>Total : 11,475</b>	<b>Total: 11,994</b>	<b>Total: 10,352</b>	<b>1995 to Date: 7565</b>
<b>Monthly Average: 956</b>	<b>Monthly Average: 999</b>	<b>Monthly Average: 863</b>	<b>Monthly Average: 840</b>

\* These statistics only show *actual* evictions. These numbers do not reflect the amount of skips where there is no public record. Those numbers are estimated between **4 - 8 times** the number of evictions.