



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1931/P
PJK&ARG:sac:ja
stays r m is run P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(in 4-5)

regenerate ↓

1 AN ACT to repeal 704.28 (4) (d) and 704.44 (9); to renumber and amend
2 66.0104 (3), 349.13 (3m), 704.05 (5) (bf), 799.45 (3) (am) (intro.) and 799.45 (3)
3 (am) 1. to 7.; to amend 20.505 (7) (h), 704.07 (2) (bm) 1., 704.07 (3) (a), 704.08,
4 704.28 (2), 704.28 (4) (b), 704.95, 799.06 (2), 799.40 (1) and 799.40 (1m); and to
5 create 66.0104 (2) (c), 66.0104 (2) (d), 66.0104 (3) (b), 349.13 (3m) (a) and (c),
6 704.05 (5) (bf) 2., 704.28 (5), 799.45 (3) (am) 2m., 799.45 (3) (am) 3m., 799.45 (3)
7 (am) 4m., 799.45 (3) (am) 5m., 799.45 (3) (am) 7m., 799.45 (3) (am) 8m., 799.45
8 (3) (am) 9m. and 895.489 of the statutes; relating to: miscellaneous provisions
9 related to rental and automobile towing practices, prohibitions on enacting

↓
vehicle

- ① ordinances that place certain limitations or requirements on landlords, and
- ② making an appropriation → insert 2-1AG

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

3 SECTION 1. 20.505 (7) (h) of the statutes is amended to read:

4 20.505 (7) (h) *Funding for the homeless*. All moneys received from interest on
 5 real estate trust accounts under s. 452.13 for grants under s. 16.307, and all moneys
 6 received under s. ss. 704.05 (5) (a) 2. and 799.45 (3) (am) 4m., for grants to agencies
 7 and shelter facilities for homeless individuals and families under s. 16.308 (2) (a) and
 8 (b).

9 SECTION 2. 66.0104 (2) (c) of the statutes is created to read:

10 66.0104 (2) (c) No city, village, town, or county may enact an ordinance that
 11 limits a residential tenant's responsibility, or a residential landlord's right to recover,
 12 for any damage, ^{or} waste, ^{to} or neglect of the premises resulting from the tenant's
 13 negligence or improper use ^{occupancy} of the premises, or for any other costs, expenses, fees,
 14 payments, or damages for which the tenant is responsible under the rental
 15 agreement or applicable law.

****NOTE: I have included county ordinances in this prohibition. Please let me know if you really do not want to include them.

16 SECTION 3. 66.0104 (2) (d) of the statutes is created to read:

that occurs during

1 66.0104 (2) (d) No city, village, town, or county may enact an ordinance that
2 requires a landlord to communicate to tenants any information that is not required
3 to be communicated to tenants under federal or state law. *Insert 3-3*

*****NOTE: Do you want to limit this to residential landlords and tenants, too?*

4 SECTION 4. 66.0104 (3) of the statutes is renumbered 66.0104 (3) (a) and
5 amended to read:

6 66.0104 (3) (a) If a city, village, town, or county has in effect on December 21,
7 2011, an ordinance that is inconsistent with sub. (2) (a) or (b), the ordinance does not
8 apply and may not be enforced.

9 SECTION 5. 66.0104 (3) (b) of the statutes is created to read:

10 66.0104 (3) (b) If a city, village, town, or county has in effect on the effective date
11 of this paragraph [LRB inserts date], an ordinance that is inconsistent with sub.
12 (2) (c) or (d), the ordinance does not apply and may not be enforced.

13 SECTION 6. 349.13 (3m) of the statutes is renumbered 349.13 (3m) (b) and
14 amended to read:

15 349.13 (3m) (b) ~~No~~ If a private parking area is not properly posted and a vehicle
16 involved in trespass parking on a is parked in the private parking lot or facility shall
17 be removed area and is not authorized to be parked there, the vehicle may be removed

18 immediately without the permission of the vehicle owner, ~~except~~ upon the issuance
19 of a repossession judgment or upon ~~formal complaint and the issuance of a citation~~
20 for illegal parking ~~issued by a traffic or police officer~~ *strike* issued by a traffic or police officer *(plain)*, (d) and (e)

21 SECTION 7. 349.13 (3m) (a), ~~and~~ *e* (c) of the statutes are created to read:

22 349.13 (3m) (a) In this subsection:

, at the vehicle owner's expense,

SECTION 7

insert
4-1 AG →

①

² 1. "Private parking area" means any private parking lot, private street, private parking facility, or other private property where any motor vehicle is or could be parked.

④

³ 2. "Properly posted" means there is clearly visible notice that an area is private property and that vehicles that are not authorized to park in this area may be immediately removed.

⑨

(c) If a private parking area is properly posted and a vehicle is parked in the private parking area and is not authorized to be parked there, the vehicle may be removed immediately ^{at the vehicle owner's expense,} without the permission of the vehicle owner, regardless of whether a citation is issued for illegal parking by a traffic officer.

insert
4-10 AG →

⑩

SECTION 8. 704.05 (5) (bf) of the statutes is renumbered 704.05 (5) (bf) 1. and amended to read:

~~704.05 (5) (bf) 1. If the landlord does not intend to store personal property left behind by a tenant, except as provided in par. (am), the landlord shall provide written notice to a tenant when the tenant enters into, and when the tenant renews, a rental agreement that the landlord will not store any items of personal property that the tenant leaves behind when the tenant removes from the premises, or if the tenant is evicted from the premises, except as provided in par. (am).~~

~~3. Notwithstanding pars. (a), (am), and (b), if the landlord does not provide to a tenant the notice required under this paragraph subd. 1. as required under subd. 2., the landlord shall comply with s. 704.05, 2009 stats., with respect to any personal property left behind by the tenant when the tenant removes from the premises.~~

SECTION 9. 704.05 (5) (bf) 2. of the statutes is created to read:

Insert 5-3

1 704.05 (5) (bf) 2. A landlord shall provide the written notice under subd. 1.
2 when a tenant enters into or renews a rental agreement on or after the effective date
3 of this subdivision [LRB inserts date].

4 SECTION 10. 704.07 (2) (bm) 1. of the statutes is amended to read:

5 704.07 (2) (bm) 1. The landlord has actual knowledge received ^{written} notice of the
6 violation from a local housing code enforcement agency.

7 SECTION 11. 704.07 (3) (a) of the statutes is amended to read:

Insert 5-14

8 704.07 (3) (a) If the premises are damaged by, including by an infestation of
9 insects or other pests, due to the negligence or improper use of the premises by the
10 tenant, the landlord may elect to allow the tenant must to remediate or repair the
11 damage and restore the appearance of the premises by redecorating. However, the
12 landlord may elect to undertake the remediation, repair, or redecoration, and in such
13 case the tenant must reimburse the landlord for the reasonable cost thereof; the cost
14 to the landlord is presumed reasonable unless proved otherwise by the tenant.

15 SECTION 12. 704.08 of the statutes is amended to read:

16 704.08 ~~Information check-in~~ Check-in sheet. A landlord shall provide to
17 a new residential tenant when the tenant commences his or her occupancy of the
18 premises a ~~standardized information check-in sheet that contains an itemized~~
19 ~~description of the tenant may use to make comments, if any, about the condition of~~
20 the premises at the time of check-in. The tenant shall be given 7 days from the date
21 the tenant commences his or her occupancy to complete the check-in sheet and
22 return it to the landlord. The landlord is not required to provide the ~~information~~
23 check-in sheet to a tenant upon renewal of a rental agreement. This section does not
24 apply to the rental of a plot of ground on which a manufactured home, as defined in

1 s. 704.05 (5) (b) 1. a., or a mobile home, as defined in s. 704.05 (5) (b) 1. b., may be
2 located.

3 **SECTION 13.** 704.28 (2) of the statutes is amended to read:

4 704.28 (2) NONSTANDARD RENTAL PROVISIONS. Except as provided in sub. (3), a
5 rental agreement may include one or more nonstandard rental provisions that
6 authorize the landlord to withhold amounts from the tenant's security deposit for
7 reasons not specified in sub. (1) (a) to (e). Any such nonstandard rental provisions
8 shall be provided to the tenant in a separate written document entitled
9 "NONSTANDARD RENTAL PROVISIONS." The landlord shall specifically identify
10 ~~and discuss~~ ^{↓ strike} each nonstandard rental provision with the tenant before the tenant
11 enters into a rental agreement with the landlord. If the tenant signs his or her name,
12 or writes his or her initials, by a nonstandard rental provision, it is rebuttably
13 presumed that the landlord has specifically identified ~~and discussed~~ ^{↓ strike} the
14 nonstandard rental provision with the tenant and that the tenant has agreed to it.

15 **SECTION 14.** 704.28 (4) (b) of the statutes is amended to read:

16 704.28 (4) (b) If the tenant vacates the premises before the termination date
17 of the rental agreement or if the tenant is evicted, the date on which the tenant's
18 rental agreement terminates or, if the landlord re-rents the premises before the
19 tenant's rental agreement terminates, the date on which the new tenant's tenancy
20 begins.

→ *****NOTE:** Since you wanted the timing for the return of the security deposit after
eviction to be the same as the timing for the return if the tenant vacates early, I combined
the two into one. However, this timing will not work for an eviction that occurs because
the tenant has held over after the termination of the lease.

21 **SECTION 15.** 704.28 (4) (d) of the statutes is repealed.

22 **SECTION 16.** 704.28 (5) of the statutes is created to read:

1 704.28 (5) APPLICATION TO RESIDENTIAL TENANCIES. This section applies to
2 residential tenancies only.

3 **SECTION 17.** 704.44 (9) of the statutes is repealed.

Orders and rules of

4 **SECTION 18.** 704.95 of the statutes is amended to read:

5 **704.95 Practices regulated by the department of agriculture, trade**
6 **and consumer protection. Practices in violation of this chapter** s. 704.28 or 704.44

7 ~~may also constitute unfair methods of competition or unfair trade practices under s.~~

8 ~~100.20. However, the~~ The department of agriculture, trade and consumer protection may
9 not issue an order or promulgate a rule under s. 100.20 that changes any right or duty
10 arising under this chapter.

11 **SECTION 19.** 799.06 (2) of the statutes is amended to read:

12 799.06 (2) A person may commence and prosecute or defend an action or
13 proceeding under this chapter and may appear in his, her, or its own proper person
14 or by an attorney regularly authorized to practice in the courts of this state. Under
15 this subsection, a person is considered to be acting in his, her, or its own proper

16 person if the appearance is by a member or a full-time authorized employee of the
17 person. Insert 7-17 An assignee of any cause of action under this chapter shall not appear by a

member or

18 full-time authorized employee, unless the employee is an attorney regularly
19 authorized to practice in the courts of this state.

20 **SECTION 20.** 799.40 (1) of the statutes is amended to read:

21 799.40 (1) **WHEN COMMENCED.** A civil action of eviction may be commenced by
22 a person entitled to the possession of real property, or by that person's agent
23 authorized in writing, to remove therefrom any person who is not entitled to either
24 the possession or occupancy of such real property.

25 **SECTION 21.** 799.40 (1m) of the statutes is amended to read:

1 799.40 (1m) ACCEPTANCE OF RENT OR OTHER PAYMENT. If a landlord commences
 2 an action under this section against a tenant whose tenancy has been terminated for
 3 failure to pay rent or for any other reason, the action under this section may not be
 4 dismissed ^{↓ strike} ~~solely~~ because the landlord accepts accepted past due rent or other
 5 payment from the tenant after the termination of the tenant's tenancy or before the
 6 termination of the tenant's tenancy but after the landlord gave the tenant notice of
 7 the termination of the tenant's tenancy under s. 704.17, 704.19, 707.50 (1), or 710.15

8 (5r)

9 **SECTION 22.** 799.45 (3) (am) (intro.) of the statutes is renumbered 799.45 (3)
 10 (am) 1m. and amended to read:

11 799.45 (3) (am) 1m. When delivering a writ of restitution to the sheriff in
 12 counties other than counties with a population of 500,000 or more, the plaintiff or his
 13 or her attorney or agent may notify the sheriff that the plaintiff or the plaintiff's
 14 agent will be responsible for the removal and storage or removal and disposal of the
 15 property that is found in the premises described in the writ and that does not belong
 16 to the plaintiff. When notifying the sheriff that the plaintiff or the plaintiff's agent
 17 will remove the property, if the plaintiff will store the property for repossession by
 18 the defendant the plaintiff or his or her attorney or agent shall file the bond or
 19 insurance policy required under subd. 5. 6m. e. with the clerk of court that issued the
 20 writ of restitution. If the sheriff is notified that the plaintiff or the plaintiff's agent
 21 will be responsible for the removal and storage or removal and disposal of the
 22 property under this paragraph, the sheriff shall, in executing the writ of restitution,
 23 supervise the removal and handling of the property by the plaintiff or the plaintiff's
 24 agent. The If the plaintiff will store the property for repossession by the defendant,
 25 the sheriff may prevent the plaintiff or the plaintiff's agent from removing property

1 under this paragraph if the plaintiff or the plaintiff's agent fails to comply with subd.
2 ~~1., 2., 5. or 6. 6m. a., b., e., or f.~~ or if the plaintiff or the plaintiff's agent fails to exercise
3 ordinary care in the removal and handling of the property as required under subd
4 ~~3. 6m. c.~~

5 ~~6m.~~ If the plaintiff or the plaintiff's agent remove and store the property under
6 this paragraph ~~for repossession by the defendant~~, the plaintiff or the plaintiff's agent
7 shall do all of the following:

8 **SECTION 23.** 799.45 (3) (am) 1. to 7. of the statutes are renumbered 799.45 (3)
9 (am) 6m. a. to g. and 799.45 (3) (am) 6m. d. and g., as renumbered, are amended to
10 read:

11 799.45 (3) (am) 6m. d. Have warehouse or other receipts issued with respect
12 to the property stored under this ~~paragraph~~ subdivision issued in the name of the
13 defendant.

14 g. Within 3 days of the removal of the property, notify the defendant under sub.
15 (4) of the charges imposed under subd. ~~6. 6m. f.~~ and of any receipt or other document
16 required to obtain possession of the property.

17 **SECTION 24.** ~~799.45 (3) (am) 2m.~~ of the statutes is created to read:

18 799.45 (3) (am) 2m. In the absence of a written agreement between the plaintiff
19 and the defendant to the contrary, the plaintiff or the plaintiff's agent may, subject
20 to subds. 3m. and 6m., remove and store or remove and dispose of any personal
21 property found on the premises that is not the property of the plaintiff in any manner
22 that the plaintiff or the plaintiff's agent, in its sole discretion, determines is
23 appropriate.

24 **SECTION 25.** 799.45 (3) (am) 3m. of the statutes is created to read:

1 799.45 (3) (am) 3m. If personal property found on the premises is prescription
2 medication or prescription medical equipment, the plaintiff or the plaintiff's agent
3 shall hold that personal property for 7 days from the date on which the plaintiff or
4 the plaintiff's agent discovers that property. After that time, the plaintiff or the
5 plaintiff's agent may dispose of the property in the manner that the plaintiff or the
6 plaintiff's agent determines is appropriate, but shall promptly return the property
7 to the defendant if the plaintiff or the plaintiff's agent receives a request for its return
8 before the plaintiff or the plaintiff's agent disposes of it.

9 **SECTION 26.** ~~799.45 (3) (am) 4m. of the statutes is created to read:~~

10 ~~799.45 (3) (am) 4m. If the plaintiff or the plaintiff's agent disposes of the~~
11 ~~defendant's personal property by private or public sale, the plaintiff or the plaintiff's~~
12 ~~agent may send the proceeds of the sale, minus any costs of sale and any storage~~
13 ~~charges if the plaintiff or the plaintiff's agent has first stored the personalty, to the~~
14 ~~department of administration for deposit in the appropriation account under s.~~
15 ~~20.505 (7) (h).~~

16 **SECTION 27.** ~~799.45 (3) (am) 5m. of the statutes is created to read:~~

17 ~~799.45 (3) (am) 5m. If the personal property is a manufactured home, as~~
18 ~~defined in s. 704.05 (5) (b) 1. a., a mobile home, as defined in s. 704.05 (5) (b) 1. b.,~~
19 ~~or a titled vehicle, as defined in s. 704.05 (5) (b) 1. c., the plaintiff or the plaintiff's~~
20 ~~agent shall give notice of intent to dispose of the property by sale or other appropriate~~
21 ~~means as provided in s. 704.05 (5) (b).~~

22 **SECTION 28.** ~~799.45 (3) (am) 7m. of the statutes is created to read:~~

23 ~~799.45 (3) (am) 7m. Notwithstanding subs. 1m. to 5m., if the plaintiff is a~~
24 ~~landlord, the plaintiff or the plaintiff's agent shall remove and store the property as~~

g

1 provided under subd. 6m. unless the plaintiff provided the written notice to the
2 defendant under s. 704.05 (5) (bf) 1. in the manner provided in s. 704.05 (5) (bf) 2.

3 **SECTION 29.** 799.45 (3) (am) 8m. of the statutes is created to read:

4 799.45 (3) (am) 8m. The power of the plaintiff or the plaintiff's agent to dispose
5 as provided by this paragraph applies to any property left on the premises by the
6 defendant, whether owned by the defendant or by others. The power to dispose under
7 this paragraph applies notwithstanding any rights of others existing under any
8 claim of ownership or security interest, but is subject to s. 321.62. The defendant or
9 any secured party has the right to redeem the property at any time before the
10 plaintiff or the plaintiff's agent has disposed of it or entered into a contract for its
11 disposition by payment of any expenses that the plaintiff or the plaintiff's agent has
12 incurred with respect to the disposition of the property.

13 **SECTION 30.** 799.45 (3) (am) 9m. of the statutes is created to read:

14 799.45 (3) (am) 9m. This paragraph does not apply to disposal of personal
15 property remaining in a self-storage unit or space within a self-storage facility
16 under s. 704.90.

***NOTE: Expanded s. 799.45 (3) (am) above combines the provisions of s. 704.05 (5) and s. 799.45 (3) (am). Combining seemed appropriate since s. 799.45 (3) (am) in current law provides a process for storage of personal property left by an evicted tenant and s. 704.05 (5) provides that a landlord may dispose of property left behind in the manner the landlord determines is appropriate, including by storing the property.

Insert 11-17

17 **SECTION 31.** 895.489 of the statutes is created to read:

18 **895.489 Civil liability exemption; tenancy references.** (1) In this section:

19 (a) "Reference" means a written or oral statement about the rental performance
20 of an applicant for tenancy and may include statements about the applicant's
21 payment history, conformance to rental agreement requirements, or conformance to
22 local and state laws; factual statements regarding any rental agreement

1 enforcement actions, including notices given under s. 704.17, 704.19, or 710.15 (5r);
2 and factual statements about any dispute settlement between the landlord and
3 applicant in accordance with any agreement between the landlord and applicant
4 relating to termination of the applicant's tenancy.

5 (b) "Tenant" means a residential tenant, regardless of the type of tenancy or
6 rental period.

7 (2) A landlord who, on the request of a prospective landlord of an applicant for
8 tenancy or on the request of the applicant for tenancy, provides a reference to the
9 prospective landlord is presumed to be acting in good faith and, unless lack of good
10 faith is shown by clear and convincing evidence, is immune from all civil liability that
11 may result from providing that reference. The presumption of good faith under this
12 subsection may be rebutted only upon a showing by clear and convincing evidence
13 that the landlord knowingly provided false information in the reference or made the
14 reference maliciously.

15 **SECTION 32. Initial applicability.**

16 (1) INSECT INFESTATIONS. The treatment of section 704.07 (3) (a) of the statutes
17 first applies to tenancies that are in effect on the effective date of this subsection.

18 (2) RETURN OF SECURITY DEPOSIT AFTER EVICTION. The treatment of section 704.28
19 (4) (b) and (d) of the statutes first applies to eviction actions that are commenced on
20 the effective date of this subsection.

21 (3) APPLICABILITY OF SECURITY DEPOSIT PROVISIONS. The treatment of sections
22 704.28 (5) of the statutes first applies to tenancies that are in effect on the effective
23 date of this subsection.

Insert
12-14
AG →

1 (4) VIOLATIONS THAT CONSTITUTE UNFAIR TRADE PRACTICES. The treatment of
2 section 704.95 of the statutes first applies to violations that occur on the effective
3 date of this subsection.

4 (5) REFERENCES PROVIDED BY LANDLORDS. The treatment of section 895.489 of the
5 statutes first applies to references provided on the effective date of this subsection.

6 (END)

6
Insert
13-6
AG

D-Note

1 personal property within the vehicle to the owner of the vehicle during regular office
2 hours upon presentation by the owner of proper identification.

History: 1973 c. 248; 1975 c. 299; 1977 c. 29 ss. 1654 (3), (8) (a), 1656 (43); 1977 c. 116, 272, 418; 1979 c. 34, 59, 231, 276, 325; 1981 c. 227; 1981 c. 255 ss. 10, 11, 13; 1983 a. 77 s. 15; 1983 a. 213; 1985 a. 29; 1985 a. 87 s. 5; 1989 a. 304; 1991 a. 269, 316; 1993 a. 246; 1995 a. 448; 1997 a. 27, 159, 258; 1999 a. 85; 2003 a. 142; 2005 a. 326; 2009 a. 246; 2011 a. 73.

3 **SECTION 2.** 349.13 (5) (c) of the statutes is amended to read:

4 349.13 (5) (c) A traffic or police officer or parking enforcer who requests removal
5 of a vehicle under subs. (3) to (4) by a towing service shall, within 24 hours of
6 requesting the removal, notify the towing service of the name and last-known
7 address of the registered owner and all lienholders of record of the vehicle if the
8 vehicle is to be removed to any location other than a public highway within one mile
9 from the location from which the vehicle is to be removed and if the officer or parking
10 enforcer is not employed by a municipality or county that has entered into a towing
11 services agreement which requires the municipality or county to provide notice to
12 such owner and lienholders of the towing.

History: 1973 c. 248; 1975 c. 299; 1977 c. 29 ss. 1654 (3), (8) (a), 1656 (43); 1977 c. 116, 272, 418; 1979 c. 34, 59, 231, 276, 325; 1981 c. 227; 1981 c. 255 ss. 10, 11, 13; 1983 a. 77 s. 15; 1983 a. 213; 1985 a. 29; 1985 a. 87 s. 5; 1989 a. 304; 1991 a. 269, 316; 1993 a. 246; 1995 a. 448; 1997 a. 27, 159, 258; 1999 a. 85; 2003 a. 142; 2005 a. 326; 2009 a. 246; 2011 a. 73.

13

14 **INSERT 12-14 AG:** *A.R. Mo*

15 **SECTION 3. Nonstatutory provisions.**

16 *A.R. Curly* → (1) PROPOSED PERMANENT RULES. The department of transportation shall
17 present the statement of scope of the rules required under section 349.13 (3m) (e) of
18 the statutes, as created by this act, to the governor for approval under section
19 227.135 (2) of the statutes no later than the 60th day after the effective date of this
20 subsection.

21 *A.R. Shemp* → (2) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
22 the department of transportation shall promulgate the rules required under section
23 349.13 (3m) (e) of the statutes, as created by this act, for the period before the

1 effective date of the permanent rules promulgated under section 349.13 (3m) (e) of
 2 the statutes, as created by this act, but not to exceed the period authorized under
 3 section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of
 4 the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes,
 5 the department is not required to provide evidence that promulgating a rule under
 6 this subsection as an emergency rule is necessary for the preservation of public
 7 peace, health, safety, or welfare and is not required to provide a finding of an
 8 emergency for a rule promulgated under this subsection. Notwithstanding section
 9 227.24 (1) (e) 1d. and 1g. of the statutes, the department is not required to prepare
 10 a statement of the scope of the rules promulgated under this subsection or present
 11 the rules to the governor for approval. The department of transportation shall
 12 promulgate the rules under this subsection no later than the first day of the 7th
 13 month beginning after the effective date of this subsection.

INSERT 13-6 AG:

14 **SECTION 4. Effective dates.** This act takes effect on the day after publication,
 15 except as follows:

17 (1) The treatment of section 349.13 (5) (b) 2. and (c) of the statutes, the
 18 renumbering and amendment of section 349.13 (3m) of the statutes, and the creation
 19 of section 349.13 (3m) (a), (c), (d), and (e) of the statutes take effect on the the first
 20 day of the 7th month beginning after publication.

21 (2) SECTION 3 (1) and (2) of this act takes effect on the day after publication.

Use ARMO
 Use AR
 Curly
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first → of the 1st² first month beginning

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1931/P2ins
PJK:.....

INSERT 3-3

1 ^{no} , or that requires a landlord to communicate to the city, village, town, or county
2 any information concerning a tenant that is not required to be communicated to the
3 municipality under federal or state law

(END OF INSERT 3-3)

INSERT 5-3

↓

4 SECTION 1. 704.05 (5) (a) 1. of the statutes is amended to read:

5 704.05 (5) (a) 1. If a tenant removes from or is evicted from the premises and
6 leaves personal property, the landlord may presume, in the absence of a written
7 agreement between the landlord and the tenant to the contrary, that the tenant has
8 abandoned the personal property and may, subject to par. (am) and s. 799.45 (3m),
9 dispose of the abandoned personal property in any manner that the landlord, in its
10 sole discretion, determines is appropriate.

History: 1993 a. 374, 486; 2001 a. 16; 2003 a. 33; 2005 a. 253; 2011 a. 32, 143.

11 SECTION 2. 704.05 (5) (bf) of the statutes is amended to read:

12 704.05 (5) (bf) *Notice that landlord will not store property.* If the landlord does
13 not intend to store personal property left behind by a tenant, except as provided in
14 par. (am), the landlord shall provide separate written notice to a tenant, when the
15 tenant enters into, ~~and when the tenant~~ or renews, a rental agreement or at any
16 other time, that the landlord will not store any items of personal property that the
17 tenant leaves behind when the tenant removes from, or if the tenant is evicted from,
18 the premises, except as provided in par. (am). Notwithstanding pars. (a), (am), and
19 (b), if the landlord ~~does not provide~~ has not provided to a tenant the notice required
20 under this paragraph, the landlord shall comply with s. 704.05, 2009 stats., with
21 respect to any personal property left behind by the tenant when the tenant removes

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Ins 5-3 contd

1 from the premises, or if the tenant is evicted from the premises and the landlord
2 notifies the sheriff under s. 799.45 (3m).

History: 1993 a. 374, 486; 2001 a. 16; 2003 a. 33; 2005 a. 253; 2011 a. 32, 143.

(END OF INSERT 5-3)

INSERT 5-14

3 ^P 704.07 (3) (a) If the premises are damaged by ~~the negligence or improper use~~
4 of the premises by, including by an infestation of insects or other pests, due to the acts
5 or inaction of the tenant, the landlord may elect to allow the tenant must to
6 remediate or repair the damage and restore the appearance of the premises by
7 redecorating. However, the landlord may elect to undertake the remediation, repair,
8 or redecoration, and in such case the tenant must reimburse the landlord for the
9 reasonable cost thereof; the cost to the landlord is presumed reasonable unless
10 proved otherwise by the tenant.

History: 1981 c. 286; 1993 a. 213, 486, 491; 2001 a. 103; 2011 a. 143.

(END OF INSERT 5-14)

INSERT 7-17

11 ^{vof} , or by an agent of the member or an authorized employee of the agent

(END OF INSERT 7-17)

INSERT 11-17 *186*

12 SECTION 3. 799.45 (title) of the statutes is amended to read:

13 **799.45 (title) Execution of writ of restitution; disposal of personal**
14 **property.**

History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

15 SECTION 4. 799.45 (1) of the statutes is amended to read:

16 799.45 (1) WHEN EXECUTED. Upon delivery of a writ of restitution to the sheriff,
17 and after payment to the sheriff of the fee required by s. 814.70 (8), the sheriff shall



Jan 11-17 cont'd 2016

1 execute the writ. If the plaintiff, or the plaintiff's attorney or agent, does not notify
2 the sheriff under sub. ~~(3)~~(am) (3m) that the plaintiff or his or her agent will remove
3 and store or dispose of the property, the sheriff may require that prior to the
4 execution of any writ of restitution the plaintiff deposit a reasonable sum
5 representing the probable cost of removing the defendant's property chargeable to
6 the plaintiff under s. 814.70 (8) and (10) and of the services of deputies under s.
7 814.70 (8). In case of dispute as to the amount of the required deposit, the amount
8 of that deposit shall be determined by the court under s. 814.70 (10).

History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

9 **SECTION 5.** 799.45 (2) (b) of the statutes is amended to read:

10 799.45 (2) (b) ~~Remove~~ If the plaintiff or his or her agent does not notify the
11 sheriff under sub. (3m) that the plaintiff or his or her agent will remove and store or
12 dispose of the personal property, remove or supervise removal from the premises
13 described in the writ, using such reasonable force as may be necessary, all personal
14 property found in the premises not the property of the plaintiff.

History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

15 **SECTION 6.** 799.45 (2) (bg) of the statutes is amended to read:

16 799.45 (2) (bg) ~~Assist~~ If requested by the plaintiff or his or her agent, assist the
17 plaintiff or his or her agent in the removal, under sub. ~~(3)~~(am) (3m), of all personal
18 property found in the premises described in the writ, not the property of the plaintiff,
19 using such reasonable force as may be necessary.

History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

20 **SECTION 7.** 799.45 (2) (c) of the statutes is amended to read:

21 799.45 (2) (c) Exercise ordinary care in the removal or supervision of removal
22 of all persons and property from the premises and, in the removal or supervision of

J

Ins 11-17 contd 3 of 6

1 removal of personal property under par. (b), and in the handling and storage of all
2 property removed from the premises under par. (b).

3 History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

3 **SECTION 8. 799.45 (3) (title) of the statutes is amended to read:**

4 **799.45 (3) (title) MANNER OF REMOVAL AND DISPOSITION OF REMOVED GOODS BY**
5 **SHERIFF.**

6 History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

6 **SECTION 9. 799.45 (3) (a) of the statutes is amended to read:**

7 **799.45 (3) (a) In accomplishing the removal of property from the premises**
8 **described in the writ, the sheriff is authorized to engage the services of a mover or**
9 **trucker unless the plaintiff notifies the sheriff under ~~par. (am)~~ sub. (3m) that the**
10 **plaintiff will remove and store or dispose of the property.**

11 History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

11 **SECTION 10. 799.45 (3) (am) (intro.) of the statutes is renumbered 799.45 (3m)**
12 **and amended to read:**

13 **799.45 (3m) ALTERNATIVE DISPOSITION OF PROPERTY BY PLAINTIFF. When**
14 **delivering a writ of restitution to the sheriff in counties other than counties with a**
15 **population of 500,000 or more, as a complete alternative to the procedure for**
16 **disposition of the property under sub. (3), the plaintiff or his or her attorney or agent**
17 **may notify the sheriff that the plaintiff or the plaintiff's agent will be responsible for**
18 **the removal and storage or disposal of the property that is found in the premises**
19 **described in the writ and that does not belong to the plaintiff. ~~When notifying the~~**
20 **~~sheriff that the plaintiff or the plaintiff's agent will remove the property, the plaintiff~~**
21 **~~or his or her attorney or agent shall file the bond or insurance policy required under~~**
22 **~~subd. 5. with the clerk of court that issued the writ of restitution in accordance with~~**
23 **s. 704.05. If the sheriff is notified that the plaintiff or the plaintiff's agent will be**
24 **responsible for the removal and storage or disposal of the property under this**

Ins 11-17 cont'd 4876

1 ~~paragraph subsection, the sheriff shall, in executing the writ of restitution if~~
 2 ~~requested by the plaintiff or his or her agent, supervise the removal and handling of~~
 3 ~~the property by the plaintiff or the plaintiff's agent. The sheriff may prevent the~~
 4 ~~plaintiff or the plaintiff's agent from removing property under this paragraph if the~~
 5 ~~plaintiff or the plaintiff's agent fails to comply with subd. 1., 2., 5. or 6. or if the~~
 6 ~~plaintiff or the plaintiff's agent fails to exercise ordinary care in the removal and~~
 7 ~~handling of the property as required under subd. 3. If the plaintiff or the plaintiff's~~
 8 ~~agent remove and store the property under this paragraph, the plaintiff or the~~
 9 ~~plaintiff's agent shall do all of the following:~~

History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.45; 1981^{*} c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

- 10 **SECTION 11.** 799.45 (3) (am) 1. of the statutes is repealed.
- 11 **SECTION 12.** 799.45 (3) (am) 2. of the statutes is repealed.
- 12 **SECTION 13.** 799.45 (3) (am) 3. of the statutes is repealed.
- 13 **SECTION 14.** 799.45 (3) (am) 4. of the statutes is repealed.
- 14 **SECTION 15.** 799.45 (3) (am) 5. of the statutes is repealed.
- 15 **SECTION 16.** 799.45 (3) (am) 6. of the statutes is repealed.
- 16 **SECTION 17.** 799.45 (3) (am) 7. of the statutes is repealed.
- 17 **SECTION 18.** 799.45 (3) (b) of the statutes is amended to read:

18 799.45 (3) (b) Except as provided in ~~pars. (am) and par.~~ (c), the property
 19 removed from such premises under this subsection shall be taken to some place of
 20 safekeeping within the county selected by the sheriff. Within 3 days of the removal
 21 of the goods, the sheriff shall mail a notice to the defendant as specified in sub. (4)
 22 stating the place where the goods are kept and, ~~if the plaintiff had not removed the~~
 23 ~~property under par. (am),~~ shall deliver to the defendant any receipt or other
 24 document required to obtain possession of the goods. Warehouse or other similar



See 11-17 cont'd 5076

1 receipts issued with respect to goods stored by the sheriff under this subsection shall
 2 be taken in the name of the defendant. All expenses incurred for storage and other
 3 like charges after delivery by the sheriff ~~or by the plaintiff~~ to a place of safekeeping
 4 shall be the responsibility of the defendant. Any person accepting goods from the
 5 sheriff ~~or the plaintiff~~ for storage under this subsection, ~~or the plaintiff~~, if he or she
 6 ~~stores the property in his or her premises~~, shall have all of the rights and remedies
 7 accorded by law against the defendant personally and against the property stored for
 8 the collection of such charges, including the lien of a warehouse under s. 407.209.
 9 Risk of damages to or loss of such property shall be borne by the defendant after
 10 delivery by the sheriff to the place of safekeeping.

History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. ~~1979~~ s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

11 **SECTION 19.** 799.45 (3) (c) of the statutes is amended to read:

12 799.45 (3) (c) When, in the exercise of ordinary care, the sheriff determines that
 13 property to be removed from premises described in the writ is without monetary
 14 value, the sheriff ~~or the plaintiff~~, if he or she has agreed to remove the property under
 15 ~~par. (am)~~, may deliver or cause the same to be delivered to some appropriate place
 16 established for the collection, storage, and disposal of refuse. In such case the sheriff
 17 shall notify the defendant as specified in sub. (4) of the place to which the goods have
 18 been delivered within 3 days of the removal of the goods. The exercise of ordinary
 19 care by the sheriff under this subsection does not include searching apparently
 20 valueless property for hidden or secreted articles of value.

History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. ~~1979~~ s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

21 **SECTION 20.** 799.45 (4) of the statutes is amended to read:

22 799.45 (4) MANNER OF GIVING NOTICE TO DEFENDANT. All notices required by sub.
 23 (3) to be given to the defendant by the sheriff ~~or by the plaintiff~~ shall be in writing
 24 and shall be personally served upon the defendant or mailed to the defendant at the

Ins 11-17 cont'd 6876

- 1 last-known address, even if such address be the premises which are the subject of
- 2 the eviction action.

History: 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.45; 1981 c. 317 s. 2202; 1983 a. 500 s. 43; 1993 a. 486; 1997 a. 317; 2009 a. 322.

(END OF INSERT 11-17)

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

LRB-1931/P2dnAG

ARG:):....

SAC

- date -

ATTN: John Soper

As discussed at the meeting on April 2, in the city of Madison, the owner of a towed vehicle typically does not make a direct payment to the towing company. The city of Madison contracts with one or more towing companies. If a vehicle is illegally parked and towing is authorized, a traffic officer or parking enforcer requests the towing company to remove the vehicle when the vehicle is issued a parking citation. The city pays the towing company according to the terms of the city's contract with the towing company and the city recovers its cost through the parking citation when the vehicle owner pays the parking citation.

In this draft, we will need a different procedure because towing is authorized when no parking citation is issued. I have assumed that no towing company will tow a vehicle at the request of a private property owner unless the towing company has some assurance of being paid. Since the private property owner will not be paying for the towing, the draft allows the towing company to hold the towed vehicle until the vehicle owner pays the reasonable charges for towing and storing the vehicle. As instructed, DOT will set these reasonable charges by rule. Cities commonly face the problem of towing vehicles that have a value less than the towing and storage charges. Under this draft, these vehicles may be considered abandoned and disposed of. Please advise if you would like any changes made with respect to s. 349.13 (3m) and (5) in this draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1931/P2dn
ARG:sac:rs

April 9, 2013

ATTN: John Soper

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Aaron R. Gary
Legislative Attorney
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4-18 by phone w/ John Soper

in Sect 19 on p 8

① s. 704.15 go back to previous version

② roll in expedited revision action draft
do a new way of saving w/ change

choice between
(Sect 3 of separate draft)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1931/1
PJK&ARC/sac

P3
PJK
vm is run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4.18.13

Regenerate ↓

1 **AN ACT to repeal** 704.28 (4) (d), 704.44 (9), 799.45 (3) (am) 1., 799.45 (3) (am) 2.,
2 799.45 (3) (am) 3., 799.45 (3) (am) 4., 799.45 (3) (am) 5., 799.45 (3) (am) 6. and
3 799.45 (3) (am) 7.; **to renumber and amend** 66.0104 (3), 349.13 (3m) and
4 799.45 (3) (am) (intro.); **to amend** 349.13 (5) (b) 2., 349.13 (5) (c), 704.05 (5) (a)
5 1., 704.05 (5) (bf), 704.07 (2) (bm) 1., 704.07 (3) (a), 704.08, 704.28 (2), 704.28
6 (4) (b), 704.95, 799.06 (2), 799.40 (1), 799.40 (1m), 799.45 (title), 799.45 (1),
7 799.45 (2) (b), 799.45 (2) (bg), 799.45 (2) (c), 799.45 (3) (title), 799.45 (3) (a),
8 799.45 (3) (b), 799.45 (3) (c) and 799.45 (4); and **to create** 66.0104 (2) (c), 66.0104
9 (2) (d), 66.0104 (3) (b), 349.13 (3m) (a), (c), (d) and (e), 704.28 (5) and 895.489
10 of the statutes; **relating to:** miscellaneous provisions related to rental and
11 vehicle towing practices, prohibitions on enacting ordinances that place certain

1 limitations or requirements on landlords, providing an exemption from
2 emergency rule procedures, granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

3 **SECTION 1.** 66.0104 (2) (c) of the statutes is created to read:

4 66.0104 (2) (c) No city, village, town, or county may enact an ordinance that
5 limits a residential tenant's responsibility, or a residential landlord's right to recover,
6 for any damage or waste to, or neglect of, the premises that occurs during the tenant's
7 occupancy of the premises, or for any other costs, expenses, fees, payments, or
8 damages for which the tenant is responsible under the rental agreement or
9 applicable law.

10 **SECTION 2.** 66.0104 (2) (d) of the statutes is created to read:

11 66.0104 (2) (d) No city, village, town, or county may enact an ordinance that
12 requires a landlord to communicate to tenants any information that is not required
13 to be communicated to tenants under federal or state law, or that requires a landlord
14 to communicate to the city, village, town, or county any information concerning a
15 tenant that is not required to be communicated to the municipality under federal or
16 state law.

17 **SECTION 3.** 66.0104 (3) of the statutes is renumbered 66.0104 (3) (a) and
18 amended to read:

1 66.0104 (3) (a) If a city, village, town, or county has in effect on December 21,
2 2011, an ordinance that is inconsistent with sub. (2) (a) or (b), the ordinance does not
3 apply and may not be enforced.

4 **SECTION 4.** 66.0104 (3) (b) of the statutes is created to read:

5 66.0104 (3) (b) If a city, village, town, or county has in effect on the effective date
6 of this paragraph [LRB inserts date], an ordinance that is inconsistent with sub.
7 (2) (c) or (d), the ordinance does not apply and may not be enforced.

8 **SECTION 5.** 349.13 (3m) of the statutes is renumbered 349.13 (3m) (b) and
9 amended to read:

10 349.13 (3m) (b) ~~No~~ If a private parking area is not properly posted and a vehicle
11 ~~involved in trespass parking on a~~ is parked in the private parking lot or facility shall
12 ~~be removed~~ area and is not authorized to be parked there, the vehicle may be removed
13 immediately, at the vehicle owner's expense, without the permission of the vehicle
14 owner, ~~except~~ upon the issuance of a repossession judgment or upon formal
15 complaint and the issuance of a citation for illegal parking issued by a traffic or police
16 officer.

17 **SECTION 6.** 349.13 (3m) (a), (c), (d) and (e) of the statutes are created to read:

18 349.13 (3m) (a) In this subsection:

- 19 1. "Parking enforcer" has the meaning given in s. 341.65 (1) (ar).
- 20 2. "Private parking area" means any private parking lot, private street, private
21 parking facility, or other private property where any motor vehicle is or could be
22 parked.
- 23 3. "Properly posted" means there is clearly visible notice that an area is private
24 property and that vehicles that are not authorized to park in this area may be
25 immediately removed.

1 (c) If a private parking area is properly posted and a vehicle is parked in the
2 private parking area and is not authorized to be parked there, the vehicle may be
3 removed immediately, at the vehicle owner's expense, without the permission of the
4 vehicle owner, regardless of whether a citation is issued for illegal parking.

5 (d) A vehicle may be removed from a private parking area under par. (b) or (c)
6 only by a towing service at the request of the property owner or property owner's
7 agent, a traffic officer, or a parking enforcer. The vehicle owner shall pay the
8 reasonable charges for removal and, if applicable, storage of the vehicle. If the
9 vehicle was removed at the request of the property owner or property owner's agent,
10 these reasonable charges shall be paid directly to the towing service, and the towing
11 service may impound the vehicle until these charges are paid. If these charges have
12 not been paid in full within 30 days of the vehicle's removal and the vehicle owner
13 has not entered into a written agreement with the towing service to pay these
14 reasonable charges in installment payments, the vehicle shall be deemed abandoned
15 and may be disposed of as are other abandoned vehicles.

16 (e) The department shall promulgate rules establishing reasonable charges for
17 removal and storage of vehicles under this subsection.

18 **SECTION 7.** 349.13 (5) (b) 2. of the statutes is amended to read:

19 349.13 (5) (b) 2. A person who has custody of a vehicle removed or stored under
20 subs. (3) to (4) or otherwise at the request of a law enforcement officer, traffic officer,
21 parking enforcer, property owner, or property owner's agent shall release the
22 personal property within the vehicle to the owner of the vehicle during regular office
23 hours upon presentation by the owner of proper identification.

24 **SECTION 8.** 349.13 (5) (c) of the statutes is amended to read:

1 349.13 (5) (c) A traffic or police officer or parking enforcer who requests removal
2 of a vehicle under subs. (3) to (4) by a towing service shall, within 24 hours of
3 requesting the removal, notify the towing service of the name and last-known
4 address of the registered owner and all lienholders of record of the vehicle if the
5 vehicle is to be removed to any location other than a public highway within one mile
6 from the location from which the vehicle is to be removed and if the officer or parking
7 enforcer is not employed by a municipality or county that has entered into a towing
8 services agreement which requires the municipality or county to provide notice to
9 such owner and lienholders of the towing.

10 **SECTION 9.** 704.05 (5) (a) 1. of the statutes is amended to read:

11 704.05 (5) (a) 1. If a tenant removes from or is evicted from the premises and
12 leaves personal property, the landlord may presume, in the absence of a written
13 agreement between the landlord and the tenant to the contrary, that the tenant has
14 abandoned the personal property and may, subject to par. (am) and s. 799.45 (3m),
15 dispose of the abandoned personal property in any manner that the landlord, in its
16 sole discretion, determines is appropriate.

17 **SECTION 10.** 704.05 (5) (bf) of the statutes is amended to read:

18 704.05 (5) (bf) *Notice that landlord will not store property.* If the landlord does
19 not intend to store personal property left behind by a tenant, except as provided in
20 par. (am), the landlord shall provide separate written notice to a tenant, when the
21 tenant enters into, ~~and when the tenant~~ or renews, a rental agreement or at any
22 other time, that the landlord will not store any items of personal property that the
23 tenant leaves behind when the tenant removes from, or if the tenant is evicted from,
24 the premises, except as provided in par. (am). Notwithstanding pars. (a), (am), and
25 (b), if the landlord ~~does not provide~~ has not provided to a tenant the notice required

1 under this paragraph, the landlord shall comply with s. 704.05, 2009 stats., with
2 respect to any personal property left behind by the tenant when the tenant removes
3 from the premises, or if the tenant is evicted from the premises and the landlord
4 notifies the sheriff under s. 799.45 (3m).

5 SECTION 11. 704.07 (2) (bm) 1. of the statutes is amended to read:

6 704.07 (2) (bm) 1. The landlord has ~~actual knowledge~~ received written notice
7 of the violation from a local housing code enforcement agency.

8 SECTION 12. 704.07 (3) (a) of the statutes is amended to read:

9 704.07 (3) (a) If the premises are damaged by the negligence or improper use
10 of the premises by, including by an infestation of insects or other pests, due to the acts
11 or inaction of the tenant, the landlord may elect to allow the tenant must to
12 remediate or repair the damage and restore the appearance of the premises by
13 redecorating. However, the landlord may elect to undertake the remediation, repair,
14 or redecoration, and in such case the tenant must reimburse the landlord for the
15 reasonable cost thereof; the cost to the landlord is presumed reasonable unless
16 proved otherwise by the tenant.

17 SECTION 13. 704.08 of the statutes is amended to read:

18 **704.08 Information check-in Check-in sheet.** A landlord shall provide to
19 a new residential tenant when the tenant commences his or her occupancy of the
20 premises a ~~standardized information~~ check-in sheet that contains an itemized
21 description of the tenant may use to make comments, if any, about the condition of
22 the premises ~~at the time of check-in.~~ The tenant shall be given 7 days from the date
23 the tenant commences his or her occupancy to complete the check-in sheet and
24 return it to the landlord. The landlord is not required to provide the ~~information~~
25 check-in sheet to a tenant upon renewal of a rental agreement. This section does not

1 apply to the rental of a plot of ground on which a manufactured home, as defined in
2 s. 704.05 (5) (b) 1. a., or a mobile home, as defined in s. 704.05 (5) (b) 1. b., may be
3 located.

4 **SECTION 14.** 704.28 (2) of the statutes is amended to read:

5 704.28 (2) NONSTANDARD RENTAL PROVISIONS. Except as provided in sub. (3), a
6 rental agreement may include one or more nonstandard rental provisions that
7 authorize the landlord to withhold amounts from the tenant's security deposit for
8 reasons not specified in sub. (1) (a) to (e). Any such nonstandard rental provisions
9 shall be provided to the tenant in a separate written document entitled
10 "NONSTANDARD RENTAL PROVISIONS." The landlord shall specifically identify
11 ~~and discuss~~ each nonstandard rental provision with the tenant before the tenant
12 enters into a rental agreement with the landlord. If the tenant signs his or her name,
13 or writes his or her initials, by a nonstandard rental provision, it is rebuttably
14 presumed that the landlord has specifically identified ~~and discussed~~ the
15 nonstandard rental provision with the tenant and that the tenant has agreed to it.

16 **SECTION 15.** 704.28 (4) (b) of the statutes is amended to read:

17 704.28 (4) (b) If the tenant vacates the premises before the termination date
18 of the rental agreement or if the tenant is evicted, the date on which the tenant's
19 rental agreement terminates or, if the landlord rerents the premises before the
20 tenant's rental agreement terminates, the date on which the new tenant's tenancy
21 begins.

22 **SECTION 16.** 704.28 (4) (d) of the statutes is repealed.

23 **SECTION 17.** 704.28 (5) of the statutes is created to read:

24 704.28 (5) APPLICATION TO RESIDENTIAL TENANCIES. This section applies to
25 residential tenancies only.

1 SECTION 18. 704.44 (9) of the statutes is repealed.

2 SECTION 19. 704.95 of the statutes is amended to read:

3 **704.95 Practices regulated by Orders and rules of the department of**
 4 **agriculture, trade and consumer protection.** ~~Practices in violation of this~~
 5 ~~chapter may also constitute unfair methods of competition or unfair trade practices~~
 6 ~~under s. 100.20. However, the~~ The department of agriculture, trade and consumer
 7 protection may not issue an order or promulgate a rule under s. 100.20 that changes
 8 any right or duty arising under this chapter.

9 SECTION 20. 799.06 (2) of the statutes is amended to read:

10 799.06 (2) A person may commence and prosecute or defend an action or
 11 proceeding under this chapter and may appear in his, her, or its own proper person
 12 or by an attorney regularly authorized to practice in the courts of this state. Under
 13 this subsection, a person is considered to be acting in his, her, or its own proper
 14 person if the appearance is by a full-time member or authorized employee of the
 15 person, or by an agent of the member or an authorized employee of the agent. An
 16 assignee of any cause of action under this chapter shall not appear by a full-time
 17 authorized employee, unless the employee is an attorney regularly authorized to
 18 practice in the courts of this state.

19 SECTION 21. 799.40 (1) of the statutes is amended to read:

20 799.40 (1) WHEN COMMENCED. A civil action of eviction may be commenced by
 21 a person entitled to the possession of real property, or by that person's agent
 22 authorized in writing, to remove therefrom any person who is not entitled to either
 23 the possession or occupancy of such real property.

24 SECTION 22. 799.40 (1m) of the statutes is amended to read:

Insert 8-8

Kindly insert

to be inserted

9

1 799.40 (1m) ACCEPTANCE OF RENT OR OTHER PAYMENT. If a landlord commences
2 an action under this section against a tenant whose tenancy has been terminated for
3 failure to pay rent or for any other reason, the action under this section may not be
4 dismissed solely because the landlord ~~accepts~~ accepted past due rent or other
5 payment from the tenant after the termination of the tenant's tenancy or before the
6 termination of the tenant's tenancy but after the landlord gave the tenant notice of
7 the termination of the tenant's tenancy.

8 **SECTION 23.** 799.45 (title) of the statutes is amended to read:

9 **799.45 (title) Execution of writ of restitution; disposal of personal**
10 **property.**

11 **SECTION 24.** 799.45 (1) of the statutes is amended to read:

12 799.45 (1) WHEN EXECUTED. Upon delivery of a writ of restitution to the sheriff,
13 and after payment to the sheriff of the fee required by s. 814.70 (8), the sheriff shall
14 execute the writ. If the plaintiff, or the plaintiff's attorney or agent, does not notify
15 the sheriff under sub. (3) ~~(am)~~ (3m) that the plaintiff or his or her agent will remove
16 and store or dispose of the property, the sheriff may require that prior to the
17 execution of any writ of restitution the plaintiff deposit a reasonable sum
18 representing the probable cost of removing the defendant's property chargeable to
19 the plaintiff under s. 814.70 (8) and (10) and of the services of deputies under s.
20 814.70 (8). In case of dispute as to the amount of the required deposit, the amount
21 of that deposit shall be determined by the court under s. 814.70 (10).

22 **SECTION 25.** 799.45 (2) (b) of the statutes is amended to read:

23 799.45 (2) (b) ~~Remove~~ If the plaintiff or his or her agent does not notify the
24 sheriff under sub. (3m) that the plaintiff or his or her agent will remove and store or
25 dispose of the personal property, remove or supervise removal from the premises

1 described in the writ, using such reasonable force as may be necessary, all personal
2 property found in the premises not the property of the plaintiff.

3 **SECTION 26.** 799.45 (2) (bg) of the statutes is amended to read:

4 799.45 (2) (bg) Assist If requested by the plaintiff or his or her agent, assist the
5 plaintiff or his or her agent in the removal, under sub. (3) ~~(am)~~ (3m), of all personal
6 property found in the premises described in the writ, not the property of the plaintiff,
7 using such reasonable force as may be necessary.

8 **SECTION 27.** 799.45 (2) (c) of the statutes is amended to read:

9 799.45 (2) (c) Exercise ordinary care in the removal or supervision of removal
10 of all persons and property from the premises and, in the removal or supervision of
11 removal of personal property under par. (b), and in the handling and storage of all
12 property removed from the premises under par. (b).

13 **SECTION 28.** 799.45 (3) (title) of the statutes is amended to read:

14 799.45 (3) (title) MANNER OF REMOVAL AND DISPOSITION OF REMOVED GOODS BY
15 SHERIFF.

16 **SECTION 29.** 799.45 (3) (a) of the statutes is amended to read:

17 799.45 (3) (a) In accomplishing the removal of property from the premises
18 described in the writ, the sheriff is authorized to engage the services of a mover or
19 trucker unless the plaintiff notifies the sheriff under ~~par. (am)~~ sub. (3m) that the
20 plaintiff will remove and store or dispose of the property.

21 **SECTION 30.** 799.45 (3) (am) (intro.) of the statutes is renumbered 799.45 (3m)
22 and amended to read:

23 799.45 (3m) ALTERNATIVE DISPOSITION OF PROPERTY BY PLAINTIFF. When
24 delivering a writ of restitution to the sheriff in counties other than counties with a
25 population of 500,000 or more, as a complete alternative to the procedure for

1 disposition of the property under sub. (3), the plaintiff or his or her attorney or agent
2 may notify the sheriff that the plaintiff or the plaintiff's agent will be responsible for
3 the removal and storage or disposal of the property that is found in the premises
4 described in the writ and that does not belong to the plaintiff. ~~When notifying the~~
5 ~~sheriff that the plaintiff or the plaintiff's agent will remove the property, the plaintiff~~
6 ~~or his or her attorney or agent shall file the bond or insurance policy required under~~
7 ~~subd. 5. with the clerk of court that issued the writ of restitution in accordance with~~
8 s. 704.05. If the sheriff is notified that the plaintiff or the plaintiff's agent will be
9 responsible for the removal and storage or disposal of the property under this
10 paragraph subsection, the sheriff shall, ~~in executing the writ of restitution if~~
11 ~~requested by the plaintiff or his or her agent~~, supervise the removal and handling of
12 the property by the plaintiff or the plaintiff's agent. ~~The sheriff may prevent the~~
13 ~~plaintiff or the plaintiff's agent from removing property under this paragraph if the~~
14 ~~plaintiff or the plaintiff's agent fails to comply with subd. 1., 2., 5. or 6. or if the~~
15 ~~plaintiff or the plaintiff's agent fails to exercise ordinary care in the removal and~~
16 ~~handling of the property as required under subd. 3. If the plaintiff or the plaintiff's~~
17 ~~agent remove and store the property under this paragraph, the plaintiff or the~~
18 ~~plaintiff's agent shall do all of the following:~~

19 **SECTION 31.** 799.45 (3) (am) 1. of the statutes is repealed.

20 **SECTION 32.** 799.45 (3) (am) 2. of the statutes is repealed.

21 **SECTION 33.** 799.45 (3) (am) 3. of the statutes is repealed.

22 **SECTION 34.** 799.45 (3) (am) 4. of the statutes is repealed.

23 **SECTION 35.** 799.45 (3) (am) 5. of the statutes is repealed.

24 **SECTION 36.** 799.45 (3) (am) 6. of the statutes is repealed.

25 **SECTION 37.** 799.45 (3) (am) 7. of the statutes is repealed.

1 **SECTION 38.** 799.45 (3) (b) of the statutes is amended to read:

2 799.45 (3) (b) Except as provided in ~~pars. (am) and par.~~ (c), the property
3 removed from such premises under this subsection shall be taken to some place of
4 safekeeping within the county selected by the sheriff. Within 3 days of the removal
5 of the goods, the sheriff shall mail a notice to the defendant as specified in sub. (4)
6 stating the place where the goods are kept and, ~~if the plaintiff had not removed the~~
7 ~~property under par. (am),~~ shall deliver to the defendant any receipt or other
8 document required to obtain possession of the goods. Warehouse or other similar
9 receipts issued with respect to goods stored by the sheriff under this subsection shall
10 be taken in the name of the defendant. All expenses incurred for storage and other
11 like charges after delivery by the sheriff ~~or by the plaintiff~~ to a place of safekeeping
12 shall be the responsibility of the defendant. Any person accepting goods from the
13 sheriff ~~or the plaintiff~~ for storage under this subsection, ~~or the plaintiff, if he or she~~
14 ~~stores the property in his or her premises,~~ shall have all of the rights and remedies
15 accorded by law against the defendant personally and against the property stored for
16 the collection of such charges, including the lien of a warehouse under s. 407.209.
17 Risk of damages to or loss of such property shall be borne by the defendant after
18 delivery by the sheriff to the place of safekeeping.

19 **SECTION 39.** 799.45 (3) (c) of the statutes is amended to read:

20 799.45 (3) (c) When, in the exercise of ordinary care, the sheriff determines that
21 property to be removed from premises described in the writ is without monetary
22 value, the sheriff ~~or the plaintiff, if he or she has agreed to remove the property under~~
23 ~~par. (am),~~ may deliver or cause the same to be delivered to some appropriate place
24 established for the collection, storage, and disposal of refuse. In such case the sheriff
25 shall notify the defendant as specified in sub. (4) of the place to which the goods have

1 been delivered within 3 days of the removal of the goods. The exercise of ordinary
2 care by the sheriff under this subsection does not include searching apparently
3 valueless property for hidden or secreted articles of value.

4 **SECTION 40.** 799.45 (4) of the statutes is amended to read:

5 799.45 (4) MANNER OF GIVING NOTICE TO DEFENDANT. All notices required by sub.
6 (3) to be given to the defendant by the sheriff ~~or by the plaintiff~~ shall be in writing
7 and shall be personally served upon the defendant or mailed to the defendant at the
8 last-known address, even if such address be the premises which are the subject of
9 the eviction action.

10 **SECTION 41.** 895.489 of the statutes is created to read:

11 **895.489 Civil liability exemption; tenancy references.** (1) In this section:

12 (a) “Reference” means a written or oral statement about the rental performance
13 of an applicant for tenancy and may include statements about the applicant’s
14 payment history, conformance to rental agreement requirements, or conformance to
15 local and state laws; factual statements regarding any rental agreement
16 enforcement actions, including notices given under s. 704.17, 704.19, or 710.15 (5r);
17 and factual statements about any dispute settlement between the landlord and
18 applicant in accordance with any agreement between the landlord and applicant
19 relating to termination of the applicant’s tenancy.

20 (b) “Tenant” means a residential tenant, regardless of the type of tenancy or
21 rental period.

22 (2) A landlord who, on the request of a prospective landlord of an applicant for
23 tenancy or on the request of the applicant for tenancy, provides a reference to the
24 prospective landlord is presumed to be acting in good faith and, unless lack of good
25 faith is shown by clear and convincing evidence, is immune from all civil liability that

1 may result from providing that reference. The presumption of good faith under this
2 subsection may be rebutted only upon a showing by clear and convincing evidence
3 that the landlord knowingly provided false information in the reference or made the
4 reference maliciously.

5 **SECTION 42. Nonstatutory provisions.**

6 (1) PROPOSED PERMANENT RULES. The department of transportation shall
7 present the statement of scope of the rules required under section 349.13 (3m) (e) of
8 the statutes, as created by this act, to the governor for approval under section
9 227.135 (2) of the statutes no later than the 60th day after the effective date of this
10 subsection.

11 (2) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
12 the department of transportation shall promulgate the rules required under section
13 349.13 (3m) (e) of the statutes, as created by this act, for the period before the
14 effective date of the permanent rules promulgated under section 349.13 (3m) (e) of
15 the statutes, as created by this act, but not to exceed the period authorized under
16 section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of
17 the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes,
18 the department is not required to provide evidence that promulgating a rule under
19 this subsection as an emergency rule is necessary for the preservation of public
20 peace, health, safety, or welfare and is not required to provide a finding of an
21 emergency for a rule promulgated under this subsection. Notwithstanding section
22 227.24 (1) (e) 1d. and 1g. of the statutes, the department is not required to prepare
23 a statement of the scope of the rules promulgated under this subsection or present
24 the rules to the governor for approval. The department of transportation shall

1 promulgate the rules under this subsection no later than the first day of the 7th
2 month beginning after the effective date of this subsection.

3 **SECTION 43. Initial applicability.**

4 (1) INSECT INFESTATIONS. The treatment of section 704.07 (3) (a) of the statutes
5 first applies to tenancies that are in effect on the effective date of this subsection.

6 (2) RETURN OF SECURITY DEPOSIT AFTER EVICTION. The treatment of section 704.28
7 (4) (b) and (d) of the statutes first applies to eviction actions that are commenced on
8 the effective date of this subsection.

9 (3) APPLICABILITY OF SECURITY DEPOSIT PROVISIONS. The treatment of sections
10 704.28 (5) of the statutes first applies to tenancies that are in effect on the effective
11 date of this subsection.

12 (4) VIOLATIONS THAT CONSTITUTE UNFAIR TRADE PRACTICES. The treatment of
13 section 704.95 of the statutes first applies to violations that occur on the effective
14 date of this subsection.

15 (5) REFERENCES PROVIDED BY LANDLORDS. The treatment of section 895.489 of the
16 statutes first applies to references provided on the effective date of this subsection.

17 **SECTION 44. Effective dates.** This act takes effect on the first day of the first
18 month beginning after publication, except as follows:

19 (1) The treatment of section 349.13 (5) (b) 2. and (c) of the statutes, the
20 renumbering and amendment of section 349.13 (3m) of the statutes, and the creation
21 of section 349.13 (3m) (a), (c), (d), and (e) of the statutes take effect on the the first
22 day of the 7th month beginning after publication.

23 (2) SECTION 42 (1) and (2) of this act takes effect on the day after publication.

24 (END)

Insert 8-8

(back to
PI version)

1 704.28 (5) APPLICATION TO RESIDENTIAL TENANCIES. This section applies to
2 residential tenancies only.

3 **SECTION 17.** 704.44 (9) of the statutes is repealed.

4 **SECTION 18.** 704.95 of the statutes is amended to read:

5 **704.95 Practices regulated by the department of agriculture, trade**
6 **and consumer protection.** Practices in violation of ~~this chapter~~ s. 704.28 or 704.44
7 may also constitute unfair methods of competition or unfair trade practices under s.
8 100.20. However, the department of agriculture, trade and consumer protection may
9 not issue an order or promulgate a rule under s. 100.20 that changes any right or duty
10 arising under this chapter.

11 **SECTION 19.** 799.06 (2) of the statutes is amended to read:

12 799.06 (2) A person may commence and prosecute or defend an action or
13 proceeding under this chapter and may appear in his, her, or its own proper person
14 or by an attorney regularly authorized to practice in the courts of this state. Under
15 this subsection, a person is considered to be acting in his, her, or its own proper
16 person if the appearance is by a member or a full-time authorized employee of the
17 person. An assignee of any cause of action under this chapter shall not appear by a
18 full-time authorized employee, unless the employee is an attorney regularly
19 authorized to practice in the courts of this state.

20 **SECTION 20.** 799.40 (1) of the statutes is amended to read:

21 799.40 (1) **WHEN COMMENCED.** A civil action of eviction may be commenced by
22 a person entitled to the possession of real property, or by that person's agent
23 authorized in writing, to remove therefrom any person who is not entitled to either
24 the possession or occupancy of such real property.

25 **SECTION 21.** 799.40 (1m) of the statutes is amended to read:

made, an eviction action may be commenced by publishing a notice in the newspaper. The bill also shortens the time during which a defendant in an eviction must appear from 30 days to 14 days.

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

SECTION 1. 799.05 (3) (b) of the statutes is amended to read:

799.05 (3) (b) Except in eviction actions, the return date for a summons served upon a resident of this state shall be not less than 8 days nor more than 30 days from the issue date, and service shall be made not less than 8 days prior to the return date. In eviction actions, the return date for a summons served upon a resident of this state shall be not less than 5 days nor more than ~~30~~ 14 days from the issue date, and service shall be made not less than 5 days prior to the return date.

SECTION 2. 799.12 (2) of the statutes is amended to read:

799.12 (2) Any circuit court may by rule authorize the service of summons in some or all actions under this chapter, ~~except eviction actions,~~ by mail under sub. (3) in lieu of personal or substituted service under s. 801.11.

SECTION 3. 799.16 (3) of the statutes is repealed.

(END)

PJM Inset
8.18

PJM Inset
8.8

John Soper

4-25

- ✓ (1) Sec 2 → "concerning a tenant" ← out
a landlord
change to "concerning ~~owner of the~~ that is
not required ~~to be communicated~~
of ~~the~~ any other ^{residential} property
owner
- Objection: must be communicated
- 1) in part required under fed or state law
 - 2) is req of all residential real prop owner

ARG

- ✓ (2) change "private parking area"
to simply "private property"
wherever used

✓ (3) Sec 10 take out "separate"

✓ (4) Sec 23 s/b out

✓ (5) Sec 25 l 16 after "after": "serving a notice
of default or commencing the action"

✓ (6) remove rules Co from Sect 33