

2009 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB543)

Received: **02/24/2010**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**

By/Representing: **himself**

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: **Rep.Black@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Terminate lease at death of tenant

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 02/25/2010 | nmatzke 03/01/2010 | | _____ | | | |
| /P1 | | | phenry 03/01/2010 | _____ | mbarman 03/01/2010 | | |
| /1 | pkahler 03/01/2010 | nmatzke 03/02/2010 | rschluet 03/02/2010 | _____ | lparisi 03/02/2010 | lparisi 03/02/2010 | |
| /2 | pkahler | nmatzke | rschluet | _____ | sbasford | sbasford | |

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| | 03/02/2010 | 03/02/2010 | 03/02/2010 | _____ | 03/02/2010 | 03/02/2010 | |

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| /1 | pkahler 03/01/2010 | nmatzke 03/02/2010 <i>nwn 13/2</i> | rschluet 03/02/2010 <i>27/20</i> | <i>fm 3/2</i> _____ | lparisi 03/02/2010 | lparisi 03/02/2010 | |

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| /? | pkahler | /P1 ^{nwn} 3/1 | 3/1 ph | 3/1 ph/b | | | |

FE Sent For:

<END>

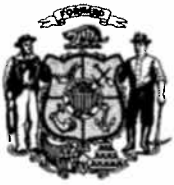
Kahler, Pam

From: Rep.Black
Sent: Wednesday, February 24, 2010 4:10 PM
To: Kahler, Pam
Cc: Zimmerman, Terri
Subject: Ab 543

Hi Pam

I need an amendment on AB 543. The amendment will essentially replace the current language in the bill

It would read "The lease will be terminated with 60 days of notification of the tenant's death or at the end of the lease, whichever is less"



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0306/5
PJK: f:....
nwn

PI

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2009 ASSEMBLY BILL 543

SAV
D-into
3/2
(w/2-25)

Report

1 AN ACT ^{Report} relating to: termination of a deceased tenant's tenancy.

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

2 SECTION 1. 704.165[^] of the statutes is created to read:

3 **704.165 Termination of tenancy at death of tenant.** (1) (a) Except as
4 provided in par. (b), if a residential tenant dies, his or her tenancy is terminated on
5 the earlier of the following:

6 1. Sixty days after the landlord receives notice, is advised, or otherwise becomes
7 aware of the tenant's death.

8 2. The expiration of the term of the rental agreement.

9 (b) ^{le} In the case of the death of a residential periodic tenant or tenant at will, the
10 tenancy is terminated 60 days after the landlord receives notice, is advised, or
11 otherwise becomes aware of the tenant's death.

→ Notwithstanding s. 704.19[^] in

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0306/dn

PJK:.....

nwn

Date

Do you want to be more specific about the notice to the landlord of the death of the tenant or is what I have provided okay? ✓

Is the manner in which I have addressed rent what you intended? ✓

Do you want to delay the effective date? ✓

I have provided an initial applicability to tenancies and rental agreements entered into on or after the effective date to avoid unconstitutional impairment of contracts. That may still be an issue, however, as well as impingement on the freedom to contract. Of course, there is precedent for allowing one party to terminate a tenancy unilaterally during the term of a rental agreement under s. 704.16.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0306/P1dn
PJK:nwn:ph

March 1, 2010

Do you want to be more specific about the notice to the landlord of the death of the tenant or is what I have provided okay?

Is the manner in which I have addressed rent what you intended?

Do you want to delay the effective date?

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Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0306/D1
PJK:nwn:ph

✓ m is run

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2009 ASSEMBLY BILL 543

Tuesday

Regen.

1 AN ACT *to create* 704.165 of the statutes; **relating to:** termination of a deceased
2 tenant's tenancy.

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8 aware of the tenant's death.

9 2. The expiration of the term of the rental agreement.

Kahler, Pam

From: Zimmerman, Terri
Sent: Tuesday, March 02, 2010 11:30 AM
To: Kahler, Pam
Subject: RE: Sub to AB 543

I'll send back the stripes.

From: Kahler, Pam
Sent: Tuesday, March 02, 2010 11:29 AM
To: Zimmerman, Terri
Subject: Sub to AB 543

Terri:

As I was drafting the bill for Senator Risser's office based on your sub, I realized that I needed to make a change. I can redraft your sub to include the change and an analysis, too. If you haven't introduced it yet and you'd like me to do that, please send the stripes back.

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682



revision

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2009 ASSEMBLY BILL 543

today

Insert A

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10 (b) Notwithstanding s. 704.19, in the case of the death of a residential periodic
11 tenant or tenant at will, the tenancy is terminated 60 days after the landlord receives
12 notice, is advised, or otherwise becomes aware of the tenant's death.

J ✓

1

(2) If the deceased tenant was the only adult tenant of the premises, the

2

deceased tenant or his or her estate shall not be liable for any rent after the
3 termination of his or her tenancy. Any liability of the deceased tenant or his or her
4 estate for rent under this subsection is subject to the landlord's duty to mitigate
5 damages as provided in s. 704.29 (2).

6

(3) Nothing in this section relieves another adult tenant of the deceased
7 tenant's premises from any obligation under a rental agreement or any other liability
8 to the landlord.

9

SECTION 2. Initial applicability.

10

(1) This act first applies to tenancies and rental agreements that are entered
11 into on the effective date of this subsection.

12

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0306²ins

PJK:.....

r m not run

INSERT A

Analysis by the Legislative Reference Bureau

Under current law, a landlord may terminate the tenancy of a tenant for various reasons, such as nonpayment of rent, breaching a condition of the tenant's agreement, or upon notice from law enforcement that the rental premises is being used as a drug or criminal gang house. Current law allows a tenant to terminate his or her tenancy if he or she faces an imminent threat of serious physical harm from another person by remaining on the rental premises.

This substitute amendment provides that if a tenant dies during the term of his or her tenancy, the tenancy is terminated 60 days after the landlord receives notice, is advised, or otherwise becomes aware of the tenant's death, or at the end of the term of the rental agreement if that is shorter than 60 days. The deceased tenant and his or her estate are not liable for any rent after the tenancy is terminated. The tenant's death, however, does not relieve any other adult tenant of the premises from responsibility for payment of rent.

(END OF INSERT A)