



WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

<p>2011 Senate Bill 466</p>	<p>Senate Amendments 1 and 2 to Senate Substitute Amendment 1 and Senate Substitute Amendment 1</p>
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2011 SENATE BILL 466 AND AMENDMENTS

Senate Substitute Amendment 1 to Senate Bill 466, and Senate Amendments 1 and 2 to the substitute amendment, revise certain provisions of landlord-tenant law as described below.

Abandoned Property

The Bill

The bill allows a landlord to dispose of any abandoned property at the landlord's discretion.

Senate Substitute Amendment 1

The substitute amendment maintains the landlord's discretion to dispose of abandoned property, but specifies that prescriptions and medical equipment must be kept for seven days and that notice must be provided to the tenant and a known secured party for an abandoned manufactured home, mobile home, and titled vehicle before disposing of the property.

Senate Amendment 1 to the Substitute Amendment

Senate Amendment 1 to the substitute amendment specifies that if a landlord does not intend to store personal property left behind by a tenant, the landlord must provide written notice of that intent at the time of entering into, or renewing, the rental agreement.

Withholding From Security Deposit

The Bill

The bill allows a landlord to withhold amounts from a security deposit that are reasonably necessary to pay for damages to the property, and for unpaid rent or utilities. The bill prohibits a landlord from withholding any amount from a security deposit for normal wear and tear, or other damages or losses for which the tenant cannot reasonably be held responsible. In doing so, the bill codifies provisions found in s. ATCP 134.06 (3), Wis. Adm. Code.

Senate Substitute Amendment 1

The substitute amendment maintains this provision.

Timing for Return of Security Deposit

The Bill

The bill requires a landlord to return a security deposit to a tenant who has vacated the premises before the termination date of the rental agreement within 21 days after the termination date of the rental agreement, or within 21 days of a new tenant's occupancy if that begins before the first tenant's termination date.

Senate Substitute Amendment 1

The substitute amendment maintains this provision, and also specifies the return of a security deposit within 21 days after a tenant has vacated the premises on the rental agreement's termination date, the landlord learns that the tenant has vacated if after the termination date, or after eviction. In doing so, the substitute amendment codifies provisions found in s. ATCP 134.06 (2) (a), Wis. Adm. Code.

Disclosure of Code Violations

The Bill

The bill requires a landlord to provide prior to the signing of a rental agreement a disclosure of any uncorrected building code or housing code violations.

Senate Substitute Amendment 1

The substitute amendment maintains this requirement.

Senate Amendment 2 to the Substitute Amendment

Senate Amendment 2 to the substitute amendment specifies that a landlord is required to provide this disclosure of an uncorrected building code or housing code violation if the landlord has actual

knowledge of the violation, rather than if the landlord has received notice of the violation from a local housing code enforcement agency.

Check-In Sheet

The Bill

The bill requires a landlord to provide with the signing of a rental agreement a standardized check-in sheet for the condition of the premises.

Senate Substitute Amendment 1

The substitute amendment maintains this requirement but requires the check-in sheet to be provided at the time of occupancy, rather than at the signing of the rental agreement, and gives seven days for the tenant to return the completed form. The substitute amendment also specifies that a check-in sheet is not required for rental of a plot of land that is used for a manufactured home or a mobile home.

Request for Repair

The Bill

The bill requires a tenant to first notify a landlord in writing, and to allow adequate time for the landlord to address, any necessary repair or maintenance of the premises before reporting the problem to a building inspector, elected public official, or local housing code enforcement agency.

Senate Substitute Amendment 1

The substitute amendment does not include this requirement.

Severability and Provisions Making a Rental Agreement Void

The Bill

The bill specifies that certain so-called retaliatory provisions of a rental agreement are void and unenforceable, but such provisions do not render the entire rental agreement void and unenforceable. The bill also provides that if any provision of a rental agreement is found to be void or unenforceable by a court, or is rendered void or unenforceable by reason of a statute or administrative regulation, the provision is severable from other provisions of the rental agreement that are not affected and that remain valid and enforceable.

Senate Substitute Amendment 1

The substitute amendment maintains the specification that a void provision is severable from other unaffected provisions of a rental agreement, but specifies that the so-called retaliatory provisions do render the entire rental agreement void and unenforceable. In doing so, the bill also codifies all

prohibited rental agreement provisions listed in s. ATCP 134.08, Wis. Adm. Code, and states that these are also considered retaliatory practices.

Senate Amendment 1 to the Substitute Amendment

Senate Amendment 1 to the substitute amendment specifies that a provision in a rental agreement that allows a landlord to terminate the tenancy if a crime is committed in or on the rental property, even if the tenant could not reasonably have prevented the crime, is a prohibited provision, and therefore, renders the entire rental agreement void and unenforceable.

Senate Amendment 2 to the Substitute Amendment

Senate Amendment 2 to the substitute amendment specifies that the prohibited provisions that render an agreement void and unenforceable apply only to a residential rental agreement.

Damages to Landlord

The Bill

The bill revises damages to a landlord for a tenant who continues to occupy the premises after eviction or beyond the termination date of the rental agreement from discretionary to mandatory damages.

Senate Substitute Amendment 1

The substitute amendment maintains this provision.

Acceptance of Past Due Rent

The Bill

The bill specifies that acceptance of any amount of past due rent by a landlord cannot be the sole basis for dismissal of an eviction action for failure to pay rent.

Senate Substitute Amendment 1

The substitute amendment maintains this provision.

Municipal Moratorium on Eviction Actions

The Bill

The bill prohibits a city, village, town, or county from imposing a moratorium on eviction actions.

Senate Substitute Amendment 1

The substitute amendment maintains this provision.

Tenant Remedies

The Bill

The bill does not specify any enforcement for the provisions of the bill.

Senate Substitute Amendment 1

The substitute amendment specifies that any violation of the statutory chapter on landlords and tenants, including the provisions of this bill, may also constitute unfair methods of competition or unfair trade practices that are enforceable by the Department of Agriculture, Trade and Consumer Protection (DATCP), and by an individual right of action that allows recovery of reasonable attorney's fees and twice the amount of any pecuniary loss. The substitute amendment also specifies that regulations in this area by DATCP cannot change any of the rights or duties arising under the statutory chapter on landlords and tenants.

Legislative History

Senate Bill 466 was introduced on February 13, 2012, by Senator Lasee. The substitute amendment was introduced on February 29, 2012, by Senator Lasee, and Senate Amendment 1 to the substitute amendment was introduced on March 6, 2012, by Senator Wanggaard.

On March 9, 2012, the Senate Committee on Insurance and Housing recommended adoption of the amendment to the substitute amendment on a vote of Ayes, 6; Noes, 1; recommended adoption of the substitute amendment, as amended, on a vote of Ayes, 5; Noes, 2; and recommended adoption of the bill, as amended, on a vote of Ayes, 4; Noes, 3.

On March 13, 2012, Senate Amendment 2 to the substitute amendment was introduced by Senator Lasee. That same day the Senate adopted Senate Amendments 1 and 2 to the substitute amendment on voice votes, and adopted the substitute amendment, as amended, on a vote of Ayes, 17; Noes, 16.

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