

1999 DRAFTINGREQUEST

Assembly Substitute Amendment (ASA-AB711)

Received: **03/15/2000**

Received By: **kahlepj**

Wanted: **Today**

Identical to LRB:

For: **Tom Sykora (608) 266-1194**

By/Representing: **Sara**

This file may be shown to any legislator: NO

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Real Estate - landlord/tenant**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Allow termination of tenancy for posing direct threat to safety of others

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reouired</u>
/?	kahlepj 03/15/2000	kgeller 03/15/2000		_____			
/1			kfollet 03/15/2000	_____	lrb-docadmin 03/15/2000	lrb-docadmin 03/15/2000	

FE Sent For:

<END>

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1/?	kahlepj	1 3/15 jg	kjf 3/15	kjf/jf 3/15			

FE Sent For:

<END>

Combine a 1457 & a 1858 into a sub

(delete property stuff - add

greater preponderance burden
of proof)

to Sylvia

1999

Date (time) needed NOW

LRB s 0428, 1

**SUBSTITUTE AMENDMENT
[TO A BILL]**

PK : jk :

Use the appropriate components and routines developed for substitute amendments.

§ A SUBSTITUTE AMENDMENT

TO 1999 ~~SB~~ AB 711 ~~LRB-~~

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to:

.....
.....
.....
.....
.....

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

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

SECTION #.







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 ~~by substantial risk of physical~~
4 ~~damage to property~~

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 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

ASSEMBLY BILL 711

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.

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, ^{Keep comma} 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 ~~to the property of his or her~~ 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 ~~to the property of his or her~~ ^{by substantial risk} and the right of the tenant to contest the

12 termination of tenancy in an eviction action under ch. 799. ^{Insert 2-12}

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, ^{Keep comma} or poses a substantial risk of physical damage to the property of his or her

ASSEMBLY BILL 711

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 ~~of 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 ~~of substantial risk~~
 ⑦ ~~of~~ and the right of the tenant to contest the termination of tenancy in an eviction
 ⑧ action under ch. 799. *Insert 2-12* ✓

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, *keep comma* 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 ~~of~~
 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
 ⑰ that the tenant's behavior poses a direct threat ~~of substantial risk~~ and the right of
 ⑱ the tenant to contest the termination of tenancy in an eviction action under ch. 799. *Insert 2-12*

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,

Insert 3-23

ASSEMBLY BILL 711

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
13 ~~OR 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, ^{Comma, keep} 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 risk~~
23 ~~and~~ and the right of the tenant to contest the termination of tenancy in an eviction
24 action under ch. 799.. *Insert 2-12*

25 (b) Under par (a):

ASSEMBLY BILL 711

Fi (b) Under par. (a), a ✓

1

A claim that a 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 must be evidenced by behavior of that tenant 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 that tenant or to the landlord, the landlord's **agent**, another tenant or a guest of another tenant.

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2. A claim that a 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 must be evidenced by behavior of that tenant 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 that tenant or the property of the landlord, the landlord's agent, another tenant or a guest of another tenant.

14

(END)



**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 711**

Insert 2-12

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

2 **1.** Page 2, line 12: after "ch. 799." insert "If the tenant contests the termination
3 of tenancy, the tenancy may not be terminated without proof by the landlord by the
4 greater preponderance of the credible evidence that the tenant's behavior poses a
5 direct threat ~~to the health and safety of the tenant or other persons~~ *to the tenant or other persons*."

6 **2.** Page 3, line 8: after "ch. 799." insert "If the tenant contests the termination
7 of tenancy, the tenancy may not be terminated without proof by the landlord by the
8 greater preponderance of the credible evidence that the tenant's behavior poses a
9 direct threat ~~to the health and safety of the tenant or other persons~~ *or substantial risk.*"

10 **3.** Page 3, line 20: after "ch. 799." insert "If the tenant contests the termination
11 of tenancy, the tenancy may not be terminated without proof by the landlord by the
12 greater preponderance of the credible evidence that the tenant's behavior poses a
13 direct threat or substantial risk."

(amendments 2-12)

Insert 3-23

1 **8.** Page 3, line 12: delete the material beginning with "or poses" and ending
2 with "tenants," on line 14.

3 **9.** Page 3, line 15: delete the material beginning with "or" and ending with
4 "risk" on line 16.

5 **10.** Page 3, line 19: delete "or substantial risk".

6 **11.** Page 3, line 22: delete lines 22 and 23 and substitute:

7 **704.17 (6) EVIDENCE OF DIRECT THREAT.** Under this section, a claim that a
8 tenant's behavior poses a direct threat to the safety of his or ^e ~~her~~ ^{NO} ~~PR~~

9 **12.** Page 4, line 4: delete lines 4 to 10.

10 **13.** Page 4, line 12: delete the material beginning with "OR" and ending with
11 "DAMAGE" on line 13.

12 **14.** Page 4, line 16: delete the material beginning with "or poses" and ending
13 with "tenants," on line 18.

14 **15.** Page 4, line 19: delete "or substantial risk".

15 **16.** Page 4, line 22: delete "or substantial".

16 **17.** Page 4, line 23: delete "risk".

17 **18.** Page 4, line 25: delete that line.

18 **19.** Page 5, line 1: delete that line and substitute:

19 "(b) Under par. (a), a claim that a tenant's behavior poses a direct threat to the
20 safety of his or".

21 **20.** Page 5, line 7: delete lines 7 to 13.

(END)

A

(end of ins 3-23)