

# 1999 ASSEMBLY BILL 711

February 3, 2000 – Introduced by Representatives SYKORA, UNDERHEIM, STONE, KESTELL, HAHN, LADWIG, MUSSER, REYNOLDS, OLSEN, KREIBICH, AINSWORTH, VRAKAS, OWENS, KELSO, WASSERMAN, GUNDERSON and NASS, cosponsored by Senators WELCH, FITZGERALD, ROESSLER, DARLING and FARROW. Referred to Committee on Housing.

1     **AN ACT to create** 704.17 (1) (d), 704.17 (2) (d), 704.17 (3) (c), 704.17 (6) and 704.19  
2           (3m) of the statutes; **relating to:** termination of tenancy for posing direct  
3           threat of physical harm or injury to persons or substantial risk of physical  
4           damage to property.

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

Under current law, a tenant's tenancy may be terminated by the landlord for nonpayment of rent, for committing waste, for breaching a covenant or condition of the tenant's rental agreement or if the property owner receives notice from a law enforcement agency that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, a landlord may terminate the tenancy of a tenant if the tenant's behavior poses a direct threat to the safety of his or her guests or of the landlord, the landlord's agent, other tenants or guests of other tenants, or if the tenant's behavior poses a substantial risk of physical damage to the property of his or her guests or of the landlord, the landlord's agent, other tenants or guests of other tenants. The landlord must provide notice to the tenant to vacate the property on or before at least five days after the giving of the notice. The notice must advise the tenant of the reason for termination of the tenancy, of the basis on which the landlord believes that the tenant's behavior poses a direct threat or substantial risk and of the tenant's right to contest the termination of tenancy in an eviction action. The bill provides that a claim of a direct threat to the safety of a tenant's own guests, the landlord, the landlord's agent, other tenants or guests of other tenants must be evidenced by

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behavior that caused harm or injury, that directly threatened harm or injury or that caused a reasonable fear of harm or injury to a guest of the tenant or to the landlord, the landlord's agent, another tenant or a guest of another tenant. A claim of substantial risk of physical damage to the property of a tenant's own guests, the landlord, the landlord's agent, other tenants or guests of other tenants must be evidenced by behavior that caused physical damage, that directly threatened physical damage or that caused a reasonable fear of physical damage to the property of a guest of the tenant or the property of the landlord, the landlord's agent, another tenant or a guest of another tenant.

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

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

2           704.17 **(1)** (d) If the behavior of a week-to-week or month-to-month tenant  
3 poses a direct threat to the safety of his or her guests or of the landlord, the landlord's  
4 agent, other tenants or guests of other tenants, or poses a substantial risk of physical  
5 damage to the property of his or her guests or of the landlord, the landlord's agent,  
6 other tenants or guests of other tenants, the landlord may terminate the tenancy of  
7 the tenant whose behavior poses a direct threat or substantial risk by giving the  
8 tenant written notice requiring the tenant to vacate on or before a date at least 5 days  
9 after the giving of the notice. The notice shall state the reason for the termination  
10 of the tenancy, the basis on which the landlord believes that the tenant's behavior  
11 poses a direct threat or substantial risk and the right of the tenant to contest the  
12 termination of tenancy in an eviction action under ch. 799.

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

14           704.17 **(2)** (d) If the behavior of a tenant under a lease for a term of one year  
15 or less or of a year-to-year tenant poses a direct threat to the safety of his or her  
16 guests or of the landlord, the landlord's agent, other tenants or guests of other  
17 tenants, or poses a substantial risk of physical damage to the property of his or her

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1 guests or of the landlord, the landlord's agent, other tenants or guests of other  
2 tenants, the landlord may terminate the tenancy of the tenant whose behavior poses  
3 a direct threat or substantial risk by giving the tenant written notice requiring the  
4 tenant to vacate on or before a date at least 5 days after the giving of the notice. The  
5 notice shall state the reason for the termination of the tenancy, the basis on which  
6 the landlord believes that the tenant's behavior poses a direct threat or substantial  
7 risk and the right of the tenant to contest the termination of tenancy in an eviction  
8 action under ch. 799.

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

10 704.17 (3) (c) If the behavior of a tenant under a lease for a term of more than  
11 one year poses a direct threat to the safety of his or her guests or of the landlord, the  
12 landlord's agent, other tenants or guests of other tenants, or poses a substantial risk  
13 of physical damage to the property of his or her guests or of the landlord, the  
14 landlord's agent, other tenants or guests of other tenants, the landlord may  
15 terminate the tenancy of the tenant whose behavior poses a direct threat or  
16 substantial risk by giving the tenant written notice requiring the tenant to vacate  
17 on or before a date at least 5 days after the giving of the notice. The notice shall state  
18 the reason for the termination of the tenancy, the basis on which the landlord believes  
19 that the tenant's behavior poses a direct threat or substantial risk and the right of  
20 the tenant to contest the termination of tenancy in an eviction action under ch. 799.

21 **SECTION 4.** 704.17 (6) of the statutes is created to read:

22 704.17 (6) EVIDENCE OF DIRECT THREAT OR SUBSTANTIAL RISK. Under this section:

23 (a) A claim that a tenant's behavior poses a direct threat to the safety of his or  
24 her guests or of the landlord, the landlord's agent, other tenants or guests of other  
25 tenants must be evidenced by behavior of that tenant that caused harm or injury,

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1 that directly threatened harm or injury or that caused a reasonable fear of harm or  
2 injury to a guest of that tenant or to the landlord, the landlord's agent, another tenant  
3 or a guest of another tenant.

4 (b) A claim that a tenant's behavior poses a substantial risk of physical damage  
5 to the property of his or her guests or of the landlord, the landlord's agent, other  
6 tenants or guests of other tenants must be evidenced by behavior of that tenant that  
7 caused physical damage, that directly threatened physical damage or that caused a  
8 reasonable fear of physical damage to the property of a guest of that tenant or the  
9 property of the landlord, the landlord's agent, another tenant or a guest of another  
10 tenant.

11 **SECTION 5.** 704.19 (3m) of the statutes is created to read:

12 **704.19 (3m)** TERMINATION OF TENANCY FOR POSING DIRECT THREAT TO SAFETY OR  
13 SUBSTANTIAL RISK OF DAMAGE. (a) Notwithstanding subs. (2) and (3), if the behavior  
14 of a periodic tenant or a tenant at will poses a direct threat to the safety of his or her  
15 guests or of the landlord, the landlord's agent, another tenant or a guest of another  
16 tenant, or poses a substantial risk of physical damage to the property of his or her  
17 guests or of the landlord, the landlord's agent, other tenants or guests of other  
18 tenants, the landlord may terminate the tenancy of the tenant whose behavior poses  
19 a direct threat or substantial risk by giving the tenant written notice requiring the  
20 tenant to vacate on or before a date at least 5 days after the giving of the notice. The  
21 notice shall state the reason for the termination of the tenancy, the basis on which  
22 the landlord believes that the tenant's behavior poses a direct threat or substantial  
23 risk and the right of the tenant to contest the termination of tenancy in an eviction  
24 action under ch. 799.

25 (b) Under par. (a):

