

2005 ASSEMBLY BILL 291

April 4, 2005 – Introduced by Representatives WIECKERT, HAHN, KRAWCZYK, ZEPNICK, MUSSER, VOS, F. LASEE, GUNDERSON, BIES, OTT, BALLWEG, TOWNSEND, MCCORMICK, VRAKAS, MOLEPSKE, SHILLING, PRIDEMORE, MURSAU, HINES and STONE, cosponsored by Senators STEPP, GROTHMAN, OLSEN, A. LASEE, LAZICH and ROESSLER. Referred to Committee on Housing.

1 **AN ACT** *to amend* 704.17 (1) (c), 704.17 (2) (c), 704.17 (3) (b) and 893.80 (7) of the
2 statutes; **relating to:** termination of a tenancy if notice given regarding drug
3 or criminal gang activity.

Analysis by the Legislative Reference Bureau

Under current law, if a property owner receives notice from a law enforcement agency of a city, town, or village that a rental unit is a nuisance because the unit is being used to facilitate the delivery, distribution, or manufacture of a controlled substance or is being used to facilitate the activities of a criminal gang, the property owner may terminate the tenancy by giving the tenant written notice requiring the tenant to vacate on or before a date at least five days after the giving of the notice.

Under current law, the city, town, or village, and officers and employees of those municipalities who act in good faith, are immune from liability for acts or omissions related to the provision of a notice that a rental unit is a public nuisance.

This bill expands the law enforcement agencies that may give notice to a property owner that a rental unit is a nuisance to include any law enforcement agency of the state or of a political subdivision of the state and provides immunity to those additional entities and their officers and employees.

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

ASSEMBLY BILL 291**SECTION 1**

1 **SECTION 1.** 704.17 (1) (c) of the statutes is amended to read:

2 704.17 **(1)** (c) A property owner may terminate the tenancy of a week-to-week
3 or month-to-month tenant if the property owner receives written notice from a law
4 enforcement agency ~~of a city, town or village, as defined in s. 165.83 (1) (b),~~ that a
5 nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant's rental unit or was
6 caused by that tenant on the property owner's property and if the property owner
7 gives the tenant written notice requiring the tenant to vacate on or before a date at
8 least 5 days after the giving of the notice. The notice shall state the basis for its
9 issuance and the right of the tenant to contest the termination of tenancy in an
10 eviction action under ch. 799. If the tenant contests the termination of tenancy, the
11 tenancy may not be terminated without proof by the property owner by the greater
12 preponderance of the credible evidence of the allegation in the notice from the law
13 enforcement agency ~~of a city, town or village~~ that a nuisance under s. 823.113 (1) or
14 (1m) (b) exists in that tenant's rental unit or was caused by that tenant.

15 **SECTION 2.** 704.17 (2) (c) of the statutes is amended to read:

16 704.17 **(2)** (c) A property owner may terminate the tenancy of a tenant who is
17 under a lease for a term of one year or less or who is a year-to-year tenant if the
18 property owner receives written notice from a law enforcement agency ~~of a city, town~~
19 ~~or village, as defined in s. 165.83 (1) (b),~~ that a nuisance under s. 823.113 (1) or (1m)
20 (b) exists in that tenant's rental unit or was caused by that tenant on the property
21 owner's property and if the property owner gives the tenant written notice requiring
22 the tenant to vacate on or before a date at least 5 days after the giving of the notice.
23 The notice shall state the basis for its issuance and the right of the tenant to contest
24 the termination of tenancy in an eviction action under ch. 799. If the tenant contests
25 the termination of tenancy, the tenancy may not be terminated without proof by the

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1 property owner by the greater preponderance of the credible evidence of the
2 allegation in the notice from the law enforcement agency of a city, town or village that
3 a nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant's rental unit or was
4 caused by that tenant.

5 **SECTION 3.** 704.17 (3) (b) of the statutes is amended to read:

6 704.17 (3) (b) A property owner may terminate the tenancy of a tenant who is
7 under a lease for a term of more than one year if the property owner receives written
8 notice from a law enforcement agency of a city, town or village, as defined in s. 165.83
9 (1) (b), that a nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant's rental
10 unit or was caused by that tenant on the property owner's property and if the
11 property owner gives the tenant written notice to vacate on or before a date at least
12 5 days after the giving of the notice. The notice shall state the basis for its issuance
13 and the right of the tenant to contest the termination of tenancy in an eviction action
14 under ch. 799. If the tenant contests the termination of tenancy, the tenancy may
15 not be terminated without proof by the property owner by the greater preponderance
16 of the credible evidence of the allegation in the notice from the law enforcement
17 agency of a city, town or village that a nuisance under s. 823.113 (1) or (1m) (b) exists
18 in that tenant's rental unit or was caused by that tenant.

19 **SECTION 4.** 893.80 (7) of the statutes is amended to read:

20 893.80 (7) No suit may be brought against any city, town or village or the state
21 or any governmental subdivision or agency thereof or against any officer, official,
22 agent or employee of any of those entities who, in good faith, acts or fails to act to
23 provide a notice to a property owner that a public nuisance under s. 823.113 (1) or
24 (1m) (b) exists.

25 (END)