

2007 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB269)

Received: 11/28/2007

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Spencer Coggs (608) 266-2500**

By/Representing: **Russ Whitesel**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to: **Russ.Whitesel@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Changes to terminating tenancy for threat of harm

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>Required</u>
/?	pkahler 11/29/2007	wjackson 11/29/2007		_____			
/1			jfrantze 11/29/2007	_____	lparisi 11/29/2007	lparisi 11/29/2007	

FE Sent For:

<END>

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/?	pkahler	1 WLJ 11/29		<i>[Signature]</i>			

FE Sent For:

<END>

**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 **serious physical harm and making ^{rental agreements} leases that restrict access to certain services**
4 **void and unenforceable.**

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:

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.** ^{residence} 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 ^{residential} 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 ^{following the month} in which he or she provides the notice or removes from the
17 premises, whichever is later, ^{provided the landlord has the duty to}
^{mitigate damages still have to}

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 *Rental Agreement*
5 **704.44 Lease that restricts access to certain services is void.** A *rental agreement* lease is
6 void and unenforceable if it allows a landlord in a residential tenancy to do any of the
7 following because a tenant has contacted an entity for law enforcement services,
8 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 *rental agreement* lease.
- 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 *rental agreement & S* entered into, modified, or renewed
16 on the effective date of this subsection.

17 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa0923/1

PJK./.....

WLj

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE AMENDMENT,

TO SENATE SUBSTITUTE AMENDMENT 1, ✓

TO 2007 SENATE BILL 269 ✓

today,
please
(in 11-29)

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 ✓ 1. Page 1, line 3: delete "leases" and substitute "rental agreements".
- 3 ✓ 2. Page 2, line 3: before "tenant" insert "residential".
- 4 ✓ 3. Page 3, line 12: before "tenant" insert "residential".
- 5 ✓ 4. Page 3, line 16: after "month" insert "following the month".
- 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).".
- 9 ✓ 6. Page 4, line 4: delete "Lease" and substitute "Rental agreement".
- 10 ✓ 7. Page 4, line 4: delete "lease" and substitute "rental agreement".

