

SENATE BILL 269 (LRB -2269)

An Act to renumber and amend 704.19 (2) (b); and to create 66.0627 (7), 704.16 and 704.44 of the statutes; relating to: terminating a tenancy for imminent threat of serious physical harm, making leases that restrict access to certain services void and unenforceable, and prohibiting the imposition of fees for local government emergency services. (FE)

2007

09-21. S. Introduced by Senators **Coggs, Sullivan, Carpenter, Lassa, Darling, Plale, Olsen, Risser, Hansen, Kreitlow, Schultz, Roessler and Harsdorf**; cosponsored by Representatives **Suder, Grigsby, Richards, Kessler, Sinicki, Parisi, Musser, Zepnick, Berceau, A. Williams, Turner, Townsend, A. Ott, Strachota, Nerison, Tauchen, Smith, Seidel, Pocan, Kaufert, Honadel, Davis, LeMahieu, Kleefisch, Moulton, Nygren and Petrowski**.

09-21. S. Read first time and referred to committee on Labor, Elections and Urban Affairs 337

10-23. S. Senate substitute amendment 1 offered by Senator Coggs (**LRB s0152**) 368

10-30. S. Fiscal estimate received.

11-28. S. Public hearing held.

11-30. S. Senate amendment 1 to Senate substitute amendment 1 offered by Senator Coggs (**LRB a0923**) 445

12-04. S. Executive action taken.

12-04. S. Report adoption of Senate Substitute Amendment 1 recommended by committee on Labor, Elections and Urban Affairs, Ayes 5, Noes 0 448

12-04. S. Report adoption of Senate Amendment 1 to Senate Substitute Amendment 1 recommended by committee on Labor, Elections and Urban Affairs, Ayes 5, Noes 0 449

12-04. S. Report passage as amended recommended by committee on Labor, Elections and Urban Affairs, Ayes 5, Noes 0 449

12-04. S. Available for scheduling.

12-05. S. Placed on calendar 12-11-2007 by committee on Senate Organization.

12-11. S. Read a second time 463

12-11. S. Placed behind Senate Bill 332 on the calendar of 12-11-2007 463

12-11. S. Senator Wirch added as a coauthor 459

12-11. S. Placed at the foot of the calendar of 12-11-2007 464

12-11. S. Senate amendment 1 to Senate substitute amendment 1 **adopted** 464

12-11. S. Senate amendment 2 to Senate substitute amendment 1 offered by Senators Lazich and Grothman (**LRB a0973**) 464

12-11. S. Senate amendment 2 to Senate substitute amendment 1 withdrawn and returned to author 464

12-11. S. Senate amendment 3 to Senate substitute amendment 1 offered by Senators Lazich and Grothman (**LRB a0988**) 464

12-11. S. Senate amendment 3 to Senate substitute amendment 1 rejected, Ayes 23, Noes 10 464

12-11. S. Senate substitute amendment 1 **adopted** 465

12-11. S. Ordered to a third reading 465

12-11. S. Rules suspended 465

12-11. S. Read a third time and **passed** 465

12-11. S. Ordered immediately messaged 465

12-14. A. Received from Senate 404

12-14. A. Read first time and referred to committee on Housing 405

2008

01-24. A. Public hearing held.

02-13. A. Assembly amendment 1 offered by Representative Suder (**LRB a1127**) 501

02-14. A. Executive action taken.

02-21. A. Report Assembly Amendment 1 adoption recommended by committee on Housing, Ayes 7, Noes 0 520

02-21. A. Report concurrence as amended recommended by committee on Housing, Ayes 7, Noes 0 520

02-21. A. Referred to committee on Rules 520

03-10. A. Placed on calendar 3-12-2008 by committee on Rules.

03-11. A. Made a special order of business at 11:24 A.M. on 3-12-2008 pursuant to Assembly Resolution 18 660

03-12. A. Read a second time.

03-12. A. Assembly amendment 1 **adopted**.

03-12. A. Ordered to a third reading.

03-12. A. Rules suspended.

03-12. A. Read a third time and **concurred in** as amended.

03-12. A. Ordered immediately messaged.

03-13. S. Received from Assembly amended and concurred in as amended, Assembly amendment 1 adopted.

03-13. S. Available for scheduling.

03-13. S. Rules suspended and taken up.

03-13. S. Assembly amendment 1 **concurred in**.

CD

03-13. S. Action ordered immediately messaged.

2007
ENROLLED BILL

07en 5 B-269

ADOPTED DOCUMENTS:

Orig

Engr

5 SubAmdt 1 ✓

075 0152/1 ✓

Amendments to above (if none, write "NONE"):

SA1 - a 0923/1 ✓

AA1 - a 1127/4 ✓

Corrections - show date (if none, write "NONE"):

None ✓

Topic

Rel

3-14-08

Date

JR Miller

Enrolling Drafter

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2007 SENATE BILL 269**

October 23, 2007 - Offered by Senator COGGS.

1 **AN ACT to renumber and amend** 704.19 (2) (b); and **to create** 704.16 and 704.44
 2 of the statutes; **relating to:** terminating a tenancy for imminent threat of
 3 INS AAI-1 serious physical ~~harm~~ and making leases that restrict access to certain services
 4 void and unenforceable. INSERT SAI-1
INS, AAI-2

Analysis by the Legislative Reference Bureau

Under current law, if leased premises become untenable because of damage by fire, water, or other casualty, because of a condition that is hazardous to the tenant's health, or because the tenant's health or safety is materially affected by lack of repairs to the premises, the tenant may remove from the premises and is not responsible for rent for the period after the premises became untenable. This substitute amendment provides that a tenant may terminate his or her tenancy and remove from the premises if the tenant or a child of the tenant faces an imminent threat of serious physical harm from another person if the tenant remains on the premises. The tenant must provide notice to the landlord and a certified copy of: 1) an injunction order protecting the tenant or the child from the person; 2) a condition of release ordering the person not to contact the tenant; 3) a criminal complaint alleging that the person sexually assaulted or stalked the tenant or the child; or 4) a criminal complaint filed against the person as a result of an arrest for committing a domestic abuse offense against the tenant. If the tenant provides the required certified copy and proper notice of the termination of the tenancy to the landlord and

removes from the premises, the tenant is not responsible for any rent after the end of the month in which he or she provides the notice or removes from the premises, whichever is later.

Under current law, a landlord may not increase rent, decrease services, bring an action for possession of the premises, refuse to renew a lease, or threaten to do any of those things, if there is a preponderance of evidence that the landlord's action or inaction is in retaliation against the tenant for making a good faith complaint about a defect in the premises to a public official or housing code enforcement agency, for complaining about a violation of a local housing code, or for exercising a legal right related to residential tenancies. This substitute amendment provides that a lease is void and unenforceable if it allows a landlord to increase rent, decrease services, bring an action for possession of the premises, refuse to renew a lease, or threaten to do any of those things, because the tenant has contacted an entity for law enforcement services, health services, or safety services.

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

INS. AAI-3 ✓
INS. AAI-4 ✓

1 SECTION 1. 704.16 of the statutes is created to read:

2 **704.16 Termination of tenancy for imminent threat of serious physical**

3 **harm. (1) TERMINATING TENANCY.** A tenant may terminate his or her tenancy and
4 remove from the premises if both of the following apply:

5 (a) The tenant or a child of the tenant faces an imminent threat of serious
6 physical harm from another person if the tenant remains on the premises.

7 (b) The tenant provides the landlord with notice in the manner provided under
8 s. 704.21 and with a certified copy of any of the following:

9 1. An injunction order under s. 813.12 (4) protecting the tenant from the person.

10 2. An injunction order under s. 813.122 protecting a child of the tenant from
11 the person.

12 3. An injunction order under s. 813.125 (4) protecting the tenant or a child of
13 the tenant from the person, based on the person's engaging in an act that would

1 constitute sexual assault under s. 940.225, 948.02, or 948.025, or stalking under s.
2 940.32, or attempting or threatening to do the same.

3 4. A condition of release under ch. 969 ordering the person not to contact the
4 tenant.

5 5. A criminal complaint alleging that the person sexually assaulted the tenant
6 or a child of the tenant under s. 940.225, 948.02, or 948.025.

7 6. A criminal complaint alleging that the person stalked the tenant or a child
8 of the tenant under s. 940.32.

9 7. A criminal complaint that was filed against the person as a result of the
10 person being arrested for committing a domestic abuse offense against the tenant
11 under s. 968.075.

12 (2) NOT LIABLE FOR RENT. If a tenant removes from the premises because of a
13 threat of serious physical harm to the tenant or to a child of the tenant from another
14 person and provides the landlord with a certified copy specified under sub. (1) and
15 with notice that complies with s. 704.21, the tenant shall not be liable for any rent
16 after the end of the month in which he or she provides the notice or removes from the
17 premises, whichever is later.

INS. SAI-3 -

INS. SAI-4 -

INS. SAI-5 -

INS. AAI-6 -

18 SECTION 2. 704.19 (2) (b) of the statutes is renumbered 704.19 (2) (b) 1. and
19 amended to read:

20 704.19 (2) (b) 1. A periodic tenancy can be terminated by notice under this
21 section only at the end of a rental period. In the case of a tenancy from year-to-year
22 the end of the rental period is the end of the rental year even though rent is payable
23 on a more frequent basis. Nothing

24 2. Notwithstanding subd. 1., nothing in this section prevents termination of a
25 tenancy before the end of a rental period because of an imminent threat of serious

1 physical harm, as provided in s. 704.16, or for nonpayment of rent or breach of any
2 other condition of the tenancy, as provided in s. 704.17.

3 SECTION 3. 704.44 of the statutes is created to read:

4 **704.44** ~~Lease that restricts access to certain services is void.~~ INS. SAI-6 / A lease is INS. SAI-7
5 void and unenforceable if it allows a landlord in a residential tenancy to do any of the
6 following because a tenant has contacted an entity for law enforcement services,
7 health services, or safety services:

- 8 (1) Increase rent.
- 9 (2) Decrease services.
- 10 (3) Bring an action for possession of the premises.
- 11 (4) Refuse to renew a lease. INS. SAI-8 /
- 12 (5) Threaten to take any action under subs. (1) to (4).

13 SECTION 4. Initial applicability.

14 (1) TENANTS AND LANDLORDS. The treatment of sections 704.16, 704.19 (2) (b),
15 and 704.44 of the statutes first applies to ~~leases~~ INS. SAI-9 / entered into, modified, or renewed
16 on the effective date of this subsection.

17 (END)

INS. AAI-7 /

**SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2007 SENATE BILL 269**

November 30, 2007 - Offered by Senator COGGS.

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 1, line 3: delete "leases" and substitute "rental agreements". SAI-1
 - 3 **2.** Page 2, line 3: before "tenant" insert "residential". SAI-2
 - 4 **3.** Page 3, line 12: before "tenant" insert "residential". SAI-3
 - 5 **4.** Page 3, line 16: after "month" insert "following the month". SAI-4
 - 6 **5.** Page 3, line 17: after "later." insert "The tenant's liability for rent under this
7 subsection is subject to the landlord's duty to mitigate damages as provided in s.
8 704.29 (2).". SAI-5
 - 9 **6.** Page 4, line 4: delete "**Lease**" and substitute "**Rental agreement**". SAI-6
 - 10 **7.** Page 4, line 4: delete "lease" and substitute "rental agreement". SAI-7
 - 11 **8.** Page 4, line 11: delete "lease" and substitute "rental agreement". SAI-8

**ASSEMBLY AMENDMENT 1,
TO 2007 SENATE BILL 269**

February 13, 2008 - Offered by Representative SUDER.

1 At the locations indicated, amend the bill, as shown by senate substitute
2 amendment 1, as follows:

3 **1.** Page 1, line 3: delete "harm and" and substitute "harm,". AA1-1 ✓

4 **2.** Page 1, line 4: after "unenforceable" insert ", and prohibiting the imposition
5 of fees for certain local government law enforcement services". AA1-2 ✓

6 **3.** Page 2, line 1: before that line insert: AA1-3 ✓

7 "SECTION 1e. 66.0627 (7) of the statutes is created to read:

8 66.0627 (7) Notwithstanding sub. (2), no city, village, town, or county may
9 enact an ordinance, or enforce an existing ordinance, that imposes a fee on the owner
10 or occupant of property for a call for assistance that is made by the owner or occupant
11 requesting law enforcement services that relate to any of the following:

12 (a) Domestic abuse, as defined in s. 813.12 (1) (am).

13 (b) Sexual assault, as described under ss. 940.225, 948.02, and 948.025.

AA1-3

(c) Stalking, as described in s. 940.32.

SECTION 1m. 704.01 (3m) of the statutes is created to read:

704.01 (3m) "Rental agreement" means an oral or written agreement between a landlord and tenant, for the rental or lease of a specific dwelling unit or premises, in which the landlord and tenant agree on the essential terms of the tenancy, such as rent. "Rental agreement" includes a lease. "Rental agreement" does not include an agreement to enter into a rental agreement in the future."

AA1-4

4. Page 2, line 1: delete "SECTION 1" and substitute "SECTION 1s".

5. Page 2, line 3: after "TERMINATING TENANCY" insert "BY TENANT".

AA1-5

6. Page 3, line 17: after that line insert:

AA1-6

(3) TERMINATION OF TENANCY BY LANDLORD. (a) In this subsection, "offending tenant" is a tenant whose tenancy is being terminated under this subsection.

(b) A landlord may terminate the tenancy of an offending tenant if all of the following apply:

1. The offending tenant commits one or more acts, including verbal threats, that cause another tenant, or a child of that other tenant, who occupies a dwelling unit in the same single-family rental unit, multiunit dwelling, or apartment complex as the offending tenant to face an imminent threat of serious physical harm from the offending tenant if the offending tenant remains on the premises.

2. The offending tenant is the named offender in any of the following:

a. An injunction order under s. 813.12 (4) protecting the other tenant from the offending tenant.

b. An injunction order under s. 813.122 protecting the child of the other tenant from the offending tenant.

AA1-6

1 c. An injunction order under s. 813.125 (4) protecting the other tenant or the
2 child of the other tenant from the offending tenant, based on the offending tenant's
3 engaging in an act that would constitute sexual assault under s. 940.225, 948.02, or
4 948.025, or stalking under s. 940.32, or attempting or threatening to do the same.

5 d. A condition of release under ch. 969 ordering the offending tenant not to
6 contact the other tenant.

7 e. A criminal complaint alleging that the offending tenant sexually assaulted
8 the other tenant or the child of the other tenant under s. 940.225, 948.02, or 948.025.

9 f. A criminal complaint alleging that the offending tenant stalked the other
10 tenant or the child of the other tenant under s. 940.32.

11 g. A criminal complaint that was filed against the offending tenant as a result
12 of the offending tenant being arrested for committing a domestic abuse offense
13 against the other tenant under s. 968.075.

14 3. The landlord gives the offending tenant written notice that complies with s.
15 704.21 requiring the offending tenant to vacate on or before a date that is at least 5
16 days after the giving of the notice. The notice shall state the basis for its issuance
17 and the right of the offending tenant to contest the termination of tenancy in an
18 eviction action under ch. 799. If the offending tenant contests the termination of
19 tenancy, the tenancy may not be terminated without proof by the landlord by the
20 greater preponderance of the credible evidence of the allegations against the
21 offending tenant.”.

22 7. Page 4, line 16: after that line insert:

AAI-7 ✓

1
2
3
4

“(2m) LOCAL GOVERNMENT LAW ENFORCEMENT SERVICES. The treatment of section 66.0627 (7) of the statutes first applies to a call that is made for law enforcement services on the effective date of this subsection.”

(END)