

ASSEMBLY BILL 610

An Act to amend 704.05 (5) (a) (intro.), 799.25 (6), 799.44 (2), 799.44 (4), 799.45 (1), 799.45 (2) (intro.), 799.45 (2) (b), 799(2) (c), 799.45 (3) (a), 799.45 (3) (b), 799.45 (3) (c), 799.45 (4), 799.45 (5) (a) and 799.45 (5) (b); and to create 799.45 (2) (bg) and 799.45 (3) (am) of the statutes; relating to: the storage and disposition of a tenant's property upon eviction. (FE)

1997

11-13-97. A. Introduced by Representatives Robson, F. Lasee, M. Lehman, La Fave, Lorge, Ainsworth, Hebl, Turner, Goetsch, Ziegelbauer, Grothman, Musser, Green, Ladwig, Wasserman, Gunderson, Albers, Hasenohrl, Staskunas, Ott and Nass; cosponsored by Senators Weeden, Roessler, Farrow and Darling.

11-13-97. A. Read first time and referred to committee on Housing. **406**

1998

01-08-98. A. Public hearing held.

02-20-98. A. Fiscal estimate received.

02-20-98. A. Fiscal estimate received.

04-02-98. A. Failed to pass pursuant to Senate Joint Resolution 1. **786**

5

FISCAL ESTIMATE

(-2999)

1997 Session

DOA-2048 (R10/92)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
AB 610

Amendment No.

Subject
Disposition of evicted tenants' property

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 Government Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts VTAE Districts

Fund Sources Affected
 GPR FED PRO PRS SEG SEG

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill gives city police departments the same powers as county sheriff's departments in dealing with evicted tenants' property. The costs to cities will depend on the number of evictions and amount of property affected in each locality. The Department of Justice has no experience with these types of actions and therefore has no way of determining the costs to local police departments or savings to county sheriff's departments.

Long-Range Fiscal Implications

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

Authorized Signature/Telephone No.

Date

Justice - Kelly Kennedy 6-1221

Kelly Kennedy 6-1221

February 2, 1998

FISCAL ESTIMATE
DOA-2048 N(R10/94)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

(J)

LRB or Bill No./Adm. Rule No.
AB 610 (-2999)
Amendment No. if Applicable

2-20-98

Subject

Property in Eviction Actions

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

Decrease Costs

Local: No local government costs

- | | | |
|---|---|---|
| <p>1. <input type="checkbox"/> Increase Costs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>2. <input type="checkbox"/> Decrease Costs</p> <p style="padding-left: 20px;"><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>3. <input type="checkbox"/> Increase Revenues</p> <p style="padding-left: 20px;"><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>4. <input type="checkbox"/> Decrease Revenues</p> <p style="padding-left: 20px;"><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>5. Types of Local Governmental Units Affected:</p> <p><input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities</p> <p><input type="checkbox"/> Counties <input type="checkbox"/> Others _____</p> <p><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts</p> |
|---|---|---|

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill relates to the responsibilities for storage and disposition of a tenant's property upon eviction.

No significant impact upon circuit court operations is expected as a result of this bill.

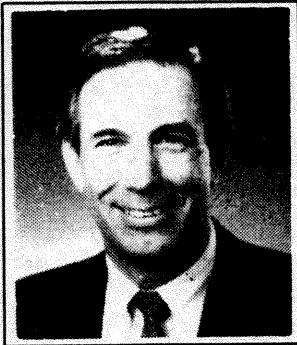
Long-Range Fiscal Implications

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

Authorized Signature Telephone No. 6-6984

Sheryl Bernasi

Date 2/2/98



CHET GERLACH

Capitol Notes

I hope you all had a wonderful holiday.

Our Legislative Committee continues to work very hard to make 1998 a good year for apartment owners. We were off to a good year, with a productive Legislative Day. More than fifty dedicated and hearty WAA members braved statewide snowfall to be in Madison on January 21. WAA Analyst Art Luetke, and Legislation Co-Chairs Mike Mokler and Jim Campbell provided a great deal of insight into the process of arriving at acceptable legislation. Lobbyist Gary Goyke and myself provided current information on bills of interest to WAA, as well as an overview of the changes taking place at the Capitol on a daily basis.

WAA members then visited their legislators and their aides at the Capitol, and WAA's issues and visibility were tremendously strengthened through those visits. Many, many thanks for those who were able to get to Legislative Day -- your grassroots support DOES MAKE A DIFFERENCE!

Following is a summary of the major issues that we will be dealing with between now and April when the Legislature is scheduled to adjourn.

Would You Consider Selling Your Apartment Building? Our Clients Are Willing to Pay a Fair Price

REQUIREMENTS:

- **Size:** 8-Family or Larger
- **Location:** Better than Average
- **Age:** New Construction to 20 Years
- **Bedrooms:** One & Two Bedroom(s)
- **Construction:** Better than Average

ROBERT M. MANGEN REAL ESTATE
12545 W. BURLEIGH RD., SUITE #3
BROOKFIELD, WI 53005
PHONE: 414/860-8700 FAX: 414/860-8703

Rental Practices - ATCP 134

WAA members represented the Association at public hearings which were held in Eau Claire, Green Bay, Madison, Milwaukee, and Wausau in January. Because the issue of Rental Practices is the Association's top priority, we have included a detailed explanation of the proposed new rule at the end of this article. **Note that the Ag Rules have not been changed since 1980 -- and they may not be addressed again for some time. This is your opportunity to put your imprint on the code.**

Weatherization - SB 354/AB 668

A public hearing on AB 668 was held on January 8 in Madison with WAA representatives Art Luetke and Mike Mokler testifying in support of the bill. AB 668 would eliminate weatherization inspections for apartments built after the current state energy code was enacted in the 1970's; limit inspections of apartments built prior to adoption of the energy code to a single inspection; and limit the items subject to inspection. In addition, a committee made up of Rich Sommer, Art Luetke and others, continues to meet and discuss the appropriate items that should be subject to inspection.

Disposal of Personal Property - AB 610

Many of you have been forced to hire movers to dispose of personal property left behind by evicted tenants. Unfortunately, the cost of disposal adds insult to injury to apartment owners and responsible tenants. AB 610, authored by Representative Judy Robson (D-Beloit) and Senator Tim Weeden (R-Beloit), would allow apartment owners to dispose of such property without hiring professional movers. AB 610 received a public hearing in the Assembly Housing Committee on January 8 and a substitute amendment to the bill was scheduled to be available by the end of January. **Special thanks to the Beloit Property Managers Association for their strong showing of support for this proposal.**

-PROJECT SEARCH-
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IN WISCONSIN
WILL CONSIDER:
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WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone (608) 266-1304
Fax (608) 266-3830

DATE: February 2, 1998
TO: REPRESENTATIVE CAROL OWENS, CHAIRPERSON; AND MEMBERS
OF THE ASSEMBLY COMMITTEE ON HOUSING
FROM: Mary Matthias, Senior Staff Attorney
SUBJECT: 1997 Assembly Bill 610, Relating to the Storage and Disposition of a
Tenant's Property Upon Eviction and LRB-0406/3, An Assembly Substitute
Amendment to 1997 Assembly Bill 610

This memorandum describes 1997 Assembly Bill 610 (the Bill), relating to the storage and disposition of a tenant's property upon eviction and LRB-0406/3 (the Substitute Amendment), an Assembly Substitute Amendment to the Bill.

1997 Assembly Bill 610 was introduced on November 13, 1997 by Representative Robson and others; cosponsored by Senator Weeden and others. It was referred to the Assembly Committee on Housing, which held a public hearing on the Bill on January 8, 1998.

BACKGROUND

Under current law, when a sheriff executes a writ to evict a tenant (referred to as a "writ of restitution" in the statutes), the sheriff is required to remove any personal property left on the premises by the tenant who has been evicted. The sheriff is required to take the removed property to a place of safekeeping within the county selected by the sheriff and the sheriff may engage the services of a mover or trucker for these purposes. The sheriff must exercise ordinary care in the removal of the property. Within three days of the removal of the property, the sheriff must mail to the former tenant a notice stating where the former tenant's property is being kept. The sheriff must provide to the former tenant any receipt or other document required to obtain possession of the property. [s. 799.45 (2) and (3), Stats.]

All expenses incurred for storage of the property and other similar changes after delivery by the sheriff to a place of safekeeping are the responsibility of the former tenant. However, prior to executing the writ of restitution, the sheriff may require the landlord to deposit a reasonable sum representing the probable cost of removing the property left on the premises by the tenant who is to be evicted. [s. 799.45 (1), Stats.] The costs which the sheriff may require

the landlord to deposit include an hourly charge for the services of each deputy assigned to inventory the property and all other necessary expenses incurred in executing the writ of restitution and all necessary expenses incurred in taking possession and storing the property. [ss. 799.45 (1) and 814.70 (8) and (10), Stats.]

Under current law, a landlord is not authorized to remove or store any property left on the premises by a tenant who has been evicted pursuant to a writ of restitution.

1. Authority of a Landlord to Remove and Store Property of a Tenant Who Has Been Evicted

a. The Bill

Under the Bill, a landlord may choose to remove and store the property left on the premises by a tenant who has been evicted rather than having the sheriff remove and store the property. The landlord must notify the sheriff that the landlord or his or her agent will remove and store or dispose of the property. The landlord must provide this notice to the sheriff at the time the landlord or his or her attorney deliver the writ or restitution to the sheriff. If the sheriff receives such notice, the sheriff must, in executing the writ of restitution, allow the landlord or the landlord's agent to take possession of the property left on the premises by the person who has been evicted. In addition, if the sheriff receives such notice, the landlord is not required to provide the deposit, described above, for the sheriff's services and the costs of removing the property.

b. The Substitute Amendment

The Substitute Amendment provides that if the sheriff is notified that the landlord or his or her agent will be responsible for the removal and storage or disposal of the property, the sheriff must, in executing the writ of restitution, supervise the removal of the property by the landlord or the landlord's agent.

The Substitute Amendment contains the same provision as the Bill which exempts the landlord from the requirement of providing to the sheriff a deposit if the landlord chooses to remove and store the property.

The Substitute Amendment further provides that if the landlord chooses to remove and store the property of the former tenant, rather than having the sheriff do so, the landlord or his or her agent must do all of the following:

1. Notify the sheriff no later than the date on which the sheriff executes the writ of restitution of the address of the premises where the property will be stored.
2. Notify the sheriff no later than the date on which the sheriff executes the writ of execution of the name, address and telephone number of the person the former tenant may contact to obtain possession of the property.
3. Exercise ordinary care in removing the property from the premises and in the handling and storage of all property removed from the premises.

4. Have warehouse or other receipts issued with respect to the property issued in the name of the former tenant.

5. Pay the former tenant and indemnify the sheriff for any damages to the property removed from the premises that is handled or stored with less than ordinary care.

6. Impose charges for the removal and storage of the property removed from the premises that do not exceed the rate determined by the sheriff to be the average rate for such services available in the county.

7. Within three days of the removal of the property, notify the former tenant of the charges imposed for removal and storage of the property and of any receipt or other document required to obtain possession of the property.

In addition, the Substitute Amendment provides that all notices required to be given to the former tenant by the landlord must be in writing and must be personally served upon the former tenant or mailed to the former tenant at the last-known address, even if that address is the premises which is the subject of the eviction action.

The Substitute Amendment authorizes the sheriff to prevent the removal of the property by the landlord or the landlord's agent if the landlord or his or her agent fails to comply with items 1., 2. or 6., listed above, or fails to exercise ordinary care in the removal of the property from the premises.

2. Procedure to be Followed by Landlord When Removing Property

a. The Bill

Under the Bill, if the landlord elects to remove and store the property of a former tenant who is evicted, the landlord or his or her agent is required to follow the procedures set forth under s. 704.05 (5), Stats., which are the procedures which a landlord must currently follow when removing and storing property which a tenant has left on the premises at the termination of his or her tenancy. Specifically, the landlord may remove the property from the premises and may store the property and must notify the former tenant that the property may be claimed, subject to a lien by the landlord for the costs of the removal and storage of the property. The landlord may dispose of the property if the landlord has given the former tenant 30 days' notice of his or her intent to dispose of the property. The landlord may deduct from the proceeds of the sale of the property any costs of the sale and any storage charges. If the proceeds of the sale minus costs are not claimed within 60 days after the date of sale of the property, the landlord is not accountable to the tenant for any of the proceeds of the sale or the value of the property. The landlord must send the proceeds of the sale minus costs to the Department of Administration for deposit in a fund from which grants for homeless shelters are provided.

b. The Substitute Amendment

Under the Substitute Amendment, if a landlord chooses to remove and store the property of a tenant who is evicted, rather than having the sheriff remove and store the property, the

landlord does not follow the procedures under s. 704.05 (5), Stats., but rather must follow the procedures described in Section 1., above. These procedures parallel the procedures in current law which must be followed by the sheriff when the sheriff removes and stores property which has been left on the premises by the person who has been evicted.

3. Authority of Police Officers to Execute a Writ of Restitution

a. The Bill

Under the Bill, police officers employed by cities are given the same powers and responsibilities as sheriffs related to executing a writ of restitution.

b. The Substitute Amendment

The Substitute Amendment does not contain the provisions which would give police officers employed by cities the same powers and responsibilities as sheriffs relating to executing a writ of restitution.

4. Disposal of Property Which is Without Monetary Value

a. The Bill

Under current law, if the sheriff determines, in the exercise of ordinary care, that property which has been left on the premises by a person who has been evicted is without monetary value, the sheriff may deliver or arrange for the delivery of the property to an appropriate place established for the collection, storage and disposal of refuse.

The Bill does not amend this provision.

b. The Substitute Amendment

The Substitute Amendment provides that if, in the exercise of ordinary care, the sheriff determines that property which has been left on the premises by a person who has been evicted is without monetary value, the sheriff *or the landlord* may deliver or arrange the delivery of the property to an appropriate place established for the collection, storage and disposal of refuse.

5. Exemption From Requirement to be Licensed as a Public Warehouse Keeper

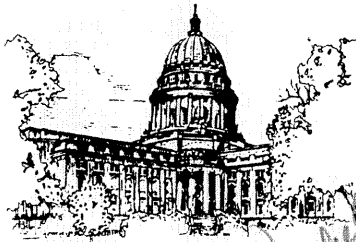
Chapter 99, Stats., sets forth various requirements which apply to public warehouse keepers. The Substitute Amendment specifies that a person who stores property received under a writ of restitution is not required to be licensed as a public warehouse keeper under ch. 99, Stats., if that person was the plaintiff in the action that resulted in the issuance of the writ of restitution. The Bill does not contain this provision.

6. Sheriff to Provide Assistance in Removal of Property

Both the Bill and the Substitute Amendment provide that the sheriff must assist the landlord or his or her agent in the removal from the premises described in the writ of restitution of all personal property on the premises which is not the property of the landlord, using such reasonable force as may be necessary.

MM:wu:lah:ksm;jt

MICHAEL G. ELLIS
SENATE REPUBLICAN LEADER



Wisconsin State Senate

JAN 28 1998

19TH SENATE DISTRICT

January 26, 1998

Representative Carol Owens, Chair
Assembly Housing Committee
PO Box 8953
Madison, WI 53708

*Feel free
we have already held a
hearing and scheduled
for next week*

JAN 28 1998

Dear Representative Owens:

I am writing to encourage you to hold a hearing, and executive session on Assembly Bill 610, relating to the storage and disposition of a tenant's property upon eviction.

As the chair of the Housing Committee, you have the power to begin to move this bill through the Assembly . I would first like to thank you for holding a hearing on the bill, and also respectfully ask that you exec AB 610, and make it available for scheduling for the next floor period.

AB 610 has bipartisan support and is, in my opinion, is good public policy that should be pursued in a timely fashion.

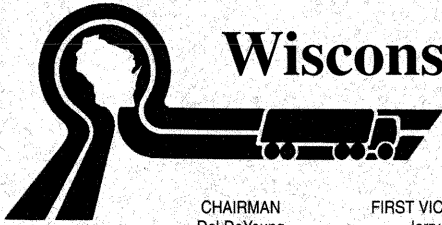
Thank you in advance for you attention to this matter.

Sincerely,

Michael G. Ellis
State Senator
19th Senate District

MGE:mdc





Wisconsin Motor Carriers Association

FEB 2 1998

562 GRAND CANYON DRIVE
P.O. BOX 44849 • MADISON, WI 53744-4849
(608) 833-8200 • FAX (608) 833-2875

CHAIRMAN
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FIRST VICE CHAIRMAN
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Skinner Transfer Corp.

TREASURER
Buck Jenkins
Diamond Transportation System

PRESIDENT
Thomas A. Howells

The Honorable Carol Owens
Chair, Assembly Housing Committee
Wisconsin State Capitol
Madison, WI.

Dear Representative Owens:

The Wisconsin Motor Carriers Association is a non-profit trade association representing the interests of the Trucking Industry within the State of Wisconsin. The association has approximately 1,020 member companies.

I am writing to you regarding Assembly Bill 610 relating to the storage and disposition of a tenant's property upon eviction.

Upon further review, the WMCA has some concerns with the proposed legislation. For this reason, we are asking you to delay an executive session on the bill in your committee until we can further review all the facts and pertaining amendments.

We believe, with all the opposition to AB 610 at this time, it would seem to be in the best interest to everyone, that the Housing Committee takes this cautious approach.

Thank you for your time and consideration of this request. Please feel free to call me if you should have questions.

Sincerely,

Marc S. Bentley
Director of Government Relations

JAN 27 1998

Dennis Kielpinski
10120 w. Plainfield
Greendale, Wi 53226

1-17-98

Assemblyman
Carol Owens
P.O. Box 8953
Madison WI

RE: Assembly Bill 610/ Logistics Problems

Dear Assemblyman Owens :

Currently the State assembly of Wisconsin is considering a bill (AB610) that would allow landlords to assemble their own moving crews and then (along with the sheriffs department) physically evict their tenant. In many of the counties of this state, allowing a landlord to perform his or her own eviction is of little consequence in terms of how it will effect the operations of the local Sheriffs department. That is because most of our counties have relatively few evictions. Milwaukee is very different though. Last year we physically moved over three thousand apartments and houses.

If assembly Bill 610 passes it will in essence allow hundreds of independent landlords in the county of Milwaukee to try and schedule their individual evictions with a Sheriffs Department that has limited means and manpower.

Currently a landlord hires a moving company (approved by the sheriffs department for this type of work) to move, inventory and store the belongings of their tenant. (The landlord is responsible only for the cost of the move, and that is recoverable). Because, the sheriff is able to coordinate these many moves with only a few companies experienced in this type of work; it is possible to do multiple jobs, one move after another. The efficiency of this method means that all three thousand + forced moves can be completed in the 10-day time frame currently available.

Consider; If the Sheriff of Milwaukee is required to move sixty households each week, and he has to try and coordinate this with fifty to sixty different landlords, each week (remembering also the sheriff doesn't have anyway in advance to judge the number of hours any single job might take) the chances are great that serious problems will erupt because of the delays this will cause everybody involved. Landlords will want the sheriff to give them some kind of estimated arrival time so they can coordinate this with their hired trucks and crews. Then when the sheriff gets tied up on a large job (and this will happen all the time) they of course will be late for all of the following jobs that day. So then the landlord will become irritated because he's hired a crew and rented equipment to move the tenant and he has to pay his crew to wait for the now "late" sheriff. Or perhaps a series of jobs will take less time than had been guessed, and the sheriff will show up before the landlord. Now the sheriff has to wait for a landlord and the landlords crew, and truck.... Who will pay for that ?...Mix the irritation the landlord will undoubtedly project with an angry tenant, throw in the logistics problems, and you will see only one problem after another. If assembly bill 610 passes we will be asking our sheriffs department to do an impossible job, and to control landlords and tenants who now will focus anger on the sheriff as well as each other.

Real scheduling of this volume of moves in the form proposed is unrealistic and so asking the Sheriff of Milwaukee to perform this function is unfair. The current system works because those who drafted that legislation considered logistical problems and allowed solutions. At the very least require those who have drafted this legislation to include a workable formula for scheduling and executing moves in counties who have a high volume of work. I see that it would be a logistics disaster if legislature dumps these major problems into the sheriff's lap just to satisfy various landlord associations.

Sincerely,



Dennis Kielpinski
Retired Deputy Sheriff Milwaukee County
I worked full time on the Sheriffs Eviction Squad for 10 years

JAN 21 1998

January 15, 1998

Thomas Brittain
1627 N. Van Buren St
Milwaukee, WI 53212

Assemblyman
Carol Owens
P.O. Box 8953
Madison WI

Dear Assemblyman Owens :

RE: assembly bill 610

After evicting a family how ever can we think of giving over the last belongings of the uneducated and desperately poor to the care and custody of their landlords? Many times these are landlords, who in the throws of an eviction action are only seeking their pound of flesh. Who believes that a landlord who is owed money will ever return intact the sole belongings of his or her ex tenant without full payment of all debt obligations and interest. How can you crush a person like this?

In this great country of ours there are men and women whose future is being grinded away because of economic circumstances. For these sinking souls there is a remedy available to save them and their families from total ruin. Bankruptcy holds at bay zealous debt collectors anxious and eager to recover the little money desperately needed by those families to remain afloat. But just as important, these laws allow persons lost to debt to retain their domestic properties that are necessary for a family to survive as a unit. The United States and its lawmakers sees a real value in holding back a creditor and allowing the debtor to recover.

However, bankruptcy is almost never an option for the poor, uneducated, and infirm. Those persons fall back on the mercy and fairness of our codes and laws. This gives the authors of those laws an obligation for fairness to both sides and perhaps a little edge of consideration to the weaker side.

The surface logic of **Assembly Bill 610** argues that if a family does not respect a court order to vacate a property as a result of an eviction action that family's fate may be to be fallen upon by his /her landlord and that landlords hand picked crew. Sheriff's deputies or the police are expected to keep the peace while landlord's cart off items to garages, basements, mini lockers or other sites under the veil of a secure and safe storage.

There is a movement today financed landlords in the State of Wisconsin that would give a landlord the legal right to essentially seize his tenants belongings, lock them up and in effect hold them for the ransom of all the tenants past debt. And with the hundreds of landlords who might make use of these new rules, any real standards for care and custody would all but impossible. Everybody would make them up as they went along. Also the opportunities for abuse by landlords having a total control of property and no liability are beyond what is reasonably acceptable).

Assembly Bill 610 had its initial hearing in the state assembly last week, it now moves on through the legislative process. I ask that you consider my stand when this bill eventually comes to a vote. **Please vote against assembly bill 610**

Sincerely,


Thomas Brittain

Tom Brittain
1627 N. Van Buren St
Milw. WI. 53202

1/14/98

1-17-98

The Honorable Carol Owens
144 County Road C,
Oshkosh, WI. 54904

Dear Madam

RE: assembly bill 610

After evicting a family how ever can we think of giving over the last belongings of the uneducated and desperately poor to the care and custody of their landlords? Many times these are landlords, who in the throws of an eviction action are only seeking their pound of flesh. Who believes that a landlord who is owed money will ever return intact the sole belongings of his or her ex tenant without full payment of all debt obligations and interest. How can you crush a person like this?

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There is a movement today financed by various associations of landlords in the State of Wisconsin that would give a landlord the legal right to essentially seize his tenants belongings, lock them up and in effect hold them for the ransom of all the tenants past debt (although **Assembly bill 610** specifies that certain rules of fairness must be observed by those landlords opting to move and store their tenants property, there are no specific guides. And with the hundreds of landlords who might make use of these new rules, any real standards for care and custody would all but impossible. Everybody would make them up as they went along. Also the opportunities for abuse by landlords having a total control of property and no liability are beyond what is reasonably acceptable).

Assembly Bill 610 had its initial hearing in the state assembly last week, it now moves on through the legislative process. I ask that you consider my stand when this bill eventually comes to a vote.

Please vote against assembly bill 610

Sincerely,



David Brittain

AB 610

- No-pmnt. of rent \rightarrow see J, v.

\rightarrow make copy of her testimony

- R. Tuttle (const. of Judy R.) - worked w/ her on the bill
 \rightarrow landlord can sell property to recover costs.

- Beloit / puts money in packets of money \rightarrow
if they stay - go through sheriff / lease - landlord can
dispose of the items

Mike M.

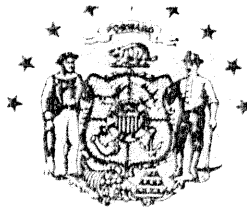
= \$800 - \$1000 average eviction cost
= renting to "low income" \rightarrow problematic tenants

- Peter Misko (see testimony)
 \rightarrow these are court orders \leftarrow Sheriff should handle.

(pg. 3 / line 22) \rightarrow clarification from Mary (h.c.)

- Bob Anderson / support of Adhoc Committee language -
stopped in our office yesterday
- Sheriff is part of city. - city courts
- unconst. for police dept?
- amend. is supported by landlords

Judy - work on the amend. - will bring to the Committee



JUDITH B. ROBSON

WISCONSIN LEGISLATURE

DATE: January 8, 1998

TO: Chair Carol Owens & Members
Assembly Housing Committee

FROM: Representative Judy Robson

RE: Assembly Bill 610

Thank you for scheduling this public hearing on Assembly Bill 610, relating to the storage and disposition of a tenant's property upon eviction.

Under current law, landlords face considerable expense when they have to evict tenants for nonpayment of rent. They generally don't recover the lost rent, they pay legal and court costs to get the eviction judgment, and they pay law enforcement to serve the writ of restitution. Then, to add insult to injury they have to pay to inventory and move any personal property left by the tenant. There are landlords here who will give testimony to the cost incurred in an eviction.

Assembly Bill 610 gives the landlord an option that is already available in state law when tenants voluntarily vacate the unit and leave personal property behind. In those instances, the landlord can store the property, execute a lien to recover costs of storage, and give notice to the owner that the property can be claimed. If the property is not claimed within 30 days, the landlord can sell or otherwise dispose of the property and deduct storage and sale costs from any proceeds. Any additional revenue from the sale can be claimed by the tenant within the next 60 days; otherwise the revenue is sent to the Department of Administration.

This is not a get rich quick scheme for the landlords. It is a reasonable procedure we already have in state law that could alleviate some of the costs landlords face when they have to resort to the eviction process. This procedure is an option that should be available to the landlord. Some landlords may not want that responsibility and they will opt to have the Sheriff or Police move and store the property.

MADISON OFFICE: STATE CAPITOL, P.O. BOX 8953, MADISON, WI 53708 • (608) 266-9967

DISTRICT ADDRESS: 2411 EAST RIDGE ROAD, BELOIT, WI 53511 • (608) 365-6587

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EMAIL: judy.robson@legis.state.wi.us

♻️ PRINTED ON RECYCLED PAPER

Assembly Bill 610 also gives the landlord the option to select the local police, rather than the sheriff, to serve the Writ of Restitution. Law enforcement officers have many demands for their time and attention. If the sheriff is overburdened, the police can be called upon. If the police are overburdened, the sheriff can step in.

In 1996 there were 1,900 contested evictions. Milwaukee County led the field with 609. Dane County had 138 and Rock County, 59. Spreading the workload should be beneficial to these counties and it could expedite the process.

I began working on this legislation after hearing from landlords and community neighborhood groups in my district who objected to the cumbersome moving and storage requirements for evictions. Since that time I have heard from many others, and have benefited from these comments.

The Ad Hoc Advisory Committee of the Department of Agriculture, Trade and Consumer Protection has recently completed a study of landlord/tenant regulations. They had some recommendations that would strengthen the storage requirements when the landlord takes responsibility for the property. I agree landlords should have evidence of liability insurance, they should provide an appropriate storage facility, and the charges should be no more than current market rates for storage and moving. In addition, the sheriff or police could be required to be present when the property is moved and/or stored. I am ready to work with interested groups to improve this bill by addressing some of these concerns.

I appreciate your consideration of this legislation and am looking forward to hearing from others who will testify today.

MILWAUKEE COUNTY
OFFICE OF THE SHERIFF
Criminal Investigation Bureau
INTER-OFFICE COMMUNICATION

DATE: December 2, 1997
TO: Intergovernmental Relations
FROM: Peter J. Misko, Deputy Inspector
SUBJECT: 1997 Assembly Bill 610

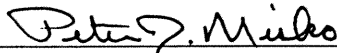
The Milwaukee County Sheriff's Department currently receives over three thousand Writs of Restitution a year. We evict just over two thousand sites a year.

This Bill gives "*police officers employed by cities*" the same powers and responsibilities related to executing a writ to evict a tenant. Are police officers employed by villages and towns then excluded? Counties are made up of numerous police departments. Milwaukee County, one of the smallest counties in the state, has 19 city or village police departments.

It makes more sense to have the Sheriff of each county perform this function. Often contraband and evidence of crimes are located during the eviction. The Sheriff covers the entire county where police departments cover various areas within the county, some very small. The Sheriff's Department is usually aware of crimes throughout the various communities that make up the county. Small police agencies may not be aware of crimes that occur in other communities within the county.

This Bill also gives "*landlords*" the same rights and responsibilities to remove, store and dispose of the property of the tenants who are evicted. The reason behind the Sheriff performing this function is that they are officers of the court carrying out a court order. They are impartial and neutral. Evictions can get emotional for both tenant(s) and landlords. Occasionally, while our department was executing an eviction the landlord and tenant(s) get involved in arguments, name calling and fights. We have tenants attack our officers during evictions. If the tenant(s) are not afraid to fight with us what chance do the landlords have. Along with the reasons given above (contraband and evidence of crimes) some tenants are wanted.

After reviewing 1997 Assembly Bill 610 I can only recommend that we oppose this legislation.



Peter J. Misko, Deputy Inspector

To: ATCP 134 Ad Hoc Advisory Committee
From: David Ghilardi, Assistant Legal Counsel
Date: January 5, 1998
Subject: Amendments to s. 799.45, Wis. Stats.

The committee, at the August 21, 1997 meeting, agreed in principle to amendments to s. 799.45, Wis. Stats., which would allow landlords to provide labor and storage in eviction proceedings under s. 799.45, Stats. The principles to which the committee agreed are as follows.

- 1) The committee rejected the proposal that a removal under s.704.05, Wis. Stats., be authorized as an alternative to an eviction under s. 799.45, Stats., since this would remove the authority of the sheriff from a potentially violent confrontation.
- 2) All current provisions in s.799.46(3), Stats., should remain the same except that the sheriff may allow the landlord to provide labor for moving and storage if the landlord:
 - a) Provides evidence of liability insurance.
 - b) Provides an appropriate storage facility.
 - c) Has the same degree of liability for damage to tenant's property as that of a commercial mover.
 - d) Charges no more than current market rates for storage and moving.
- 3). If the landlord conducts the move, the Sheriff is not liable for damages during move and storage, but is responsible for:
 - a) Approving rates charged for moving and storage.
 - b) Conducting an inventory of property.
 - c) Keeping the peace.
 - d) Supervising the return of the property.
- 4) Requirements for storage period shall be consistent with the requirements imposed on a public warehouse.

Based on these principles, I propose the following amendments to s. 799.45(3), Stats.:

(3) MANNER OF REMOVAL AND DISPOSITION OF REMOVED GOODS. (a)

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, or of the tenant's landlord as provided in para. (e).

(b) Except as provided in par. (c), the property removed from such premises shall be taken to some place of safekeeping within the county selected by the sheriff, and may be a place under the control of the landlord pursuant to para. (e). 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, including a landlord pursuant to para. (e), 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) 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) All of the rights and duties of the sheriff under this section may be exercised by or delegated to any of the deputies.

e) The sheriff may direct the landlord to provide under this section any services that otherwise would be provided by a mover or trucker, or a place of safekeeping within the county, if all of the following apply:

1. The landlord agrees to exercise ordinary care in removing all property from the premises, and in the handling and storage of all property removed from the premises.

2. The landlord agrees to pay the tenant, and to indemnify the sheriff, for any damages to property removed from the premises which is handled or stored with less than ordinary care.

3. The landlord provides evidence of a surety bond that is sufficient to cover any potential damage claims that may result from removal of the tenant's property.

4. Any charges imposed by the landlord for providing moving, trucking or storage services shall not exceed the rate determined by the sheriff to be the average rate for such service available in the county.

5. The landlord shall handle and store the removed property in the manner prescribed by para. (b) and as directed by the sheriff.



City of
BELOIT, Wisconsin

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TO: Legislative Committee

FROM: Thomas J. Alisankus

DATE: January 8, 1998

SUBJECT: LANDLORD/TENANT BILL - AB 610

Please accept my apologies for not being able to appear personally to testify before the Legislative Committee on this important Bill. As I had explained to you, an emergency arose last night regarding my role as President of the Rock Valley College Faculty Union, which demanded by immediate attention both yesterday and today. Due to the important nature of this Bill that you have drafted however, I wanted to forward my written comments to you. In a nutshell, and on behalf of the City of Beloit, we overwhelmingly support this Bill. In fact, if there is any down fall to it at all, it is that it does not go far enough in more appropriately balancing the rights and responsibilities of landlords and tenants.

Although Representative Robson is aware of my background, for the benefit of the other members of the people that comprise this hearing committee, let me review my background. I am the Special Prosecutor for the City of Beloit. This position is under the auspices of the City Attorney's Office, where I carry the authority of an Assistant City Attorney for specific purposes. One of my assignments pursuant to this function has been an area that we have dubbed "Enhanced Code Enforcement". Briefly, these are cases that have failed to compel compliance with various building codes, whereupon my office does its means to assure that both landlords and tenants remain accountable to City building codes.

I also serve in another capacity for the City of Beloit, which gives me perhaps a unique perspective in the area of landlord/tenant rights and responsibilities. I am a part-time patrol officer, fully sworn and certified through the State of Wisconsin. My assignment in this capacity for the past several years has been in neighborhoods where urban blight is common.

Further, as Assistant Professor of Criminal Justice at Rock Valley College in Rockford, Illinois, I am able to research and study the impact of various methods employed by all facets of city government in an attempt to enhance community living standards. Finally, I am also a Municipal Judge for the City of Evansville, Wisconsin. In summary, this combination of positions which I currently hold gives me perhaps a unique perspective on the problems associated with these issues, particularly as they relate to landlord/tenant disputes.

Administrative Services 608/364-6600 Fax 364-6642	City Attorney 608/364-6623 Fax 364-6718	Engineering Department 608/364-6690 Fax 364-6609	Health Department 608/364-6630 Fax 364-6602	Housing Services 608/364-6650 Fax 364-6609	Information Systems 608/364-6644 Fax 364-6718	Personnel Department 608/364-6610 Fax 364-6718
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With that background in mind, I would like to briefly comment on Representative Robson's proposed Bill. As a police officer for approximately ten years, I have responded to my share of landlord/tenant disputes. As with faltering marriages, by analogy, a breakdown in landlord/tenant relationships usually is the result of complicity by both parties; in other words, both parties often bear some responsibility to the breakdown in the landlord/tenant relationship. It is at this juncture that City services (law enforcement, the City Attorney's office, etc.) become involved. Representative Robson's Bill attempts to "even the playing field" as this dispute is settled. The basic premise of Representative Robson's Bill is that it assists the consumer -- in this case, the consumer being either the landlord or the tenant. To that end, any discussion of tangential issues such as law enforcement "turf" disputes, specific job protection, or revenue generating aspects of no real substantive value in the overall goal of, as I stated earlier, striking a better balance between the responsibilities of landlords and tenants. My suggestion to you as a committee, therefore, is to ignore such arguments you may hear from those attempting to insert these issues into this discussion.

Basically, what Representative Robson's Bill attempts to do is give landlords another option to facilitate lawfully monitored evictions. By this, I mean that a landlord would no longer have to solely rely on sheriff's departments to facilitate statutory mandates that address such issues as service of process and storage of tenants' property. In effect, sheriff's departments currently have a monopoly in this area. Representative Robson's Bill would simply allow local police departments the same authority to administer such service of process. Depending on the community, municipal police departments may be able to do this in a more timely and cost-efficient manner. Furthermore, by allowing municipal police officers to provide these services as authorized in Representative Robson's Bill, Sheriff's deputies would be able to maintain their presence in unincorporated areas of the county, which is their primary area of responsibility (at least with respect to functions relating to keeping the peace). Therefore, if sheriff's deputies were to be responsible for the service of process in areas outside communities which have their own municipal police departments, they would already be in locations that they would normally want to be in anyway. It seems duplicitous to me to have members of the sheriff's department serving civil process within the city limits of a municipality that has its own police department, when the unincorporated areas of the county would thus be without that particular deputy sheriff.

With respect to another portion of Representative Robson's Bill, I fully support the concept of allowing landlords to take possession and control of tenants' property when authorized to do so and pursuant to the statutory requirements surrounding an eviction. This is strictly an economic issue, again which should not be viewed from any point other than that of striking a legitimate balance of accountability and responsibility between landlords and tenants. Finally, I would suggest that in the future, there is room for statutory modification that would allow municipalities with their own municipal courts to have the option of carrying out some of

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the functions related to evictions. Municipalities with municipal courts could be given the option to authorize their courts to do certain functions related to this area. Statutory changes could be made that would assure that both landlords and tenants receive due process from municipal courts in this area, just as they do in other areas. Of course, the payoff in this respect would be to again lighten the burden of circuit courts.

Again, I apologize that I was not able to personally testify and answer questions. However, if you have any questions, or would like to meet with me further on this issue, please don't hesitate to contact my office at the City of Beloit, City Attorney's Office, (608) 364-6624. Thank you for your time.

/ks

Boycks, Brad

From: Jim Gilmore

Sent: Monday, January 05, 1998 1:44 PM

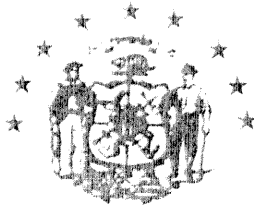
To: Rep.Owens

Subject: Input on bill

Hi Carol, I was asked to give you my view on AB 610. We at the Sheriff's Department are not overburdened in this area that would require any other department to aid us in serving writs, etc. In my view it would be a step backward because there would be no central location to control and oversee the process as we do now. I doubt that there is any municle department that would like to take this on anyway.

If you have any questions, please feel free to give me a call.

Sheriff Jim Gilmore



10-29-97 OCT 28 1997

JUDITH B. ROBSON

STATE REPRESENTATIVE • WISCONSIN LEGISLATURE

DATE: October 27, 1997
TO: All Legislators
FROM: Representative Judy Robson
RE: LRB-2999/2, storage and disposition of a tenant's property upon eviction

LRB-2999/2 responds to complaints from landlords who have had to evict tenants for nonpayment of rent or destruction of property. The landlords, after absorbing the lost rental payments and repair costs, say they suffer further out-of-pocket costs when they also have to pay to have a certified moving company remove the tenant's personal property. Under current law, a landlord who evicts a tenant by executing a writ of restitution must pay all costs associated with moving any personal property left by the tenant. The sheriff, who executes the writ, removes the tenant and arranges the removal and storage of the property.

On the other hand, if a tenant voluntarily terminates the tenancy and leaves personal property on the premises, the landlord can store and dispose of the property after giving proper notice to the tenant. If the tenant does not claim the property, the landlord can sell the property and recover the actual costs of moving and storage.

This legislation gives the landlord the option in an eviction to use the same procedure for removing personal property as is used for a voluntary termination. In addition, the landlord will have the option to use the local police department rather than the sheriff for executing the writ of restitution.

If you wish to cosponsor this legislation, please call my office at 6-9967 by November 7.

Analysis by the Legislative Reference Bureau

Under current law, if a tenant, at the termination of his or her tenancy, leaves personal property on the premises, the landlord has certain rights and responsibilities regarding that property. The landlord may store the property and notify the former tenant that the property may be claimed, subject to a lien by the landlord for the costs of the removal and storage of the property. The current law allows the landlord to dispose of the property after giving the former tenant notice that the property will be disposed of if the tenant does not claim the property within 30 days after receipt of the property. Current law also allows the landlord to store the property without charging the tenant with any storage costs and to return the property to the tenant.

Current law requires the sheriff, when executing a writ to evict a tenant, to remove property left on the premises by the tenant. The sheriff is required to take the removed property to a place of safekeeping and to notify the former tenant of the place where the property is being kept and of the right to obtain possession of the goods after the payment of the expenses of moving and storing the property.

This bill gives police officers employed by cities the same powers and responsibilities as sheriffs related to executing a writ to evict a tenant. The bill gives landlords the same rights and responsibilities to remove, store and dispose of the property of former tenants who are evicted as they currently have over property of former tenants whose tenancy is terminated. A landlord is given the option under the bill to have the sheriff or the city police department take possession of the former tenant's property or to take possession himself or herself and follow the procedures used when a tenancy is terminated regarding the removal, storage and disposal of the property.