

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

**2005-06**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on  
Housing  
(AC-Ho)**

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr\_AC-Ed\_RCP\_pt01a
- 05hr\_AC-Ed\_RCP\_pt01b
- 05hr\_AC-Ed\_RCP\_pt02

*Published Documents*

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

*Information Collected For Or  
Against Proposal*

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

\*\*

➤ Hearing Records ... HR (bills and resolutions)

➤ **05hr\_ab0466\_AC-Ho\_pt01**

➤ Miscellaneous ... Misc

➤ \*\*

# LEGAL ACTION OF WISCONSIN, INC.

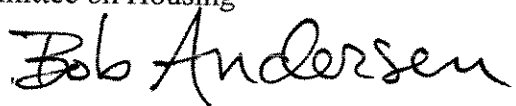
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TO: Assembly Committee on Housing

FROM: Bob Andersen 

RE: AB 466, relating to the time for withholding security deposits, establishing a definition of a "security deposit" and establishing a definition of "surrender."

DATE: June 16, 2005

LAW is opposed to AB 466. I was involved as a member of an ad hoc committee established by DATCP to draft the administrative rules which govern landlord tenant law under ATCP 134.

1. We believe that the bill misunderstands what is required by current law. ATCP 134.06 (4) requires only that a landlord submit a written statement describing the reasons for withholding part or all of the security deposit with 21 days. It does not require that the landlord submit bills for work done by that time or that the charges to be made are the final charges that will occur. The only limitation on the statement of the landlord is that the landlord not *intentionally misrepresent or falsify* the statement that is made. Otherwise the statement that is being made is merely an estimate.  
  
21 days is more than enough time for a landlord to submit such a preliminary statement. The law only requires that the *landlord do something within 21 days* or the landlord loses the right to keep the security deposit, under ATCP 134.06 (2). There is definitely no need to extend that 21 days to 45 days. We have to assume that AB 583 assumes that the law requires a *final billing* for the cost of repairs within 21 days, in attempting to extend that time to 45 days. The law simply does not do that.
2. The bill calls for administrative rules to be adopted to define what is a security deposit. This is superfluous, because the rules already define what is a security deposit and if there is a need for a better definition, DATCP should be requested to change the rule. The fact is that the definition of security deposit in the current rule was reached only after long discussions about what the definition needs to include.
3. The same is true for the definition of "surrender." The definition of surrender was the subject of protracted discussions in the ad hoc committee referred to above. What resulted is the definition that exists in ATCP 134.06 (2)(b). This definition was widely sought by the landlord community and they were very happy with the definition that was achieved by the ad hoc committee.



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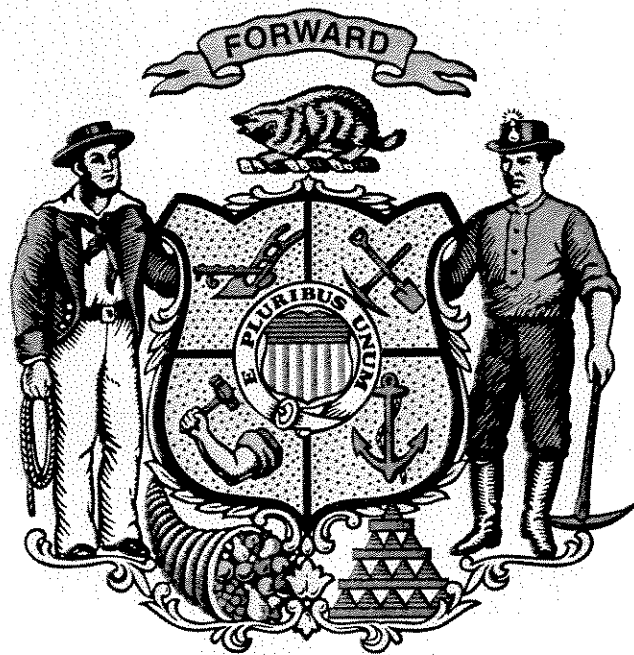
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State of Wisconsin  
Jim Doyle, Governor

**Department of Agriculture, Trade and Consumer Protection**  
Rod Nilsestuen, Secretary

June 16, 2005

The Hon. Representative Steve Wiecekert, Chair, and  
Members of the Committee on Housing  
Room 400 North East, State Capitol

**Reference: AB-466**

The Department of Agriculture, Trade and Consumer Protection is Wisconsin's primary consumer protection agency. We are responsible for ensuring fair trade practices in business including the regulation of landlord-tenant practices under Chapter ATCP 134, Wisconsin Administrative Code. We oppose AB-466 because the proposed law would unfairly harm tenants and not improve the administration of landlord-tenant laws in Wisconsin.

The department originally enacted its landlord-tenant rules in 1980 following extensive negotiations with and testimony from landlords and tenants. These rules have the force and effect of law, and provide a private remedy for tenants.

Since 1980 to the present, the rule has required landlords to either return the security deposit or, if some portion is withheld, to provide a written explanation for the withholding, within 21 days after the tenant has left the premises. The policy concerns supporting this rule include:

- Security deposits are the tenants' money, not the landlords, although Wisconsin law, unlike other states, does not require the landlord to hold the money in escrow or pay the tenants for interest on the deposit.
- During the lengthy discussions with the landlords in 1980, and again during our rule revision in 1999, we made it clear that if the landlords wanted to keep the tenants' money longer than 21 days, they would have to escrow the deposit and pay interest.
- Tenants need their security deposit within 21 days so they can pay the security deposit for their next apartment. Waiting 45 days would cause a significant hardship to tenants, many of whom are among our poorest and most vulnerable citizens.
- Landlords should build costs into the rent, not into security deposits.

Our current definition of "security deposit" is based on the same negotiations that occurred prior to 1980 and again prior to 1999. This definition provides workable guidance while allowing the judicial discretion to assure fairness when considering unforeseen circumstances.

Respectfully,

Janet Jenkins, Administrator,  
Division of Trade and Consumer Protection

*Agriculture generates \$51.5 billion for Wisconsin*