

2013 Senate Bill 179 (LRB -1983)

An Act to repeal 704.28 (4) (d), 704.44 (9), 799.45 (3) (am) 1., 799.45 (3) (am) 2., 799.45 (3) (am) 3., 799.45 (3) (am) 4., 799.45 (3) (am) 5., 799.45 (3) (am) 6. and 799.45 (3) (am) 7.; to renumber and amend 66.0104 (3), 349.13 (3m) and 799.45 (3) (am) (intro.); to amend 349.13 (5) (b) 2., 349.13 (5) (c), 704.05 (5) (a) 1., 704.05 (5) (bf), 704.07 (2) (bm) 1., 704.07 (3) (a), 704.08, 704.28 (2), 704.28 (4) (b), 704.95, 799.05 (3) (b), 799.06 (2), 799.12 (2), 799.20 (4), 799.206 (3), 799.40 (1), 799.40 (1m), 799.42, 799.44 (2), 799.45 (title), 799.45 (1), 799.45 (2) (b), 799.45 (2) (bg), 799.45 (2) (c), 799.45 (3) (title), 799.45 (3) (a), 799.45 (3) (b), 799.45 (3) (c) and 799.45 (4); and to create 66.0104 (2) (c), 66.0104 (2) (d), 66.0104 (3) (b), 349.13 (3m) (a), (c), (d) and (e), 704.28 (5) and 895.489 of the statutes; relating to: miscellaneous provisions related to rental and vehicle towing practices and eviction proceedings, prohibitions on enacting ordinances that place certain limitations or requirements on landlords, providing an exemption from emergency rule procedures, granting rule-making authority. (FE)

2013

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09-17. S. Ordered to a third reading 368

09-17. S. Rules suspended 368

09-17. S. Read a third time and **passed**, Ayes 18, Noes 15 368

09-17. S. Ordered immediately messaged 369

09-18. A. Received from Senate 311

09-19. A. Read first time and referred to committee on Rules 314

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10-08. A. Ordered immediately messaged 338

10-09. S. Received from Assembly amended and concurred in as amended, Assembly Amendment 1 adopted 402

10-09. S. Referred to committee on Senate Organization 402

10-09. S. Available for scheduling

10-14. S. Placed on calendar 10-15-2013 pursuant to Senate Rule 18(1)

10-15. S. Placed on the foot of the 10th order of business on the calendar of 10-15-2013

10-15. S. Placed on the foot of the 11th order of business on the calendar of 10-15-2013

10-15. S. Nonconcurrence Refused, Ayes 15, Noes 18

10-15. S. Assembly Amendment 1 **concurred in**

10-15. S. Action ordered immediately messaged

AMB

2013
ENROLLED BILL

13en S B-179

ADOPTED DOCUMENTS:

Orig Engr 5 SubAmdt 1 13 50104/1

Amendments to above (if none, write "NONE"): SA 17 - 20839/1
SA 18 - F0005/1
AA 1 - 20892/1

Corrections - show date (if none, write "NONE"): OCT 7, 2013
CORRECTION IN AA 1

Topic . rental and vehicle towing practices, eviction proceedings, prohibitions on enacting ordinances that place certain limitations or requirements on landlords, and terminating the tenancy of an offending tenant in a manufactured or mobile home community

10-17-13
Date

JR Miller
Enrolling Drafter



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs0104/1
PJK/ARG/PJH:all:jf

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 179**

September 5, 2013 – Offered by Senators LASEE, OLSEN and SCHULTZ.

1 **AN ACT to repeal** 704.28 (4) (d), 799.45 (3) (am) 1., 799.45 (3) (am) 2., 799.45 (3)
2 (am) 3., 799.45 (3) (am) 4., 799.45 (3) (am) 5., 799.45 (3) (am) 6. and 799.45 (3)
3 (am) 7.; **to renumber and amend** 66.0104 (3), 349.13 (3m), 704.16 (3) (a) 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) (b) 2. (intro.), 704.05 (5) (bf), 704.07 (3) (a), 704.08, 704.16 (3) (b)
6 1., 704.28 (2), 704.28 (4) (b), 704.28 (4) (c), 704.44 (9), 704.95, 799.05 (3) (b),
7 799.06 (2), 799.12 (2), 799.12 (3), 799.20 (4), 799.206 (3), 799.40 (1), 799.40 (1m),
8 799.42, 799.44 (1), 799.44 (2), 799.45 (title), 799.45 (1), 799.45 (2) (b), 799.45 (2)
9 (bg), 799.45 (2) (c), 799.45 (3) (title), 799.45 (3) (a), 799.45 (3) (b), 799.45 (3) (c)
10 and 799.45 (4); and **to create** 66.0104 (2) (c), 66.0104 (2) (d), 66.0104 (3) (b),
11 349.13 (3m) (a), (c), (d), (dg), (dm), (dr) and (e), 704.14, 704.16 (3) (a) 1., 704.16
12 (3) (a) 2., 704.16 (3) (a) 3., 704.28 (5), 704.44 (10), 710.15 (5t) and 895.489 of the
13 statutes; **relating to:** miscellaneous provisions related to rental and vehicle

1 towing practices and eviction proceedings, prohibitions on enacting ordinances
2 that place certain limitations or requirements on landlords, terminating the
3 tenancy of an offending tenant in a manufactured or mobile home community,
4 providing an exemption from emergency rule procedures, granting
5 rule-making authority.

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

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

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

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

14 66.0104 (2) (d) 1. No city, village, town, or county may enact an ordinance that
15 requires a landlord to communicate to tenants any information that is not required
16 to be communicated to tenants under federal or state law.

17 2. No city, village, town, or county may enact an ordinance that requires a
18 landlord to communicate to the city, village, town, or county any information
19 concerning the landlord, unless any of the following applies:

20 a. The information is required under federal or state law.

21 b. The information is required of all residential real property owners.

22 c. The information is solely information that will enable a person to contact the
23 owner or, at the option of the owner, an agent of the owner.

INS. SA17-1

INS. SA17-2

INS. AA1

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

3 66.0104 (3) (a) If a city, village, town, or county has in effect on December 21,
4 2011, an ordinance that is inconsistent with sub. (2) (a) or (b), the ordinance does not
5 apply and may not be enforced.

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

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

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

12 349.13 (3m) (b) ~~No Subject to par. (dr) 1., if private property is not properly~~
13 ~~posted and a vehicle involved in trespass parking on a is parked on the private~~
14 ~~parking lot or facility shall be removed property and is not authorized to be parked~~
15 ~~there, the vehicle may be removed immediately, at the vehicle owner's expense,~~
16 without the permission of the vehicle owner, ~~except~~ upon the issuance of a
17 repossession judgment or upon ~~formal complaint and~~ the issuance of a citation for
18 illegal parking issued by a traffic or police officer.

19 **SECTION 6.** 349.13 (3m) (a), (c), (d), (dg), (dm), (dr) and (e) of the statutes are
20 created to read:

21 349.13 (3m) (a) In this subsection:

- 22 1. "Parking enforcer" has the meaning given in s. 341.65 (1) (ar).
- 23 2. "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) Subject to par. (dr) 1., if private property is properly posted and a vehicle is
2 parked on the private property and is not authorized to be parked there, the vehicle
3 may be removed immediately, at the vehicle owner's expense, without the permission
4 of the vehicle owner, regardless of whether a citation is issued for illegal parking.

5 (d) 1. Subject to par. (dr), a vehicle may be removed from private property under
6 par. (b) or (c) only by a towing service at the request of the property owner or property
7 owner's agent, a traffic officer, or a parking enforcer.

8 2. Before any vehicle is removed under par. (b) or (c) by a towing service, the
9 towing service shall notify a local law enforcement agency of the make, model, vehicle
10 identification number, and registration plate number of the vehicle and the location
11 to which the vehicle will be removed.

12 3. Subject to par. (dr) 2., if a vehicle is removed under par. (b) or (c) by a towing
13 service, the vehicle owner shall pay the reasonable charges for removal and, if
14 applicable, storage of the vehicle, as well as any service fee imposed under par. (dm).
15 Subject to par. (dr) 2., if the vehicle was removed at the request of the property owner
16 or property owner's agent, these reasonable charges shall be paid directly to the
17 towing service, and the towing service may impound the vehicle until these charges
18 are paid. If these charges have not been paid in full within 30 days of the vehicle's
19 removal and the vehicle owner has not entered into a written agreement with the
20 towing service to pay these reasonable charges in installment payments, the vehicle
21 shall be deemed abandoned and may be disposed of as are other abandoned vehicles.

22 (dg) Every law enforcement agency shall maintain a record of each notice
23 received under par. (d) 2., as well as identification of the towing service removing the
24 vehicle.

1 (dm) If requested by the municipality in which the removed vehicle was
2 illegally parked, the towing service shall charge the vehicle owner a service fee not
3 exceeding \$35 and shall remit this service fee to the municipality. All service fees
4 collected by a towing service under this paragraph may be aggregated and forwarded
5 together, on a monthly basis, to each applicable municipality.

6 (dr) 1. A towing service may not remove a vehicle under this subsection if the
7 vehicle has been reported to a law enforcement agency as stolen.

8 2. A towing service may not collect any charges for the removal or storage of
9 an illegally parked vehicle under this subsection if the towing service has not
10 complied with par. (d) 2. with respect to the vehicle.

11 (e) The department shall promulgate rules establishing all of the following:

12 1. Reasonable charges for removal and storage of vehicles under this
13 subsection.

14 2. The form and manner of display of notice necessary to qualify as “properly
15 posted” under par. (a) 2.

16 3. Guidelines for towing services to notify law enforcement under par. (d) upon
17 removal of a vehicle.

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) (b) 2. (intro.) of the statutes is amended to read:

18 704.05 (5) (b) 2. (intro.) ~~If the abandoned~~ tenant removes from or is evicted from
19 the premises and leaves behind personal property that is a manufactured home,
20 mobile home, or titled vehicle, before disposing of the abandoned property the
21 landlord shall give notice of the landlord's intent to dispose of the property by sale
22 or other appropriate means to all of the following:

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

24 704.05 (5) (bf) *Notice that landlord will not store property.* If the landlord does
25 not intend to store personal property left behind by a tenant, except as provided in

1 par. (am), the landlord shall provide written notice to a tenant, when the tenant
2 enters into, ~~and when the tenant or~~ renews, a rental agreement, that the landlord
3 will not store any items of personal property that the tenant leaves behind when the
4 tenant removes from, or if the tenant is evicted from, the premises, except as
5 provided in par. (am). Notwithstanding pars. (a), (am), and (b), if the landlord does
6 ~~not provide~~ has not provided to a tenant the notice required under this paragraph,
7 the landlord shall comply with s. 704.05, 2009 stats., with respect to any personal
8 property left behind by the tenant when the tenant removes from the premises, or
9 if the tenant is evicted from the premises and the landlord notifies the sheriff under
10 s. 799.45 (3m).

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

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

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

21 **704.08 Information check-in Check-in sheet.** A landlord shall provide to
22 a new residential tenant when the tenant commences his or her occupancy of the
23 premises a ~~standardized information~~ check-in sheet that ~~contains an itemized~~
24 ~~description of~~ the tenant may use to make comments, if any, about the condition of
25 the premises ~~at the time of check-in~~. The tenant shall be given 7 days from the date

1 the tenant commences his or her occupancy to complete the check-in sheet and
2 return it to the landlord. The landlord is not required to provide the ~~information~~
3 check-in sheet to a tenant upon renewal of a rental agreement. This section does not
4 apply to the rental of a plot of ground on which a manufactured home, as defined in
5 s. 704.05 (5) (b) 1. a., or a mobile home, as defined in s. 704.05 (5) (b) 1. b., may be
6 located.

7 **SECTION 14.** 704.14 of the statutes is created to read:

8 **704.14 Notice of domestic abuse protections.** A residential rental
9 agreement shall include the following notice in the agreement or in an addendum to
10 the agreement:

11 **NOTICE OF DOMESTIC ABUSE PROTECTIONS**

12 (1) As provided in section 106.50 (5m) (dm) of the Wisconsin statutes, a tenant
13 may be able to stop an eviction action if the tenant can prove that the landlord knew,
14 or should have known, the tenant is a victim of domestic abuse, sexual assault, or
15 stalking and that the eviction action is based on conduct related to domestic abuse,
16 sexual assault, or stalking committed by either of the following:

17 (a) A person who was not the tenant's invited guest.

18 (b) A person who was the tenant's invited guest, but the tenant has done either
19 of the following:

20 1. Sought an injunction barring the person from the premises.

21 2. Provided a written statement to the landlord stating that the person will no
22 longer be an invited guest of the tenant and the tenant has not subsequently invited
23 the person to be the tenant's guest.

24 (2) A tenant who is a victim of domestic abuse, sexual assault, or stalking may
25 have the right to terminate the rental agreement in certain limited situations, as

1 provided in section 704.16 of the Wisconsin statutes. If the tenant has safety
2 concerns, the tenant should contact a local victim service provider or law
3 enforcement agency.

4 (3) A tenant is advised that this notice is only a summary of the tenant's rights
5 and the specific language of the statutes governs in all instances.

6 **SECTION 15.** 704.16 (3) (a) of the statutes is renumbered 704.16 (3) (a) (intro.)
7 and amended to read:

8 704.16 (3) (a) (intro.) In this subsection, ~~“offending:~~

9 4. “Offending tenant” is a tenant whose tenancy is being terminated under this
10 subsection.

11 **SECTION 16.** 704.16 (3) (a) 1. of the statutes is created to read:

12 704.16 (3) (a) 1. “Community” has the meaning given in s. 710.15 (1) (ad).

13 **SECTION 17.** 704.16 (3) (a) 2. of the statutes is created to read:

14 704.16 (3) (a) 2. “Manufactured home” has the meaning given in s. 101.91 (2).

15 **SECTION 18.** 704.16 (3) (a) 3. of the statutes is created to read:

16 704.16 (3) (a) 3. “Mobile home” has the meaning given in s. 710.15 (1) (b).

17 **SECTION 19.** 704.16 (3) (b) 1. of the statutes is amended to read:

18 704.16 (3) (b) 1. The offending tenant commits one or more acts, including
19 verbal threats, that cause another tenant, or a child of that other tenant, who
20 occupies a dwelling unit in the same single-family rental unit, multiunit dwelling,
21 or apartment complex, or a manufactured home or mobile home in the same
22 community, as the offending tenant to face an imminent threat of serious physical
23 harm from the offending tenant if the offending tenant remains on the premises.

24 **SECTION 20.** 704.28 (2) of the statutes is amended to read:

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

12 **SECTION 21.** 704.28 (4) (b) of the statutes is amended to read:

13 704.28 (4) (b) If the tenant vacates the premises or is evicted before the
14 termination date of the rental agreement, the date on which the tenant's rental
15 agreement terminates or, if the landlord rerents the premises before the tenant's
16 rental agreement terminates, the date on which the new tenant's tenancy begins.

17 **SECTION 22.** 704.28 (4) (c) of the statutes is amended to read:

18 704.28 (4) (c) If the tenant vacates the premises or is evicted after the
19 termination date of the rental agreement, the date on which the landlord learns that
20 the tenant has vacated the premises or has been removed from the premises under
21 s. 799.45 (2).

22 **SECTION 23.** 704.28 (4) (d) of the statutes is repealed.

23 **SECTION 24.** 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 25.** 704.44 (9) of the statutes is amended to read:

2 704.44 (9) Allows the landlord to terminate the tenancy of a tenant if a crime
3 is committed based solely on the commission of a crime in or on the rental property,
4 even if the tenant could not reasonably have prevented the if the tenant, or someone
5 who lawfully resides with the tenant, is the victim, as defined in s. 950.02 (4), of that
6 crime.

7 **SECTION 26.** 704.44 (10) of the statutes is created to read:

8 704.44 (10) Allows the landlord to terminate the tenancy of a tenant for a crime
9 committed in relation to the rental property and the rental agreement does not
10 include the notice required under s. 704.14.

11 **SECTION 27.** 704.95 of the statutes is amended to read:

12 **704.95 Practices regulated by the department of agriculture, trade**
13 **and consumer protection.** Practices in violation of ~~this chapter~~ s. 704.28 or 704.44
14 may also constitute unfair methods of competition or unfair trade practices under s.
15 100.20. However, the department of agriculture, trade and consumer protection may
16 not issue an order or promulgate a rule under s. 100.20 that changes any right or duty
17 arising under this chapter.

18 **SECTION 28.** 710.15 (5t) of the statutes is created to read:

19 710.15 (5t) TERMINATION OF TENANCY FOR THREAT OF SERIOUS HARM.
20 Notwithstanding sub. (5m), nothing in this section prevents termination of a tenancy
21 because of an imminent threat of serious physical harm, as provided in s. 704.16.

22 **SECTION 29.** 799.05 (3) (b) of the statutes is amended to read:

23 799.05 (3) (b) Except in eviction actions, the return date for a summons served
24 upon a resident of this state shall be not less than 8 days nor more than 30 days from
25 the issue date, and service shall be made not less than 8 days prior to the return date.

1 In eviction actions, the return date for a summons served upon a resident of this state
2 shall be not less than 5 days nor more than ~~30~~ 25 days from the issue date, and service
3 shall be made not less than 5 days prior to the return date.

4 **SECTION 30.** 799.06 (2) of the statutes is amended to read:

5 799.06 (2) A person may commence and prosecute or defend an action or
6 proceeding under this chapter and may appear in his, her, or its own proper person
7 or by an attorney regularly authorized to practice in the courts of this state. Under
8 this subsection, a person is considered to be acting in his, her, or its own proper
9 person if the appearance is by a full-time member, as defined in s. 183.0102 (15),
10 agent, or authorized employee of the person, or by an agent of the member or an
11 authorized employee of the agent. An assignee of any cause of action under this
12 chapter shall not appear by a full-time authorized employee, unless the employee
13 is an attorney regularly authorized to practice in the courts of this state.

14 **SECTION 31.** 799.12 (2) of the statutes is amended to read:

15 799.12 (2) Any circuit court may by rule authorize the service of summons in
16 some or all actions under this chapter, ~~except eviction actions,~~ by mail under sub. (3)
17 in lieu of personal or substituted service under s. 801.11.

18 **SECTION 32.** 799.12 (3) of the statutes is amended to read:

19 799.12 (3) If authorized by court rule under sub. (2), service may be made by
20 mail by leaving the original and necessary copies of the summons with the clerk of
21 court, together with the fee prescribed in s. 814.62 (4). The court ~~may by rule~~ shall
22 require the use of certified mail with return receipt requested, in which event for all
23 eviction cases for which service by mail is authorized under sub. (2), and for all other
24 cases may by rule require the use of certified mail with return receipt requested.
25 Whenever the use of certified mail is required, the additional fee prescribed in s.

1 814.62 (4) shall be paid for each defendant. The clerk shall mail a copy to each
2 defendant at the last-known address as specified in the summons. Service of the
3 summons is considered completed when it is mailed, unless the envelope enclosing
4 the summons has been returned unopened to the clerk prior to the return date. All
5 mailing of summonses shall be done in envelopes upon which the clerk's return
6 address appears, with a request to return to that address. Service by mail to obtain
7 a personal judgment shall be limited to the county where the action is commenced.

8 **SECTION 33.** 799.20 (4) of the statutes is amended to read:

9 799.20 (4) INQUIRY OF DEFENDANT WHO APPEARS ON RETURN DATE. If the defendant
10 appears on the return date of the summons or any adjourned date thereof, the court
11 or circuit court commissioner shall make sufficient inquiry of the defendant to
12 determine whether the defendant claims a defense to the action. If it appears to the
13 court or circuit court commissioner that the defendant claims a defense to the action,
14 the court or circuit court commissioner shall schedule a trial of all the issues involved
15 in the action, unless the parties stipulate otherwise or the action is subject to
16 immediate dismissal. In a residential eviction action, the court or circuit court
17 commissioner shall hold and complete a court or jury trial of the issue of possession
18 of the premises involved in the action within 30 days of the return date of the
19 summons or any adjourned date thereof, unless the parties stipulate otherwise or the
20 action is subject to immediate dismissal.

21 **SECTION 34.** 799.206 (3) of the statutes is amended to read:

22 799.206 (3) When all parties appear in person or by their attorneys on the
23 return date in an eviction, garnishment, or replevin action and any party claims that
24 a contest exists, the matter shall be forthwith scheduled for a hearing, to be held as

1 soon as possible before a judge and in the case of an eviction action, not more than
2 30 days after the return date.

3 **SECTION 35.** 799.40 (1) of the statutes is amended to read:

4 799.40 (1) WHEN COMMENCED. A civil action of eviction may be commenced by
5 a person entitled to the possession of real property, or by that person's agent
6 authorized in writing, to remove therefrom any person who is not entitled to either
7 the possession or occupancy of such real property.

8 **SECTION 36.** 799.40 (1m) of the statutes is amended to read:

9 799.40 (1m) ACCEPTANCE OF RENT OR OTHER PAYMENT. If a landlord commences
10 an action under this section against a tenant whose tenancy has been terminated for
11 failure to pay rent or for any other reason, the action under this section may not be
12 dismissed solely because the landlord accepts past due rent or any other payment
13 from the tenant after the termination of the tenant's tenancy serving notice of default
14 or after commencing the action.

15 **SECTION 37.** 799.42 of the statutes is amended to read:

16 **799.42 Service and filing in eviction actions.** The complaint shall be
17 served with the summons when ~~personal or substituted~~ service is had under s. 799.12
18 (1), (2), or (3).

19 **SECTION 38.** 799.44 (1) of the statutes is amended to read:

20 799.44 (1) ORDER FOR JUDGMENT. In an eviction action, if the court finds that
21 the plaintiff is entitled to possession, the court shall immediately enter an order for
22 judgment ~~shall be~~ for the restitution of the premises to the plaintiff ~~and, if.~~ If an
23 additional cause of action is joined under s. 799.40 (2) and plaintiff prevails thereon,
24 the court shall enter judgment for such other relief as the court orders. Judgment
25 shall be entered accordingly as provided in s. 799.24.

1 **SECTION 39.** 799.44 (2) of the statutes is amended to read:

2 799.44 (2) WRIT OF RESTITUTION. At the time of ordering judgment for the
3 restitution of premises, the court shall immediately order that a writ of restitution
4 be issued, and the writ may be delivered to the sheriff for execution in accordance
5 with s. 799.45. No writ shall be executed if received by the sheriff more than 30 days
6 after its issuance.

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

8 **799.45 (title) Execution of writ of restitution; disposal of personal**
9 **property.**

10 **SECTION 41.** 799.45 (1) of the statutes is amended to read:

11 799.45 (1) WHEN EXECUTED. Upon delivery of a writ of restitution to the sheriff,
12 and after payment to the sheriff of the fee required by s. 814.70 (8), the sheriff shall
13 execute the writ. If the plaintiff, or the plaintiff's attorney or agent, does not notify
14 the sheriff under sub. (3)-(am) (3m) that the plaintiff or his or her agent will remove
15 and store or dispose of the property, the sheriff may require that prior to the
16 execution of any writ of restitution the plaintiff deposit a reasonable sum
17 representing the probable cost of removing the defendant's property chargeable to
18 the plaintiff under s. 814.70 (8) and (10) and of the services of deputies under s.
19 814.70 (8). In case of dispute as to the amount of the required deposit, the amount
20 of that deposit shall be determined by the court under s. 814.70 (10).

21 **SECTION 42.** 799.45 (2) (b) of the statutes is amended to read:

22 799.45 (2) (b) Remove If the plaintiff or his or her agent does not notify the
23 sheriff under sub. (3m) that the plaintiff or his or her agent will remove and store or
24 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 43.** 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)~~ (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 44.** 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 45.** 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 46.** 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 47.** 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 (5). If the sheriff is notified that the plaintiff or the plaintiff's agent will
9 be 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 48.** 799.45 (3) (am) 1. of the statutes is repealed.

20 **SECTION 49.** 799.45 (3) (am) 2. of the statutes is repealed.

21 **SECTION 50.** 799.45 (3) (am) 3. of the statutes is repealed.

22 **SECTION 51.** 799.45 (3) (am) 4. of the statutes is repealed.

23 **SECTION 52.** 799.45 (3) (am) 5. of the statutes is repealed.

24 **SECTION 53.** 799.45 (3) (am) 6. of the statutes is repealed.

25 **SECTION 54.** 799.45 (3) (am) 7. of the statutes is repealed.

1 **SECTION 55.** 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 56.** 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 57.** 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 58.** 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 59. 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 60. 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) NOTICE REGARDING NONSTORAGE OF PROPERTY. The treatment of section 704.05
7 (5) (bf) of the statutes first applies to personal property left behind by a tenant under
8 a rental agreement that is renewed on the effective date of this subsection.

9 (3) RETURN OF SECURITY DEPOSIT AFTER EVICTION. The treatment of section 704.28
10 (4) (b), (c), and (d) of the statutes first applies to eviction actions that are commenced
11 on the effective date of this subsection.

12 (4) APPLICABILITY OF SECURITY DEPOSIT PROVISIONS. The treatment of sections
13 704.28 (5) of the statutes first applies to tenancies that are in effect on the effective
14 date of this subsection.

15 (5) VOID RENTAL AGREEMENT. The treatment of section 704.44 (9) and (10) of the
16 statutes first applies to rental agreements that are entered into or renewed on the
17 effective date of this subsection.

18 (6) VIOLATIONS THAT CONSTITUTE UNFAIR TRADE PRACTICES. The treatment of
19 section 704.95 of the statutes first applies to violations that occur on the effective
20 date of this subsection.

21 (7) TERMINATION OF TENANCY IN MANUFACTURED OR MOBILE HOME COMMUNITY. The
22 treatment of sections 704.16 (3) (b) 1. and 710.15 (5t) of the statutes, the renumbering
23 and amendment of section 704.16 (3) (a) of the statutes, and the creation of section
24 704.16 (3) (a) 1., 2., and 3. of the statutes first apply to acts causing an imminent
25 threat of serious physical harm committed on the effective date of this subsection.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa0839/1
EVM:eev:rs

**SENATE AMENDMENT 17,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 179**

September 17, 2013 – Offered by Senators LASEE and SHILLING.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 2, line 14: after "1." insert "a." SA17-1

3 **2.** Page 2, line 16: after that line insert:

4 "b. Subdivision 1. a. does not apply to an ordinance that has a reasonable and
5 clearly defined objective of regulating the manufacture of illegal narcotics."

6 (END)

SA17-2



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBf0005/1
PJK:kjf:ph

**SENATE AMENDMENT 18,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 179**

September 17, 2013 - Offered by Senators LASEE and ERPENBACH.

SA18

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 8, line 13: delete "may be able to stop" and substitute "has a defense
3 to".

4 (END)



State of Wisconsin
2013-2014 LEGISLATURE

CORRECTIONS IN:

ASSEMBLY AMENDMENT 1,

TO SENATE BILL 179

Prepared by the Legislative Reference Bureau
(October 7, 2013)

CORR

1. Page 1, line 1: after "bill" insert ", as shown by senate substitute amendment 1)".

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa0892/1
EVM:kjf:jf

ASSEMBLY AMENDMENT 1,
TO SENATE BILL 179

October 3, 2013 - Offered by Representative STROEBEL.

INS. CORR

AA1

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 19: delete "landlord," and substitute "landlord or a tenant,"

3 (END)

EDITOR - CORR WILL NOT BE SHOWN IN THE SUB
AS ENROLLED.