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TO: Assembly Housing Committee
FROM: Rick Staff and Joe Murray
DATE: February 22, 2001
RE: LRB 12~~06~~⁶⁰ – Regarding eviction of threatening tenants

WRA supports LRB 1206:

The Wisconsin REALTORS Association (WRA) recommends support of LRB 1260, legislation that provides landlords with the means to quickly evict a tenant whose behavior directly threaten the safety of other tenants. Based on current statutes and common law, we believe LRB 1260 effectively balances the need to protect the public from direct threats to their safety with the need to preserve the due process rights of tenants who are demonstrating threatening behavior.

LRB 1206 is consistent with existing standards:

Wisconsin statutes currently recognize that landlords should have the ability to remove tenants from a property if they pose a threat to other tenants. Wisconsin Statute section 106.50(5m)(d) recognizes that the rights of individuals protected under Wisconsin's fair housing laws (on the basis of disability) *must be secondary* to the rights of other tenants whose safety is being threatened. LRB 1260 adopts this identical standard to all tenants who act in a threatening manner. If a landlord is currently allowed to take action against a tenant with a disability - if that tenant threatens the safety of others - then surely it is reasonable to allow a landlord to promptly evict a tenant who is not disabled when that tenant threatens the safety of others.

LRB 1206 is consistent with evictions for drug and gang activity:

LRB 1206 is also consistent with expedited eviction procedures provided for drug house or gang house nuisances. Wis. Stat. s. 704.17 provides landlords the right to terminate a tenancy upon five days written notice if the property owner receives written notice from a law enforcement agency that a drug house or gang house nuisance exists. LRB 1260 also recognizes that landlords must act quickly under certain circumstances to protect innocent individuals. Moreover, LRB 1260 is perhaps a more appropriate application of the five-day quick eviction remedy because it requires more than illegal activity to trigger the termination. LRB 1260 requires a demonstrable threat to the safety of others.

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Due process must be protected:

Any legislation involving the eviction of tenants must be sensitive to the potential for abuse. Like Wis. Stat. s. 704.17 regarding evictions for drug and gang activities, LRB 1260 ensures due process rights by requiring written notice of appeal rights and by increasing the landlord's burden of proof in that appeal.

Recommended modification:

One recommendation for improving LRB 1260 that the committee may wish to consider would be to expand the list of persons who may be threatened by a tenant. In addition to landlords, agents of the landlord, other tenants and guests, LRB 1260 should also recognize that a tenant might threaten the safety of "occupants" who are neither guests nor tenants as well as visitors to a property.

Conclusion:

LRB 1206 represents a reasonable attempt to protect tenants, guests and landlords by allowing for expedited evictions of threatening tenants while protecting their due process rights. We encourage you to support LRB 1206.

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Friday, February 23, 2001



Sykora: Make evictions easier

Tenants need safety from crime, legislator says

By Kevin Murphy
Leader-Telegram correspondent

MADISON -- As a landlord, Tom Sykora couldn't get rid of a "firebug" tenant. Then he learned a 59-year-old Chippewa Falls woman was sexually assaulted in her apartment by a neighbor.

Now state Rep. Sykora, R-Chippewa Falls, wants to make it easier for landlords to evict criminals and keep tenants safer.

"Certain incidents are so dangerous, whether it's setting fires or rape or threatening someone with a firearm, that I don't believe they should have a second chance to commit a crime," Sykora said.

The Assembly Housing Committee held a public hearing Thursday on Sykora's proposal.

Several years ago, Sykora said, he had a "firebug" as a tenant in an apartment building he owned in Chippewa Falls.

"This person would squirt lighter fluid under a door and then light it with a match," Sykora said. "They also set curtains on fire in a hallway. We had 24-hour security on the premises, and the person still lit a fire in the middle of their living room."

Despite the danger posed to other tenants, under the renter's yearlong lease, Sykora could not evict the person for at least 19 days.

More recently, a woman who was partially paralyzed from a stroke in 1994 was assaulted by a neighbor in 1999. She was dismayed to learn neither she nor her landlord could have the man removed until he was convicted -- six months after the incident.

"I was a victim of a heinous crime and continued to be victimized because ... (he) slipped right through the loopholes in the laws," the woman said in written testimony.

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- Links
- Classifieds
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- Feedback
- Newspaper
- In Education
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- Sunday
- Monday
- Tuesday
- Wednesday
- Thursday
- Friday
- Saturday
- Current Paper



Although eviction actions have been accelerated by recent legislation addressing drug trafficking and criminal gang activity, tenants accused of involvement in other serious offenses have nearly three weeks before they can be evicted.

Under current law, tenants can be evicted for not paying rent, causing damage or committing other violations of the lease agreement. If the lease is a yearlong agreement, tenants have five days to correct the problem; if they do not, a landlord can start eviction proceedings that would remove tenants after 14 days.

Sykora's proposal was supported Thursday by the Wisconsin Realtors Association, several apartment associations and landlords who said they need to evict quicker than currently allowed to protect their tenants and property.

However, an attorney for a low-income advocacy organization said the proposal sets the eviction standard too low and would allow a landlord to evict a tenant based on what another tenant said.

"And tenants get into feuds all the time," said Robert Andersen of Legal Action of Wisconsin.

Restraining orders and contacting police are better remedies for what Sykora is trying to solve, Andersen said.

"If you have someone who is actually dangerous, evicting them is not what you want to do," he said. "You want them arrested and put into the criminal justice system. Restraining orders can be obtained immediately by tenants and landlords."

The committee took no action on Sykora's proposal Thursday, but the legislator said he will amend his proposal to address Andersen's concerns. The standard to obtain an eviction will be increased from having a preponderance of evidence to having clear and convincing evidence, Sykora said.

But tenants still need more protection than what Andersen is suggesting, he said.

"Once you report something to the police, that's not the end of it," Sykora said. "The police must still obtain proof enough to get the matter into court."

"Even (in the case of) the woman who was assaulted, the man's bond didn't allow him within 25 feet of her. But he lived a floor above her, and that upset her, and she continued to feel that her safety and other tenants' safety could be easily compromised," Sykora said.

Murphy is a free-lance writer based in Madison. Tim Stein, the Leader-Telegram's assistant local news editor, can be reached at 830-5841, (800) 236-7077 or tim.stein@ecpc.com.

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