

2013 DRAFTING REQUEST

Senate Amendment (SA-SA1-SB179)

Received: 7/1/2013 Received By: pkahler
Wanted: Today Same as LRB:
For: Frank Lasee (608) 266-3512 By/Representing: Rob Kovach
May Contact: Drafter: pkahler
Subject: Courts - civil procedure Addl. Drafters: emueller
Local Gov't - munis generally phurley
Real Estate - landlord/tenant
Extra Copies:

Submit via email: YES
Requester's email: Sen.Lasee@legis.wisconsin.gov
Carbon copy (CC) to: Fern.Knepp@legis.wisconsin.gov
Brian.Larson@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Notice of domestic abuse protections, certified mail for service, and municipal landlord registry

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 7/1/2013	scalvin 7/1/2013	jmurphy 7/1/2013	_____			
/P1	pkahler 7/3/2013			_____	lparisi 7/1/2013		
/P2	pkahler	evinz	rschluet	_____	sbasford		

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	7/17/2013	7/3/2013	7/3/2013	_____	7/3/2013		
/P3	pkahler 7/25/2013	scalvin 7/18/2013	rschluet 7/18/2013	_____	mbarman 7/18/2013		
/P4	pkahler 7/26/2013	scalvin 7/26/2013	phenry 7/26/2013	_____	srose 7/26/2013		
/1		scalvin 7/26/2013	phenry 7/26/2013	_____	srose 7/26/2013	srose 7/26/2013	

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/? pkahler

jm
7/1 *self*

FE Sent For:

<END>

Kahler, Pam

From: Kovach, Robert
Sent: Monday, July 01, 2013 3:35 PM
To: Kahler, Pam
Subject: New amendment. simple to the simple.

Dear Pam,

I pieced the 2 parts of the amendments that will change 704.44 (9) together and I still don't think it will work this way.

SECTION 18c. 704.44 (9) of the statutes is amended to read:
704.44 (9) Allows the landlord to terminate the tenancy of a tenant ~~if a crime is committed in or on the rental property, even if the tenant could not reasonably have prevented the crime~~ in a manner contrary to s. 106.50 (5m) (dm) or 704.16." except that, if the rental agreement includes the notice required under s. 704.14, it may not be found to violate this subsection".

This way it looks like a landlord can violate 106.50 and 704.16 if they provide the disclosure.

Would it work if we say:

SECTION 18c. 704.44 (9) of the statutes is amended to read:
704.44 (9) Allows the landlord to terminate the tenancy of a tenant ~~if a crime is committed in or on the rental property, even if the tenant could not reasonably have prevented the crime~~ in a manner contrary to s. 106.50 (5m) (dm) or 704.16. Rental agreements that include the notice required under s. 704.14 do not violate this subsection"

We might need to go a set farther to get this to work—like this:

SECTION 18c. 704.44 (9) of the statutes is amended to read:
704.44 (9) Allows the landlord to terminate the tenancy of a tenant if a crime is committed in or on the rental property, ~~even if the tenant could not reasonably have prevented the crime~~ in a manner contrary to s. 106.50 (5m) (dm) or 704.16. Rental agreements that include the notice required under s. 704.14 do not violate this subsection"

OR

SECTION 18c. 704.44 (9) of the statutes is amended to read:
704.44 (9) Allows the landlord to terminate the tenancy of a tenant ~~if a crime is committed in or on the rental property, even if the tenant could not reasonably have prevented the crime~~ in a manner contrary to s. 106.50 (5m) (dm) or 704.16. Rental agreements that allow for eviction for crime committed in, on or about the rental property shall include the notice required under s. 704.14 to ensure compliance with this subsection"

in relation to the rental property, the notice must include

I think the very last one most closely matches what the WCADV says they will agree to. What do you think? Is that something we can do?

I don't have the stripes for this yet. Can we go back to p/ drafts on this one? The others all look fine to me.

not to be found void & unenforceable

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa0528/1
PJK&PJH:sac:ph

SENATE AMENDMENT,
TO SENATE BILL 179

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

2 1. Page 2, line 1: after "landlords," insert "terminating the tenancy of an
3 offending tenant in a manufactured or mobile home community,".

4 *In Page 6, line 13: after that line insert:*
2. Page 9, line 4: delete lines 4 to 17 and substitute:

5 "SECTION 10c. 704.05 (5) (b) 2. (intro.) of the statutes is amended to read:

6 704.05 (5) (b) 2. (intro.) If the ~~abandoned~~ tenant removes from the premises and
7 leaves behind personal property that is a manufactured home, mobile home, or titled
8 vehicle, before disposing of the abandoned property the landlord shall give notice of
9 the landlord's intent to dispose of the property by sale or other appropriate means
10 to all of the following:

11 SECTION 10m. 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 who removes from the

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

9 **3.** Page 9, line 18: delete lines 18 to 20.

10 **4.** Page 10, line 16: after that line insert:

11 ~~SECTION 13c.~~ ^{SECTION 13c.} 704.16 (3) (a) of the statutes is renumbered 704.16 (3) (a) (intro.)
12 and amended to read:

13 704.16 (3) (a) (intro.) In this subsection, ~~“offending:~~

14 4. “Offending tenant” is a tenant whose tenancy is being terminated under this
15 subsection.

16 **SECTION 13e.** 704.16 (3) (a) 1. of the statutes is created to read:

17 704.16 (3) (a) 1. “Community” has the meaning given in s. 710.15 (1) (ad).

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

19 704.16 (3) (a) 2. “Manufactured home” has the meaning given in s. 101.91 (2).

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

21 704.16 (3) (a) 3. “Mobile home” has the meaning given in s. 710.15 (1) (b).

22 **SECTION 13m.** 704.16 (3) (b) 1. of the statutes is amended to read:

23 704.16 (3) (b) 1. The offending tenant commits one or more acts, including
24 verbal threats, that cause another tenant, or a child of that other tenant, who

1 occupies a dwelling unit in the same single-family rental unit, multiunit dwelling,
2 or apartment complex, or a manufactured home or mobile home in the same
3 community, as the offending tenant to face an imminent threat of serious physical
4 harm from the offending tenant if the offending tenant remains on the premises.”.

5 **5.** Page 11, line 4: delete lines 4 to 9 and substitute:

6 “SECTION 15c. 704.28 (4) (b) of the statutes is amended to read:

7 704.28 (4) (b) If the tenant vacates the premises or is evicted before the
8 termination date of the rental agreement, the date on which the tenant’s rental
9 agreement terminates or, if the landlord re-rents the premises before the tenant’s
10 rental agreement terminates, the date on which the new tenant’s tenancy begins.

11 SECTION 15m. 704.28 (4) (c) of the statutes is amended to read:

12 704.28 (4) (c) If the tenant vacates the premises or is evicted after the
13 termination date of the rental agreement, the date on which the landlord learns that
14 the tenant has vacated the premises or has been removed from the premises under
15 s. 799.45 (2).”.

16 **6.** Page 11, line 14: delete that line and substitute:

17 “SECTION 18c. 704.44 (9) of the statutes is amended to read:

18 704.44 (9) Allows the landlord to terminate the tenancy of a tenant ~~if a crime~~
19 ~~is committed in or on the rental property, even if the tenant could not reasonably have~~
20 ~~prevented the crime~~ in a manner contrary to s. 106.50 (5m) (dm) or 704.16.”.

21 **7.** Page 11, line 21: after that line insert:

22 “SECTION 19m. 710.15 (5t) of the statutes is created to read:

1 710.15 (5t) TERMINATION OF TENANCY FOR THREAT OF SERIOUS HARM.
2 Notwithstanding sub. (5m), nothing in this section prevents termination of a tenancy
3 because of an imminent threat of serious physical harm, as provided in s. 704.16.”.

4 **8.** Page 12, line 2: delete “14” and substitute “25”.

5 **9.** Page 12, line 9: after “member” insert “, as defined in s. 183.0102 (15),
6 agent,”.

7 **10.** Page 13, line 1: delete “an” and substitute “a residential”.

8 **11.** Page 13, line 2: delete that line and substitute “shall hold and complete
9 a court or jury trial of the issue of possession of the premises involved in the action
10 within 30 days of the”.

11 **12.** Page 14, line 3: after that line insert:

12 “**SECTION 27m.** 799.44 (1) of the statutes is amended to read:

13 799.44 (1) ORDER FOR JUDGMENT. In an eviction action, if the court finds that
14 the plaintiff is entitled to possession, the court shall immediately enter an order for
15 judgment ~~shall be~~ for the restitution of the premises to the plaintiff ~~and, if,~~ If an
16 additional cause of action is joined under s. 799.40 (2) and plaintiff prevails thereon,
17 the court shall enter judgment for such other relief as the court orders. Judgment
18 shall be entered accordingly as provided in s. 799.24.”.

19 **13.** Page 14, line 6: after “shall” insert “immediately”.

20 **14.** Page 14, line 6: delete “, and” and substitute “, and”.

21 **15.** Page 14, line 7: delete “~~the writ may be~~ within 5 days and” and substitute
22 “the writ may be”.

23 **16.** Page 16, line 11: after “704.05” insert “(5) (a), (am), (c), and (cm)”.

1 **17.** Page 20, line 8: after that line insert:

2 “(1m) NOTICE REGARDING NONSTORAGE OF PROPERTY. The treatment of section
3 704.05 (5) (bf) of the statutes first applies to personal property left behind by a tenant
4 under a rental agreement that is renewed on the effective date of this subsection.”.

5 **18.** Page 20, line 10: after “(b)” insert “, (c),”.

6 **19.** Page 20, line 14: after that line insert:

7 “(3m) VOID RENTAL AGREEMENT. The treatment of section 704.44 (9) of the
8 statutes first applies to rental agreements that are entered into or renewed on the
9 effective date of this subsection.”.

10 **20.** Page 20, line 17: after that line insert:

11 “(4m) TERMINATION OF TENANCY IN MANUFACTURED OR MOBILE HOME COMMUNITY.
12 The treatment of sections 704.16 (3) (b) 1. and 710.15 (5t) of the statutes, the
13 renumbering and amendment of section 704.16 (3) (a) of the statutes, and the
14 creation of section 704.16 (3) (a) 1., 2., and 3. of the statutes first apply to acts causing
15 an imminent threat of serious physical harm committed on the effective date of this
16 subsection.”.

17 **21.** Page 20, line 18: delete “799.05 (3) (b)” and substitute “704.05 (5) (a) 1.,
18 799.05 (3) (b), 799.06 (2)”.

19 **22.** Page 20, line 19: after “799.206 (3),” insert “799.40 (1) and (1m),”.

20 **23.** Page 20, line 19: delete “and 799.44 (2)” and substitute “799.44 (2), and
21 799.45 (title), (1), (2) (b), (bg), and (c), (3) (title), (a), (am) (intro.), 1., 2., 3., 4., 5., 6.,
22 and 7., (b), and (c), and (4)”.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa0691/1
PJK&PJH:eev:ph

eev/sae
r must run
a 0693/P1

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

today

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

2 **1.** Page 2, line 10: after that line insert:

3 “SECTION 13b. 704.14 of the statutes is created to read:

4 **704.14 Notice of domestic abuse protections.** A residential rental
5 agreement shall include the following notice in the agreement or in an addendum to
6 the agreement:

7 **NOTICE OF DOMESTIC ABUSE PROTECTIONS**

8 (1) A tenant who is a victim of domestic abuse, sexual assault, or stalking has
9 the protections provided in section 106.50 (5m) (d) of the Wisconsin statutes and
10 cannot be evicted on the basis of any of the following:

1 (a) Conduct that is related to the commission of domestic abuse, sexual assault,
2 or stalking by a person who was not the invited guest of the tenant, including a
3 person who was another tenant.

4 (b) Conduct that is related to the commission of domestic abuse, sexual assault,
5 or stalking by a person who was the invited guest of the tenant if either of the
6 following applies:

7 1. The tenant has sought an injunction barring the person from the premises.

8 2. The tenant provides a written statement to the landlord stating that the
9 person will no longer be an invited guest of the tenant and the tenant does not
10 subsequently invite the person to be a guest of the tenant.

11 (2) A tenant who is a victim of domestic abuse, sexual assault, or stalking may
12 have the right to terminate the rental agreement in certain limited situations, as
13 provided in section 704.16 of the Wisconsin statutes. If the tenant has safety
14 concerns, the tenant should contact a local victim service provider or law
15 enforcement agency.”

16 2. Page 2, line 11: delete “SECTION” and substitute “SECTION”.

17 3. Page 3, line 20: after “704.16” insert “except that, if the rental agreement
18 includes the notice required under s. 704.14, it may not be found to violate this
19 subsection”.

20 4. Page 4, line 6: after that line insert:

21 “9m. Page 12, line 17: after that line insert:

22 “SECTION 22m. 799.12 (3) of the statutes is amended to read:

23 799.12 (3) If authorized by court rule under sub. (2), service may be made by
24 mail by leaving the original and necessary copies of the summons with the clerk of

1 court, together with the fee prescribed in s. 814.62 (4). The court ~~may by rule~~ shall
2 require the use of certified mail with return receipt requested, ~~in which event~~ for all
3 eviction cases for which service by mail is authorized under sub. (2), and for all other
4 cases may by rule require the use of certified mail with return receipt requested.
5 Whenever the use of certified mail is required, the additional fee prescribed in s.
6 814.62 (4) shall be paid for each defendant. The clerk shall mail a copy to each
7 defendant at the last-known address as specified in the summons. Service of the
8 summons is considered completed when it is mailed, unless the envelope enclosing
9 the summons has been returned unopened to the clerk prior to the return date. All
10 mailing of summonses shall be done in envelopes upon which the clerk's return
11 address appears, with a request to return to that address. Service by mail to obtain
12 a personal judgment shall be limited to the county where the action is commenced.”.”.

13 **5.** Page 5, line 22: after that line insert:

14 “23m. Page 20, line 22: after that line insert:

15 “(7) NOTICE OF PROTECTIONS IN RENTAL AGREEMENTS. The treatment of section
16 704.14 of the statutes first applies to rental agreements that are entered into or
17 renewed on the first day of the 7th month beginning after publication.”.”.

18 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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PJK:.....

rm ut rem

INSERT 2-19

1 . A rental agreement that allows for the termination of a tenant's tenancy for
2 a crime committed in relation to the rental property must include the notice required
3 under s. 704.14 not to be void and unenforceable under this subsection

(END OF INSERT 2-19)

Kahler, Pam

From: Kovach, Robert
Sent: Wednesday, July 03, 2013 10:31 AM
To: Kahler, Pam
Subject: FW: New Amendment Draft with DV disclosure AND enforcement mechanism in 704.44 (9)

I think this is really great news. I think we can do both of these things.

Can you make the changes Tony requests and email me a new P draft? I will let the congress of industry atty's look it over this weekend.

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Tony Gibart [<mailto:tonyg@wcadv.org>]
Sent: Tuesday, July 02, 2013 5:21 PM
To: Kovach, Robert
Cc: Harriman, Amy
Subject: RE: New Amendment Draft with DV disclosure AND enforcement mechanism in 704.44 (9)

Rob,

This looks good. However, because the construction is (necessarily) somewhat awkward, I would prefer:

3. Page 3, line 20: after "704.16" insert ". A rental agreement that allows for the termination of a tenant's tenancy for a crime committed in relation to the rental property must include the notice required under s. 704.14 in order for the rental agreement not to be void and unenforceable under this subsection".

I think this makes our intent a bit clearer.

I would also ask that we drop the 6 month effective date, as there is no consequence for non-compliance when leases don't have crime provisions. I wouldn't care about the lead in time with respect to 704.14; however, it is more complicated here because 704.44(9) now references 704.14. I think we both want the amendments to 704.44(9) to be effective and clearly operative in their entirety immediately. It would be muddled if 704.14 is not effective right away, I believe. Eliminating the effective date would also seem to be fair to landlords, because the lease provisions allowed under the amendment to 704.44 are not currently allowed.

Let me know if you think those two changes are doable.

Thanks for your work,

Tony

From: Kovach, Robert [<mailto:Robert.Kovach@legis.wisconsin.gov>]
Sent: Tuesday, July 02, 2013 12:32 PM
To: Tony Gibart

Cc: Harriman, Amy

Subject: New Amendment Draft with DV disclosure AND enforcement mechanism in 704.44 (9)

Dear Tony;

Here is language that the drafter and I have come up with that should be consistent with our discussion last week. It is an amendment to Senate Amendment 1, so Amendment 1s language still applies. The new language is on P. 2 Line 17.

With this amendment, we certainly get the disclosure included in all leases that have provisions that allow for evictions for crime, and the disclosure is mandatory in all leases.

This amendment also requires the disclosure in new leases that do not have any “crime-free” provisions, but the enforcement mechanism won’t apply for those cases. We think that is reasonable since those leases shouldn’t be subject to being void and unenforceable for missing this “new” requirement when their lease doesn’t have any crime free provision.

I haven’t shown this language to the industry groups yet. I want to make sure the new language works for you first.

Let me know if this is closer to where we need to be.

Thanks!

Rob Kovach

Policy Advisor/Committee Clerk

Office of Senator Frank Lasee

(608) 266-3512