



**ASSEMBLY AMENDMENT 1,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

1 At the locations indicated, amend the bill as follows:

2 1. Page 4, line 2: delete lines 2 to 5 and substitute: "not more than one year  
3 or both."

4 (END)

19, 18, 15, 13, 11, 9, 7, 6  
Adopt these  
Amendments and  
pass the  
Bill

- Keep landlord  
improvements



State of Wisconsin  
1995 - 1996 LEGISLATURE

LRBa4572/1  
RPN:skg&kaf:km

**ASSEMBLY AMENDMENT 2,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

1 At the locations indicated, amend the bill as follows:

2 1. Page 4, line 12: delete lines 12 to 21.

3 2. Page 22, line 1: delete lines 1 to 4.

4 (END)

Delete  
Fine  
lowering  
—



**ASSEMBLY AMENDMENT 3,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

- 1           At the locations indicated, amend the bill as follows:
- 2           **1.** Page 5, line 4: delete lines 4 to 8.
- 3           **2.** Page 17, line 5: on lines 5 and 6, delete "or 799.45 (3) (am)".
- 4           **3.** Page 19, line 17: delete the material beginning with that line and ending
- 5 with page 21, line 22.

6

(END)

*eliminate  
landlord  
removal of  
hold req. build  
process*



**ASSEMBLY AMENDMENT 4,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

1 At the locations indicated, amend the bill as follows:

2 1. Page 5, line 24: delete lines 24 and 25.

3 (END)

Would keep  
would insert Code  
for Hotel, Motel,  
Resort, House, lodging,  
House etc.



**ASSEMBLY AMENDMENT 5,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

1 At the locations indicated, amend the bill as follows:

2 1. Page 6, line 4: after that line insert:

3 "(7) Owned and operated by any government or a subdivision or agency of any  
4 government."

5 (END)

*- eliminate  
Gulf requirements  
- exempt Gulf*



**ASSEMBLY AMENDMENT 6,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

1 At the locations indicated, amend the bill as follows:

2 1. Page 6, line 14: delete the material beginning with “, or” and ending with  
3 “application” on line 15.

4

(END)

(checked)  
-Eerst may  
could be  
collected for  
Apprentice  
Consideration



**ASSEMBLY AMENDMENT 7,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

- 1           At the locations indicated, amend the bill as follows:
- 2           **1.** Page 10, line 23: delete "(a)".
- 3           **2.** Page 10, line 24: delete ", less any actual" and substitute a period.
- 4           **3.** Page 10, line 25: delete the material beginning with that line and ending
- 5           with page 11, line 5.
- 6           **4.** Page 11, line 6: delete "(a)".
- 7           **5.** Page 11, line 12: delete lines 12 to 14.

8

(END)

*- Delete  
Ernest  
Money Provisions*



**ASSEMBLY AMENDMENT 8,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 6, line 18: delete lines 18 to 21 and substitute: "the tenant in writing."
- 3 (END)

*- eliminates  
form  
provision  
Addition*





**ASSEMBLY AMENDMENT 9,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

1 At the locations indicated, amend the bill as follows:

2 1. Page 7, line 22: delete lines 22 and 23.

3 2. Page 16 line 4: after that line insert:

4 "(8) In a form provision, require payment of a security deposit in excess of one  
5 month's rent."

6 (END)

*Prohibit  
Pre-paid  
Rent*



**ASSEMBLY AMENDMENT 10,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

1 At the locations indicated, amend the bill as follows:

2 1. Page 9, line 18: delete "reported to" and substitute "confirmed by".

3 (END)

*Require Code violation  
reports to be  
Confirmed by  
enforcement authorities  
instead of simply  
reported.*



**ASSEMBLY AMENDMENT 11,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

1 At the locations indicated, amend the bill as follows:

2 1. Page 9, line 13: delete the material beginning with “, which” and ending  
3 with “unit” on line 15.

4 (END)

*-would require Code  
violation disclosure  
to tenants regardless  
of whether or  
not they actually  
affect habitability.*



**ASSEMBLY AMENDMENT 12,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative RILEY.

1 At the locations indicated, amend the bill as follows:

2 1. Page 10, line 3: delete lines 3 and 4 and substitute: "least 67 degrees  
3 Fahrenheit at all times of the year."

4 (END)

*- elaborates additional  
explanation of temp  
requirements*



**ASSEMBLY AMENDMENT 13,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative BALDWIN.

- 1           At the locations indicated, amend the bill as follows:
- 2           **1.** Page 12, line 3: delete "(a) Except as provided in par. (b), a" and substitute
- 3           "A".
- 4           **2.** Page 12, line 5: delete lines 5 to 19 and substitute: "landlord, within 21 days
- 5           after the day on which the tenant surrenders the premises. The day on which the
- 6           tenant surrenders the premises is the day specified by the tenant in any notice to the
- 7           landlord that the tenant would vacate the premises or the day on which, the landlord
- 8           has reason to know, the tenant actually vacated the premises."

9

*- Changes legally  
note for rest language  
to the above  
language*



**ASSEMBLY AMENDMENT 14,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative BALDWIN, by request of ERROR:  
ORA-06107: NETTCP: ORACLE network server not found.

1 At the locations indicated, amend the bill as follows:

2 1. Page 14, line 1: delete lines 1 to 6.

3 (END)

*- eliminates  
reasons clause  
relating  
to  
1995  
withholding of  
Sec. deposit  
money -*



State of Wisconsin  
1995 - 1996 LEGISLATURE

LRBa4588/1  
PJK:skg&kaf:dw

**ASSEMBLY AMENDMENT 15,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative BALDWIN.

1 At the locations indicated, amend the bill as follows:

2 1. Page 15, line 25: after "tenancy" insert: "or to return a security deposit in  
3 accordance with s. 704.935".

4 (END)

*- Prohibits  
return of a  
Security  
Deposit  
in a few Circumstances*



**ASSEMBLY AMENDMENT 16,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative BALDWIN.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 16, line 17: delete the material beginning with "to" and ending with  
3 "health" on line 20, and substitute "if a health".

4 **2.** Page 16, line 22: delete that line and substitute "damage."

5 (END)

*Delete entry for  
repair provision*





**ASSEMBLY AMENDMENT 17,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative BALDWIN.

1 At the locations indicated, amend the bill as follows:

- 2 1. Page 18, line 4: delete lines 4 to 7.  
3 2. Page 18, line 15: delete lines 15 to 25.  
4 3. Page 19, line 1: delete lines 1 to 16.  
5 4. Page 21, line 23: delete lines 23 to 25.

6 (END)

*-eliminate  
cost comm  
pacer  
for  
evidences*



**ASSEMBLY AMENDMENT 18,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative BALDWIN.

1 At the locations indicated, amend the bill as follows:

2 1. Page 10, line 6: delete lines 6 to 10 and substitute: "electrical system are  
3 not in safe operating condition."

4 (END)

*Eliminate  
landlord's lack  
of knowledge  
for electrical  
problem etc.  
exception*



**ASSEMBLY AMENDMENT 19,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative BALDWIN.

1 At the locations indicated, amend the bill as follows:

2 1. Page 11, line 21: delete that line and substitute:

3 "(b) Furnish the tenant with a written".

4 (END)

*- clarify  
require  
provision  
now all must  
tenants with  
be furnished with  
per. tenant details*



**ASSEMBLY AMENDMENT 20,  
TO 1995 ASSEMBLY BILL 1038**

March 20, 1996 - Offered by Representative BALDWIN.

1 At the locations indicated, amend the bill as follows:

2 1. Page 13, line 14: delete lines 14 to 16.

3 (END)

*-Eliminate  
Rebuttable  
Presumption.*



ASSEMBLY AMENDMENT *21*  
TO 1995 ASSEMBLY BILL 1038

*3-20-96  
Baldwin*

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 14, line 23: delete the material beginning with "war" and ending with  
3 "conditions" on line 24, and substitute: "labor stoppage, unavailability of supplies or  
4 materials, unavoidable casualties".

5 **2.** Page 15, line 2: delete "anticipated".

6 (END)

*- repair conditions  
exempting  
reduced*



3-20-96  
Baldwin

ASSEMBLY AMENDMENT, 22  
TO 1995 ASSEMBLY BILL 1038

1 At the locations indicated, amend the bill as follows:

2 1. Page 17, line 22: delete the material beginning with that line and ending  
3 with page 18, line 3.

4 (END)

- hard  
Control of  
local  
ordances.

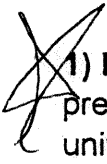


*civil and criminal*  
**AGENDA**  
*would p*

*Card - This is  
the Agenda of  
The Apartment  
Association -  
Contact*

*Orb Seyper*

*414-573-8709*



**1) Rebuttable Presumption**--Any tenant, while in pos presumed to have caused damages while they were k unit.

*⇒ Residency - address*

**EX:** People who break windows, put holes in the wal. destruction to apartments. A lot of times, there are no witnesses other than ... and because of this, cases cannot be prosecuted under existing law.



**2) Changes to the Eviction Procedure**--to make it easier to evict non-paying, destructive and dysfunctional tenants. *Done in 38 States*

*eliminate move for proceeding \$300 to move to storage area for belongings over 800 sq ft don't pay*  
No Explanation or Example Needed.

**3) Vouchers and EBT's**-(EBT's are Electronic Benefits Transfers)--We are asking that rent monies be deposited in landlord's bank accounts for rent before being sent to AFDC recipients.

*Up  
Curb  
Side  
New  
Put out  
on  
Curb.*

**4) Parental Responsibility**--Holding parents responsible for damages their juvenile children do. *AB139, AB110 ⇒ in Senate RBL Hearing*

No Explanation or Example Needed.

**5) Credit Checks**--make it a law for tenants to pay a reasonable fee for credit checks.

**6) Civil Court Filing Fee**--Exempt eviction proceedings. Tommy Thompson is attempting to add another \$20.00 to an already expensive procedure.

**7) Falsifying Rental Applications**--Criminal penalties are a goal.

**8) We would definitely like to see changes in the Ag Rules.** "Ag Rules" is short for Agricultural Trade and Consumer Protection. Some of these rules are extremely obsolete, and haven't been updated for 15 years.

*specific?*

*- Graham working on Chapter 134*

**9) Support Residency Requirement**--If people are going to be civil servants for a particular city, they should live within city limits.

*NO*

Alternatives - change locks then give  
to either  
key. Take possession in lieu of cash  
Helps keep people in homes

Voucher system - way that need not

Be two full months behind on.

Rent by 5th month start  
getting checks.

A9 rule - 1990 put into effect

Adverse Court rulings

~~3~~ - 1975 at specific changes



**M E M O R A N D U M**

**TO: ALL LEGISLATIVE COLLEAGUES**

**FROM: REP. GLENN GROTHMAN**

**DATE: FEBRUARY 19, 1996**

**RE: COSPONSORSHIP OF THE TENANT-LANDLORD OMNIBUS  
REFORM ACT (LRB 4442/1)**

As you may know, a chapter of the state's administrative code known as ATCP 134 regulates many aspects of the relationship between tenants and landlords.

Certain parts of that chapter have provided tenants with important rights and protections when dealing with landlords. Other parts, however, have long been abused by irresponsible tenants who use these rules to avoid eviction or to turn their own illicit acts to their advantage.

This legislation, for which a "talking points" summary and the Legislative Reference Bureau analysis are attached, preserves the parts of the code which provide important tenant protections, while repealing and changing those parts which are used by bad tenants to victimize their landlords and neighbors.

If you are interested in cosponsoring this legislation, or if you have questions, please contact Steve in my office at 4-8487 by February 22, 1996.

**Chairman:**  
Joint Committee for the Review  
of Administrative Rules

**Member:**  
Judiciary (Vice Chair)  
Special Committee on Controlled  
Substances (Vice Chair)  
Labor and Employment  
Law Revision  
Urban Education  
Welfare Reform



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

Current law addresses some issues related to the rental of residential property, such as certain lease requirements and how to terminate a tenancy. The Wisconsin administrative code provides regulations related to other rental practices. This bill establishes those residential rental practices regulations in the statutes. With some specified exceptions, the provisions in the bill apply to the rental of all dwelling units in the state.

The bill requires a landlord, before accepting any earnest money or security deposit, to disclose to a prospective tenant any uncorrected building or housing code violations and any other conditions that affect the habitability of the premises. A landlord must also disclose whether charges for utilities are included in the rent and, if not, the basis for allocating the charges among the tenants. The bill requires a landlord to provide a tenant with a receipt for any earnest money or security deposit received from a tenant and prohibits a landlord from retaining any amount of an earnest money deposit if the landlord rejects the rental application, except for actual expenses incurred to verify the application if the rejection was based on omissions or false statements in the application.

If a landlord requires a security deposit, a tenant must be given at least 7 days after the beginning of the tenancy to inspect the premises and notify the landlord of any damages or defects existing at the beginning of the tenancy. In addition, a tenant may in writing request the landlord to furnish a written itemized description of all damages or defects for which deductions were made from the previous tenant's security deposit. The landlord must return a security deposit within 21 days after the last day of the last month in which the tenant was liable for rent. If the landlord retains any portion of the security deposit, the landlord must provide a written accounting to the tenant within that same time period. The bill specifies the reasons for which a landlord may retain any of the security deposit, including such reasons as damage to the premises and nonpayment of rent or utility charges for which the tenant is responsible. A landlord may not retain any portion of a security deposit for normal wear and tear to the premises. Any damage to a premises during a tenancy is rebuttably presumed to have been caused by the tenant.

The bill addresses promises made by a landlord to repair a premises and requires a landlord to specify the anticipated date of completion. The bill specifies provisions that may not be included in a rental agreement, such as a provision that relieves the landlord from liability for property damage or personal injury caused by negligent acts or omissions of the landlord. The bill also prohibits a landlord from taking certain actions. For example, except under specified circumstances, a landlord may not enter a dwelling unit except at reasonable times upon 12 hours' advance notice for the purpose of inspecting, repairing or showing the premises. Another prohibited action is terminating a tenancy or constructively evicting a tenant by reducing heat, water or electricity to the dwelling unit in retaliation against the tenant for reporting a code violation or joining or organizing a tenant's union or organization.

Under current law, a court commissioner, if delegated by a judge and with the approval of the chief judge, may perform numerous tasks, including issuing arrest and search warrants, conducting initial appearances in traffic and county ordinance cases, hearing petitions for commitment and conducting initial return appearance and conciliation conferences in small claims actions. This bill allows a court commissioner, if delegated by a judge and with the approval of the chief judge, to conduct eviction actions in small claims actions.

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

## TALKING POINTS ON THE TENANT-LANDLORD OMNIBUS BILL

### What This Proposal Will Do:

- *It will make government-owned and managed buildings subject to the same tenant-landlord laws as everyone else.* Current law exempts government-owned and -operated buildings from tenant/landlord laws. This makes no sense, and places government operators above the law. This will rectify that situation.
- *It will tighten the definition of a "form provision" in the law, to protect both tenants and landlords.* Form provisions are a tricky trap for many landlords. A form provision, under current law, is any part of the lease agreement which is not a part of the lease proper. A separate, typewritten sheet containing house rules against loud partying at night might qualify. Form provisions are frequently ruled invalid in court because they are not considered a part of the lease itself. Our change will specify that the term "form provision" not apply to handwritten or typewritten sheets which are separate from the lease if the tenant signs the separate sheet.
- *It will treat advance rent payments differently than security deposits.* Currently, all monies collected from tenants in excess of one month's rent is considered a security deposit. As a result, landlords who might otherwise rent to bad credit risks by requesting several months' rent up front do not because they would be unable to keep the money if the tenant breaks the lease. Our change will open to some tenants the ability to enter into leases despite a bad credit or eviction history.
- *It will remove a trap by which some landlords receive unfair judgments in court.* Under current law, landlords are required to physically show all existing building code violations to a prospective tenant, no matter how minor. In past cases, tenants have defended themselves against justified eviction actions by countersuing on the grounds of nondisclosure of very minor building code violations. In some cases, this has even resulted in huge monetary judgments against landlords who were trying to evict tenants for major violations of the lease. Our change will require landlords to make written disclosure of existing building code violations which substantially affect habitability. This will assure that tenants are given knowledge of violations which affect the livability of an apartment, while freeing landlords from such nuisance countersuits.
- *It will protect landlords from abuses of the thermal performance requirements, while assuring that tenants have operating heating systems.* Current law provides that a heating system in a dwelling unit be able to maintain the unit at 67 degrees Fahrenheit. In some cases, this standard has been abused by inspectors who measure the temperature right up against a window on a bitter cold day. Our changes establish a minimum performance requirement of 67 degrees Fahrenheit in the center of a room when the outdoor temperature is above -10 degrees Fahrenheit. This is the standard used in the Milwaukee building code.
- *It will allow landlords to withhold the cost of background and credit checks from earnest money paid for consideration of a rental application in certain cases.* "Earnest Money" is the equivalent of a small deposit on something one intends to buy a short time later. Under current law, some landlords collect earnest money as a means of sorting serious applicants for apartments out from less-committed prospects. In some cases,

#### **Chairman:**

Joint Committee for the Review  
of Administrative Rules

#### **Member:**

Judiciary (Vice Chair)  
Special Committee on Controlled  
Substances (Vice Chair)  
Labor and Employment  
Law Revision  
Urban Education  
Welfare Reform

landlords will reject a rental application because it contains lies or omissions which were ferreted out by a background and credit check. In those cases, the landlord must return the whole earnest money deposit, including the cost for performing the background and credit check. Our change will allow the landlord to withhold the costs of a credit and background check from the earnest money deposit *only if the applicant is rejected because of omissions or falsifications on the application*. These costs would not be withheld in the cases where an applicant is approved, or in which an applicant is rejected because of inability to pay or other legal reasons.

● *It will tighten up the "promises to repair" section of the tenant-landlord code.* Frequently, tenants will catch their landlord in the hallway as he or she is on the way to another task, and will request a specific repair. Just as often, the landlord will say something like, "I'll try to do it next week." When it doesn't get done, lawsuits follow. Violations of the "promises to repair" section of the code are one of the most-used grounds for suits against landlords. Our changes will give the force of law only to those repair promises delivered to the tenant in writing. This gives the tenant firm proof of the existence of a promise to repair in the case of a landlord breach. It also gives the busy landlord an out for a passing comment made in the hallway during a hectic period.

● *It will eliminate the requirement that a list of damages withheld from the previous tenant's security deposit be automatically supplied to each new tenant.* The current law requires that every new tenant automatically receive a copy of the withholdings from the last tenant's security deposit. This rule is not often followed and, in most cases, the new tenant does not want the information anyway. Our change will require the landlord to provide this information only if the tenant requests it in writing. Tenant rights are preserved, and a little-followed law is removed from the books.

● *It removes jail time from the penalties for violation of the tenant-landlord code by landlords.* The only mention of imprisonment for a tenant violation of the code is for absconding without paying rent. Statewide, almost no tenant has served time under that law among those found guilty of violating it. There are substantial civil penalties which exist for the violation of tenant-landlord law by landlords, as well as judicial remedies for aggrieved parties. Jail time is an unfair and excessive punishment in the vast majority of tenant-landlord disputes. Tenants who are unhappy with their surroundings are ultimately free to vote with their feet and move elsewhere.

● *It establishes a firm, solid date for the beginning of the 21-day time period in which landlords must return security deposits at the end of a lease.* One of the grounds upon which landlords frequently are assessed huge judgments in court is the failure to return the security deposit within 21 days of the end of a lease. Unfortunately, current law does not spell out when the 21-day clock begins. Does it begin on the last day of the lease? When the tenant moves out, even if that is halfway through the last month of the lease and the landlord doesn't know about it? What if the tenant is evicted? Our changes will start the 21-day countdown "on the last day of the last month in which the tenant is liable for rent." This provides a simple, easily-identifiable benchmark for landlords, tenants, and judges.

●It creates a "rebuttable presumption" that damages occurring to a dwelling unit during a tenancy are the responsibility of the tenant. Under current law, the assessment or eviction of tenants for damage to the property often becomes a tricky matter; such actions may not be upheld in court unless the landlord presents "witnesses" to the actual infliction of the damage. For example, a tenant holds a wild party at which the toilet is smashed, holes are knocked in walls, and windows are broken. Unless the landlord can present someone who will testify that the damage resulted from the tenant's party, the landlord may be unable to assess the tenant for those damages. Our change will establish a "rebuttable presumption" as described above -- that is, the tenant is assumed to have inflicted any damage to his or her unit during the tenancy unless he or she can prove otherwise. Particularly in cases of severe or ongoing damage, this is a common-sense measure.

●It will allow landlords to admit repair personnel to an apartment if the tenant had previously requested the repairs in question. Frequently, a tenant might request of a landlord a repair requiring the services of a professional, such as a plumber. If the plumber shows up too soon for the twelve-hour entry notice to be given to the tenant, however, the plumber must be turned away -- at the cost of the landlord. This change will simply permit the landlord to admit such a person for repair purposes, provided the tenant has given prior consent for the repair, and the repair is to be done during regular work hours.

●It will allow landlords to perform the actual removal of the tenant after an eviction writ has been granted by the court. Under current law, landlords who have obtained eviction orders from the court must hire a bonded mover to perform the move. In some cases, this can cost a landlord \$1000 or more in essentially unrecoverable costs. Our change will allow the landlord to perform the actual moveout if he or she wishes, under the supervision of the sheriff, and only after the judicial process has been followed.

●It will allow court commissioners to hear eviction proceedings. In some jurisdictions, overburdened judges do not have the time to dispose of evictions in a prompt manner once they are filed. This change will retain the right of a tenant subject to eviction to due process, while speeding up the process for landlords pursuing justified evictions.



## AGENDA

**1) Rebuttable Presumption**--Any tenant, while in possession of a unit, would be presumed to have caused damages while they were known to have possession of the unit.

**EX:** People who break windows, put holes in the walls or in any other way cause major destruction to apartments. A lot of times, there are no witnesses other than "friends" and because of this, cases cannot be prosecuted under existing law.

**2) Changes to the Eviction Procedure**--to make it easier to evict non-paying, destructive and dysfunctional tenants.

No Explanation or Example Needed.

**3) Vouchers and EBT's-(EBT's are Electronic Benefits Transfers)**--We are asking that rent monies be deposited in landlord's bank accounts for rent before being sent to AFDC recipients.

**4) Parental Responsibility**--Holding parents responsible for damages their juvenile children do.

No Explanation or Example Needed.

**5) Credit Checks**--make it a law for tenants to pay a reasonable fee for credit checks.

**6) Civil Court Filing Fee**--Exempt eviction proceedings. Tommy Thompson is attempting to add another \$20.00 to an already expensive procedure.

**7) Falsifying Rental Applications**--Criminal penalties are a goal.

**8) We would definitely like to see changes in the Ag Rules.** "Ag Rules" is short for Agricultural Trade and Consumer Protection. Some of these rules are extremely obsolete, and haven't been updated for 15 years.

**9) Support Residency Requirement**--If people are going to be civil servants for a particular city, they should live within city limits.

# Glenn Grothman

**STATE REPRESENTATIVE**  
59TH ASSEMBLY DISTRICT

**Office:**  
Room 125 West, State Capitol • Post Office Box 8952  
Madison, Wisconsin 53708 • (608) 264-8486  
E-Mail: uswlsswk@ibmmail.com • Toll-Free: 1 (800) 362-9472

**Home:**  
111 South 6th Avenue  
West Bend, Wisconsin 53095  
(414) 338-8061

## MEMORANDUM

**To:** All Legislative Colleagues  
**From:** Rep. Glenn Grothman  
**Date:** February 20, 1996  
**Re:** My Response to the Renters Services Letter:  
A Defense of The Tenant/Landlord Omnibus Reform Act

You recently received in your office a letter written by Rita Meuer of the Renters Services organization, discussing that group's several concerns with my tenant/landlord legislation. Unfortunately, as has been the case with other communications issued by opponents of this bill, that letter contains a number of major errors of fact. I believe that you should know the truth as you make your decision to co-sponsor this important piece of legislation.

In the letter, Ms. Meuer asserts that my tenant/landlord legislation "will take away the double damages and reasonable attorney fees" which tenants may currently obtain via court judgments against their landlords. This is not the case. According to the Legislative Reference Bureau drafter who wrote this bill, neither the statutory double damages nor the reasonable attorney fees will be changed by this bill. This bill will in no way alter the ability of legitimately aggrieved tenants to obtain the judgments and damages to which they are currently legally entitled.

The letter's author also states that the bill will disassemble "the statewide complaint process (of the Department of Agriculture, Trade, and Consumer Protection)," thereby depriving tenants of information about bad landlords. This is also false. This bill, while writing much of the current administrative law on tenant/landlord relations into the statutes, does *not* revoke the authority of the Department to issue rules or to hear complaints over alleged violations of tenant/landlord regulations. While I suspect that most tenants are unaware that the Department even offers such a "referral service," the discretion to continue the statewide complaint system will reside *with the Department itself*.

The letter also contains sundry other inaccuracies. The bill will not "only require landlords to heat the premises to 67 if it is above -10 Fahrenheit." That standard, which already exists in the Milwaukee building code, is merely provided as a minimum standard for habitability. It provides that landlords provide a heating system capable of producing *at least* 67 degrees when it is -10°F outside. In most cases, the existing heating

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Joint Committee for the Review  
of Administrative Rules

**Member:**  
Judiciary (Vice Chair)  
Special Committee on Controlled  
Substances (Vice Chair)  
Labor and Employment  
Law Revision  
Urban Education  
Welfare Reform



systems are capable of producing more heat at colder temperatures -- and, in most cases, tenants directly regulate the amount of heat they receive via in-unit thermostats.

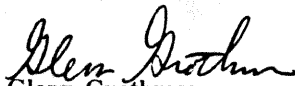
The bill will not permit landlords simply to "dispose" of the tenant's property in the case of an eviction, as Ms. Meuer has written. There are still statutorily-defined due process provisions in place for the storage, return, sale, or disposal of a tenant's property. These provisions require proper notice to be provided to the tenant, as well as the affording of ample opportunity to the tenant to reclaim his or her belongings. Furthermore, this bill does not speak to the issue of evictions for late payments of as little as \$50. A landlord is unlikely to pursue an eviction, with all of its related expenses and court appearances, for a \$50 late payment, as Ms. Meuer claims. Nonetheless, such an eviction will be legal with or without my legislation.

Ms. Meuer further states that my bill will increase "the chances of a tenant not getting their (sic) earnest money back." This is also false. The bill will allow landlords to withhold the *actual cost* of performing a background check on a prospective tenant *only if the rental application contains errors or omissions leading to the rejection of the application*. Far from allowing a landlord to keep the whole earnest money deposit simply because an applicant forgets a prior landlord's address, my bill will allow a landlord to recoup actual losses relating to an omission or falsification serious enough to result in an applicant's rejection. This will not permit a landlord to keep any portion of the earnest money if an applicant is rejected because of insufficient income or other reasons not related to omissions or falsifications on the application.

Finally, Ms. Meuer asserts that the changes my bill would make in the security deposit withholding laws would allow withholding for a variety of heretofore excluded expenses. In fact, my bill will allow for withholding of monies *for which the tenant is legally liable*. In most cases, charges for carpet cleaning, painting, and other maintenance items are included in the lease. As a result, a tenant failure to pay those expenses at the lease end constitutes a charge for which the tenant is legally liable. Tenants cannot, under this bill, have their security deposit withheld for attorney's fees for which they are not liable by court order, despite Ms. Meuer's assertion. Tenants will not be subject to withholding for routine maintenance items which they did not, in their leases, agree to pay.

I would encourage anyone with questions about the actual impact of this legislation to contact my office. My staff and I will be more than happy to explain any portion of the bill about which you may have questions or concerns. I look forward to your cosponsorship of this important piece of legislation.

Sincerely,

  
Glenn Grothman  
State Representative  
59th Assembly District

GG:swk

**Glenn  
Grothman**  
**STATE REPRESENTATIVE**  
59TH ASSEMBLY DISTRICT

**Office:**  
Room 125 West, State Capitol - Post Office Box 8952  
Madison, Wisconsin 53708 • (608) 264-8486  
E-Mail: uswsswk@ibmmail.com • Toll-Free: 1 (800) 362-9472

**Home:**  
111 South 6th Avenue  
West Bend, Wisconsin 53095  
(414) 338-8061

*put with  
bill*

**MEMORANDUM**

**To:** All Legislative Colleagues  
**From:** Rep. Glenn Grothman  
**Date:** March 1, 1996  
**Re:** Rep. Baldwin's Memo on the Tenant/Landlord Bill  
ANOTHER CLARIFICATION OF THE LEGISLATION

On Wednesday, you received in your offices a memorandum from the office of Rep. Tammy Baldwin, discussing my Tenant-Landlord Omnibus Reform Act. Attached to that memo was a newsletter entitled Tenant Times, issued by the Tenant Resource Center.

Despite assertions made in that memo that the information contained in the Tenant Times newsletter is "accurate," I wish to take this opportunity to point out to members the many inaccuracies and distortions contained therein. I urge you to review this information as you make your decision to co-author/co-sponsor this important legislation.

It is most important to note that the author is basing his or her assertions in the article on information from "December 5, 1995." *The current draft of the bill was not available at that time.* The tenant-landlord proposal has changed substantially since then. The following discussion is based on the article distributed by Rep. Baldwin, as well as the current draft of the bill.

OVERALL

In the article, the author asserts that tenants "will no longer receive double damages, court costs, or reasonable attorney fees unless DATCP promulgates new rules. . . ." According to the Legislative Reference Bureau attorney who drafted the legislation, that oft-repeated assertion is untrue.

It is important to understand that my bill *does not repeal chapter ATCP 134 of the Administrative Code.* While it will render some problematic portions of it unenforceable by way of changes to the statutes, it will not eliminate the existence of the chapter. Because the portions of the chapter which discuss double damages, court costs, and reasonable attorney fees will remain unaltered by this legislation, those provisions will not be removed. The Department (DATCP) will probably have to promulgate an amended version of ATCP 134, to bring the code into compliance with new statutes; however, the discretion to revoke the double damages

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provisions will rest not with the Legislature, but *with the Department itself!*

The author also states that our bill will allow the unfair trade practices in the current code to become "fair, and thus beyond the DATCP's authority to regulate." While this is true in a limited sense, the DATCP still will retain broad authority to regulate, by rule, unfair trade practices, including those related to tenants and landlords, under chapter 100 of the statutes.

### SECURITY DEPOSITS

A change in our bill would permit landlords to request more than one month worth of rent in advance if the landlord believes the potential renter who is applying for tenancy to be a bad credit risk. Because these funds would be paid as advance rent, they would not be treated as a "security deposit." We believe that this change will give landlords the ability to offer housing to those who might otherwise be turned away. Because the rules governing security deposits are restrictive, the current law effectively prohibits this sort of practice.

My bill will also allow landlords to avoid various civil penalties related to erroneous withholdings from a security deposit if: 1) the landlord believed that the withholding was reasonable at the time, and 2) the landlord returns the wrongfully withheld amount as soon as possible after the error is discovered. The author of the article claims that "this change allows landlords to estimate repairs without fear of being sued for improper security deposit deductions." This is also largely untrue. Landlords who withhold abusively, especially for damages not perpetrated by the tenant, can *still* be sued by the tenant, as under current law. The practical effect of this change will be to allow landlords who accidentally withhold too much for repairs to acknowledge the error and return the money *without* fearing that such a move will be self-incriminating, and lead to a huge court judgment.

The article's author also charges that our bill "reduces the landlord's obligation to reveal" that which was withheld from the previous tenant's security deposit. This is also inaccurate. Under current law, landlords are required to provide this information to *every* new tenant, whether or not the new tenant wants it. In real life, most tenants don't want the information, and most landlords do not automatically give it out. My bill simply states that landlords give this information to new tenants upon written request. The landlord will still be fully obligated under the law to disclose this information to tenants. However, the landlord is less likely to be the target of a later nuisance lawsuit by a tenant bitter about an eviction or security deposit withholdings.

My bill also clarifies the date upon which the security deposit must be returned to a tenant who has moved out. Under current law, the security deposit must be returned within 21 days. However, the starting point for the 21-day countdown is not clearly specified. As a result, questions have arisen: Does the 21-day clock start from the date of move-out, even if the landlord is not aware of the move-out? How about when the keys are returned? At the end of the lease? My proposal places the return date at 21 days after the last day of the last month in which the tenant is liable for rent." The article's author states that this will allow landlords to hold the deposit for a long time in some cases. In reality, a tenant is no longer liable for rent if a lease is terminated upon the mutual consent of both parties before its scheduled expiration. In that case,

the landlord would have to return the security deposit within 21 days of the end of the month of termination. In the event of evictions, there could be a delay -- if there is any security deposit left to return at that point.

There has also been much discussion about the change in my bill which would allow landlords to withhold money from security deposits for "other charges," as well as for rent owed, utility payments owed, damage, waste, or neglect. So-called "tenant advocates" have declared that this will allow landlords to withhold security monies for court cases they have lost, re-rental costs, and other maintenance costs. What these advocates fail to mention is that my bill will allow money to be withheld only for "charges for which the tenant is legally liable." This specifically *excludes* attorney fees (unless a court order exists), re-rental costs, and maintenance costs. The only situation in which a renter could be compelled to pay cleaning costs is if he or she *agreed in the lease* to pay those expenses.

Finally, the so-called "tenant advocates" have posited the preposterous theory that my bill will allow landlords to shut off the heat in extremely low temperatures, causing tenants to suffer "freezing temperatures and bursting pipes." *Nothing could be further from the truth!* Under my bill, landlords will be required to disclose the existence of certain building code violations and other deficiencies in the premises *before* accepting earnest money, a security deposit, or executing a lease. The landlord must notify the prospective tenant (applicant) if the heating system is "not capable of maintaining a temperature . . . of at least 67 degrees Fahrenheit at a height of three feet in the center of a room when the air temperature outdoors is above minus 10 degrees Fahrenheit." While this seems convoluted, it is taken directly from the City of Milwaukee Building Code. This is merely a *disclosure* requirement. My bill leaves the enforcement of thermal performance requirements to local ordinance -- where it has always been. It will *not* undo current thermal performance ordinances throughout the state, and it will *absolutely not* permit landlords to shut off the heat in the middle of winter.

#### EARNEST MONEY

My bill will allow landlords to withhold the actual costs of a background check from the earnest money tendered by a potential tenant. This is only the case, however, if the landlord rejects the prospective tenant's application because it contained omissions or errors determined by the background check. Critics of the bill have stated that this will allow landlords to withhold the earnest money simply because an application contains a very minor error, such as a transposed number on a previous address. I believe that it would not be in a landlord's best interest to reject an otherwise-qualified applicant because of a minor omission. This change is designed to allow a landlord to recover his or her actual costs in the case of an applicant omitting major items, such as a history of evictions.

The author of the article was also concerned that our bill will relieve "landlords of their responsibility to justify withholding from earnest money." This is also inaccurate. Prospective tenants are currently required to *request* an accounting of earnest monies withheld in order to obtain it from a landlord. Our bill will require that this request be submitted in writing. It does not change a prospective tenant's access to this information. Rather, it guarantees that both applicant and landlord have a paper trail to follow if a dispute over the withholding of earnest money should arise.

### FORM PROVISIONS

The Tenant Resource Center article implies that my changes to the form provisions section of the law will allow landlords to sneak provisions into the lease allowing the landlord to skirt various aspects of the tenant-landlord law. This is largely untrue. My change to the form provisions definition will assure that sheets separate from the lease proper are binding as long as both tenant and landlord sign each sheet separately. Landlords will not be able to include lease provisions which require tenants to pay attorney fees for which the tenant is not otherwise legally liable. Of course, prospective tenants are advised to *read and understand* anything they are signing, including a lease. If other provisions are included in the lease which produce a waiver of any tenant rights, those provisions must be included on a *separate sheet*, signed by both the tenant and the landlord.

### DISCLOSURE OF BUILDING CODE VIOLATIONS

My bill will change current law relating to the disclosure of building code violations to prospective tenants. While much of what is purported as fact by the article's authors with regard to this change is true, there are some inaccuracies and excesses in the article. For instance, the determination as to what constitutes a code violation "materially affecting the habitability of the dwelling" would rest with the court hearing a tenant suit on these grounds. While the article gives "cockroach infestations and appliances that do not work" as examples of items which would not have to be disclosed, I suspect that a judge would find those violations to be of sufficient weight to find in favor of the tenant.

Furthermore, the article's author insinuates that current law requires that a landlord provide a prospective tenant with a copy of the actual building code violation slip if a code violation exists. This is not true. Current law only requires that the landlord *exhibit* the building code violation slip. Our bill goes further, by requiring that a written list of applicable violations be *provided* to the prospective tenant.

### ATTORNEY FEES

The article states that my proposal will allow landlords to charge tenants money for attorney fees, even if either side never goes to court. *My review of the bill shows this to be entirely inaccurate.*

### PROMISED REPAIRS

The description of this change, as provided in the Tenant Times newsletter, if based on a preliminary draft of the bill. I have since modified these changes. Under my bill, landlords will be required to provide enforceable promises to repair *in writing*. The written notice shall specify the time and date by which the repairs will be completed. The bill makes exceptions to the promised repair date in the event that a landlord is delayed for reason of war, acts of God, government regulation or decree, strikes, shortage of labor or materials, and unseasonable weather conditions. This is a mild expansion of the original list.

**CONCLUSION**

Portions of the Tenant Times article not discussed here are a fairly accurate reflection of the bill. If you have any questions about the bill, I urge you in the strongest terms to contact my office. This is a comprehensive proposal which includes some substantive changes which are not discussed in this letter. I will be happy to provide anyone with questions or concerns with talking points, a copy of the legislation, and other materials as may be needed to clarify the legislation.

# Glenn Grothman

**STATE REPRESENTATIVE**


59TH ASSEMBLY DISTRICT

**Office:**  
Room 125 West, State Capitol • Post Office Box 8952  
Madison, Wisconsin 53708 • (608) 264-8486  
E-Mail: uswlsswk@ibmmail.com • Toll-Free: 1 (800) 362-9472

**Home:**  
111 South 6th Avenue  
West Bend, Wisconsin 53095  
(414) 338-8061

MEMORANDUM  
**ATTENTION STAFF - URGENT MEMO**  
**DELIVER TO LEGISLATORS AS SOON AS POSSIBLE!**

To: Supporters of the Tenant-Landlord Bill

From: Rep. Glenn Grothman 

Date: March 7, 1996

Re: Tenant-Landlord Omnibus Reform Act

Thank you for your support of the tenant-landlord bill to date. As you may be aware, there was a public hearing on this legislation before the Assembly Committee on Housing a week ago, on Thursday, February 29.

In response to testimony delivered at that hearing, I have modified several provisions of the bill to guarantee tenant protections which some felt were threatened by this bill. I have attached a list of these changes, as well as a new set of talking points incorporating these changes, for your review.

Please let me know of your continued interest in co-authoring/co-sponsoring this important piece of legislation. I wish to introduce it on Friday, March 8. You may contact Steve in my office at 4-8487 to reaffirm your commitment to fair tenant-landlord law reform in Wisconsin. Thanks!

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of Administrative Rules

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