

2015 DRAFTING REQUEST

Bill

Received:	8/24/2015	Received By:	pkahler
For:	Frank Lasee (608) 266-3512	Same as LRB:	-4008
May Contact:		By/Representing:	Rob
Subject:	Buildings/Safety - fire safety Buildings/Safety - misc. Local Gov't - misc Open Meetings Real Estate - landlord/tenant Transportation - other	Drafter:	pkahler
		Addl. Drafters:	emueller fknepp kpleviak mduchek mgallagh phurley rkite zwyatt

Extra Copies:

Submit via email:	YES
Requester's email:	Sen.Lasee@legis.wisconsin.gov
Carbon copy (CC) to:	michael.duchek@legis.wisconsin.gov pam.kahler@legis.wisconsin.gov fern.knepp@legis.wisconsin.gov michael.gallagher@legis.wisconsin.gov marc.shovers@legis.wisconsin.gov eric.mueller@legis.wisconsin.gov robin.kite@legis.wisconsin.gov zachary.wyatt@legis.wisconsin.gov krista.pleviak@legis.wisconsin.gov peggy.hurley@legis.wisconsin.gov Rep.Rob.Brooks@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Instructions:

See attached

For
Rob Brooks
jacketed →

Topic:

Various prohibitions on local governments and other requirements related to landlords and property issues

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 8/24/2015	eweiss 8/24/2015	_____			
/P1	pkahler 9/8/2015	eweiss 9/3/2015	_____	mbarman 9/3/2015		Local
/P2	pkahler 9/25/2015	eweiss 9/9/2015	_____	mbarman 9/9/2015		Local
/P3	pkahler 10/30/2015	eweiss 10/27/2015	_____	lparisi 10/27/2015		Local
/P4	pkahler 11/19/2015	eweiss 11/11/2015	_____	mbarman 11/11/2015		Local
/1	pkahler 12/1/2015	eweiss 11/30/2015	_____	lparisi 11/30/2015		Local
/2	pkahler 12/1/2015	eweiss 12/1/2015	_____	mbarman 12/1/2015		Local
/3	pkahler 12/2/2015	eweiss 12/2/2015	_____	sbasford 12/2/2015		Local
/4		wjackson 12/2/2015	_____	sbasford 12/2/2015	lparisi 12/3/2015	Local

for R. Brooks per Rob Kovach

FE Sent For:

1/4 at intro

<END>

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/2	pkahler 12/1/2015	eweiss 12/1/2015	_____	mbarman 12/1/2015		Local
/3	pkahler 12/2/2015	eweiss 12/2/2015	_____	sbasford 12/2/2015		Local
/4		wjackson 12/2/2015	_____	sbasford 12/2/2015		Local

FE Sent For:

<END>

Kahler, Pam

From: LRB.Legal
Sent: Friday, August 21, 2015 12:52 PM
To: Kahler, Pam
Subject: FW: Landlord omnibus

Hi Pam, Could you please take care of this request when you are back from vacation? I believe it is your area ☺.

Thanks very much!
Lori

From: Kovach, Robert
Sent: Friday, August 21, 2015 12:13 PM
To: LRB.Legal <lrblegal@legis.wisconsin.gov>
Cc: Kovach, Robert <Robert.Kovach@legis.wisconsin.gov>
Subject: Landlord omnibus

Dear LRB Legal,

I have a list of bill ideas that I would like incorporated into 1 bill. Some of these ideas are already drafted, and others have not. The ideas are:

1. Sprinklers—repeal local gov't mandatory sprinkler retrofit.
LRB-2087
2. Pre-empt local govt. from designating private property as a historic landmark or mandate historic preservation without landowner's consent
(not drafted yet)
3. Landlord registration/inspection/licensure—We would like total preemption on certification, occupancy fees, and inspection requirements without a tenant complaint or other reasonable "cause".
(not drafted yet)
4. Crime free leases
LRB-1676
5. Local govt pre-emption from banning legal fire pits. If the fire pit meets uniform dwelling code, it cannot be banned by the local unit of government.
(not drafted yet)
6. Signage: ensure that "room to rent" signs have the same rules as real estate signs.
(not drafted yet)
7. Allow "right to cure" for 14 day eviction notices
LRB-2260
8. Squatters—create a statutory framework and definition that allows for the eviction of squatters without the protections that lawful tenants receive.
(not drafted yet)
9. Require local governments to provide more notice when making an ordinance change
LRB-1684
10. Work with DOT to create technical fixes for the towing law changes from last session.
LRB-2122

Rob Kovach

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

"RESEARCH APPENDIX"

... Drafting History Reproduction Request Form ...

DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN

(Request Made By: MED) (Date: 8, 27, 15)

Note:

BOTH DRAFTS SHOULD HAVE THE SAME "REQUESTOR"

(exception: companion bills)



Please transfer the drafting file for
2013 LRB _____ (For: Rep./ Sen. _____)
to the drafting file for
2015 LRB _____ (For: Rep./ Sen. _____)

OR

All 5 of these
 Please copy the drafting file for
2015 LRB -2087 -2260 / -1676 -1684 / -2122 (include the version) (For: Rep./ Sen. Lasse)
and place it in the drafting file for
2015 LRB -3011 (For: Rep./ Sen. Lasse)

Are These "Companion Bills" ?? ... Yes **No**

If yes, who in the initial requestor's office authorized the copy/transfer of the drafting history

("guts") from the original file: _____



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3011/P1

ALL ← x...
emw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note
Thurs or Fri

Request
sheet
updated

S.A. ✓
Kref ✓

-Gen

- 1 AN ACT ...; relating to: terminating a tenancy for criminal activity or
- 2 drug-related criminal activity; required notice under the open meetings law;
- 3 preexisting sprinkler ordinances that are stricter than the multifamily
- 4 dwelling code; towing vehicles illegally parked on private property;
- 5 terminating certain tenancies for breaches other than failure to pay rent;
- 6 and limitations on ^{the} authority of political subdivisions to regulate rental units,
- 7 historic properties, certain signs, and fire pits.

INS Analysis Intro
INS PSK
Title

Analysis by the Legislative Reference Bureau

*** ANALYSIS FROM -1676/3 ***

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, a landlord may terminate the tenancy of a tenant, without giving the tenant an opportunity to remedy the default, by giving the tenant notice if the tenant, a member of the tenant's household, or a guest or other invitee of the tenant or of a member of the tenant's household does any of the following: 1) engages in criminal activity that threatens the health, safety, or

right to peaceful enjoyment of the premises by other tenants; 2) engages in criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; 3) engages in criminal activity that threatens the health or safety of the landlord or an agent or employee of the landlord; or 4) engages in drug-related criminal activity on or near the premises. It is not necessary that the individual committing the criminal activity or drug-related criminal activity has been arrested for or convicted of the criminal activity or drug-related criminal activity.

The notice that the landlord gives the tenant must require the tenant to vacate on or before a date at least five days after the giving of the notice and must specify the grounds for the landlord's action. The bill defines criminal activity as any act or behavior that is punishable in this state by a period of imprisonment. Drug-related criminal activity is defined as criminal activity that involves the manufacture, possession, use, or distribution of a controlled substance, which is defined in current law.

***** ANALYSIS FROM -1684/P2 *****

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

***** ANALYSIS FROM -2087/P2 *****

Under current law, the Department of Safety and Professional Services (DSPS) administers the multifamily dwelling code, including requirements concerning automatic sprinklers. Under current law, a city, village, or town generally may not enact or enforce an ordinance that does not conform to the multifamily dwelling code or that is contrary to an order of DSPS enforcing the multifamily dwelling code, except that certain preexisting sprinkler ordinances that are stricter than the multifamily dwelling code may remain in effect.

This bill repeals that exception for preexisting stricter sprinkler ordinances. The bill also provides that any contract between a city, village, or town pursuant to such an ordinance is unenforceable.

***** ANALYSIS FROM -2122/P2 *****

Under current law, before any vehicle is removed from private property by a towing service, the towing service must notify a local law enforcement agency of the make, model, vehicle identification number, and registration plate number of the vehicle and the location to which the vehicle will be removed. A towing service that fails to comply with this requirement may not collect any charges for the removal and storage of the vehicle. Under this bill, a towing service that makes a good faith effort to comply with the notification requirement may collect charges for the removal and storage of the vehicle and is immune from liability from any claim arising from a failure to comply with the requirement.

***** ANALYSIS FROM -2260/P3 *****

Under current law, the Department of Transportation is required to promulgate rules establishing reasonable charges for removal of vehicles from private property and guidelines for notifying law enforcement. Under this bill, these charges and guidelines apply only when no citation was issued.

INS
FCX (see below)

NS
MD

INS
VM

INS
MPB

currently

Ins
ZDW

FFK
LNS

Under current law, a landlord may terminate the tenancy of a month-to-month tenant who commits waste, violates certain statutory tenant duties, or breaches a condition of the lease, other than by failing to pay rent (commits a qualifying breach) by providing the tenant with a notice that requires the tenant to vacate the premises within 14 days. Current law does not provide a landlord of a month-to-month or week-to-week tenant the option to terminate such a tenancy by providing a notice that requires the tenant to cure the qualifying breach or vacate the premises.

This bill creates a procedure for a landlord to terminate a month-to-month or week-to-week tenancy if 1) the tenant commits a qualifying breach and 2) the landlord provides the tenant with a notice that requires the tenant to cure the qualifying breach or vacate the premises and the tenant fails to comply with the notice. The procedure is identical to the procedure described below for a landlord of year-to-year tenant, except that if the tenant commits another qualifying breach within one year of receiving an initial notice, the landlord of a month-to-month or week-to-week tenant may terminate the tenancy by providing the tenant with a notice to vacate the premises within five days. This bill also applies the existing termination procedure for month-to-month tenancies to week-to-week tenancies.

Under current law, a landlord may terminate the tenancy of a year-to-year tenant or a tenant under a lease for a term of one year or less if 1) the tenant commits a qualifying breach and 2) the landlord provides the tenant with a notice that requires the tenant to cure the qualifying breach or vacate the premises and the tenant fails to comply with the notice. Current law specifies that a tenant may comply with the landlord's notice by taking reasonable steps to remedy the qualifying breach or by making a bona fide reasonable offer to pay the landlord all damages associated with the qualifying breach. Current law also provides that if the tenant commits another qualifying breach within one year of receiving such a notice, the landlord may terminate the tenant's tenancy by providing the tenant with a notice to vacate the premises within 14 days if the landlord provides the notice before the tenant cures the qualifying breach. This bill eliminates the condition that the landlord provide the subsequent notice to vacate before the tenant remedies the qualifying breach.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 SECTION 1. 19.84 (3m) of the statutes is created to read:
- 2 19.84 (3m) Notwithstanding sub. (3), before a governmental body may consider
- 3 any matter involving the enactment, adoption, amendment, or repeal of any local
- 4 government ordinance or resolution at a meeting of that body, it shall give public

1 notice of such consideration at least 14 days prior to the commencement of the
2 meeting. Notice of matters to which this subsection applies may be given separately
3 from and prior to matters to which this subsection does not apply.

****NOTE: As written, this would cover "any matter involving..." a change to an ordinance or resolution, regardless of the subject of the ordinance or resolution or the nature of the body that is meeting about it, so if this seems potentially too broad, let me know.

****NOTE: As written, this would require notice of the consideration of an ordinance change to be given at least 2 weeks out, but other items on the agenda would not be subject to this requirement and could receive shorter notice. As such, I added a sentence to make this clear. Let me know if this was not the intent.

4 SECTION 2. 59.69 (4m) of the statutes is amended to read:

5 59.69 (4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and
6 police powers for the purpose of promoting the health, safety and general welfare of
7 the community and of the state, may regulate by ordinance any place, structure or
8 object with a special character, historic interest, aesthetic interest or other
9 significant value, for the purpose of preserving the place, structure or object and its
10 significant characteristics. The county may create a landmarks commission to
11 designate historic landmarks and establish historic districts. The county may
12 regulate all historic landmarks and all property within each historic district to
13 preserve the historic landmarks and property within the district and the character
14 of the district. A county may not designate a property as a historic landmark without
15 the consent of the owner. When acting under this subsection, a county may not
16 require or prohibit any action by an owner of a property without the consent of the
17 owner.

History: 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9121 (6) (a); 2009 a. 28, 209, 351, 372, 405; 2011 a. 32, 170; 2013 a. 20; 2013 a. 165 s. 115; 2015 a. 55.

****NOTE: Do you want the limitation here to apply only to things with historical interest? Or also to things with "special character, ... aesthetic interest or other significant value?" Do you want to limit the authority to establish historic districts? Can consent given under this provision be revoked? Do you want a change to s. 66.1111 (2)?

X

SECTION 3. 60.64 of the statutes is amended to read:

60.64 Historic preservation. The town board, in the exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, may regulate any place, structure or object with a special character, historic interest, aesthetic interest or other significant value for the purpose of preserving the place, structure or object and its significant characteristics. The town board may create a landmarks commission to designate historic landmarks and establish historic districts. The board may regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district. The town board may not designate a property as a historic landmark without the consent of the owner. When acting under this subsection, the town board may not require or prohibit any action by an owner of a property without the consent of the owner.

History: 1983 a. 532.

SECTION 4. 62.23 (7) (em) of the statutes is amended to read:

62.23 (7) (em) Historic preservation. A city, as an exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, may regulate by ordinance, or if a city contains any property that is listed on the national register of historic places in Wisconsin or the state register of historic places shall, not later than 1995, enact an ordinance to regulate, any place, structure or object with a special character, historic, archaeological or aesthetic interest, or other significant value, for the purpose of preserving the place, structure or object and its significant characteristics. A city may create a landmarks commission to designate historic or archaeological

1 landmarks and establish historic districts. The city may regulate, or if the city
 2 contains any property that is listed on the national register of historic places in
 3 Wisconsin or the state register of historic places shall regulate, all historic or
 4 archaeological landmarks and all property within each historic district to preserve
 5 the historic or archaeological landmarks and property within the district and the
 6 character of the district. A city may not designate a property as a historic landmark
 7 without the consent of the owner. When acting under this subsection, a city may not
 8 require or prohibit any action by an owner of a property without the consent of the
 9 owner.

History: 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987 a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246; 1999 a. 9, 148; 1999 a. 150 s. 672; 2001 a. 30 ss. 16, 17, 108; 2001 a. 50; 2005 a. 26, 34, 79, 81, 112, 171, 208; 2007 a. 20 ss. 1868 to 1873, 9121 (6) (a); 2007 a. 72; 2009 a. 28, 209, 276, 351, 372, 405; 2011 a. 32, 135, 170; 2013 a. 347.

10 **SECTION 5.** 66.0104 (2) (e) of the statutes is created to read:

11 66.0104 (2) (e) No city, village, town, or county may enact an ordinance that
 12 requires that a rental unit be inspected without a showing of good cause, certified,
 13 or registered.

14 **SECTION 6.** 66.0104 (2) (f) of the statutes is created to read:

15 66.0104 (2) (f) No city, village, town, or county may impose an occupancy fee
 16 on a rental unit.

***NOTE: Will the term "occupancy fee" be properly understood?

17 **SECTION 7.** 66.0104 (3) (c) of the statutes is created to read:

18 66.0104 (3) (c) If a city, village, town, or county has in effect on the effective date
 19 of this paragraph [LRB inserts date] an ordinance that is inconsistent with sub.
 20 (2) (e) or (f), the ordinance does not apply and may not be enforced.

21 **SECTION 8.** 66.0418 (title) of the statutes is amended to read:

1 **66.0418** (title) ~~Prohibition of Miscellaneous limitations on local~~
2 ~~regulation of certain foods, beverages.~~

3 History: 2013 a. 20.

3 **SECTION 9.** 66.0418 (3) of the statutes is created to read:

4 66.0418 (3) (a) No political subdivision may prohibit or regulate the placement,
5 installation, or use of a fire pit if the fire pit was lawfully placed or installed before
6 the effective date of this subsection [LRB inserts date].

***NOTE: Do you want to include a definition of "fire pit?" For example, should this provision only apply to the type of fire pits that are dug into the ground?

7 **SECTION 10.** 66.0418 (4) of the statutes is created to read:

8 66.0418 (4) No political subdivision may impose a restriction or requirement
9 on a sign advertising real estate for lease that it does not also impose on a sign
10 advertising real estate for sale.

11 **SECTION 11.** 66.1019 (3) (a) of the statutes is renumbered 66.1019 (3) and
12 amended to read:

13 66.1019 (3) ~~Except as provided in par. (b), any~~ Any ordinance enacted by a
14 county, city, village or town relating to the construction or inspection of multifamily
15 dwellings, as defined in s. 101.971 (2), shall conform to subch. VI of ch. 101 and s.
16 101.02 (7m).

17 **SECTION 12.** 66.1019 (3) (b) of the statutes is repealed.

18 **SECTION 13.** 101.02 (7m) of the statutes is amended to read:

19 101.02 (7m) Notwithstanding sub. (7) (a), no city, village, or town may make
20 or enforce any ordinance that is applied to any multifamily dwelling, as defined in
21 s. 101.971 (2), and that does not conform to subch. VI and this section or is contrary
22 to an order of the department under this subchapter, ~~except that if a city, village or~~
23 ~~town has a preexisting stricter sprinkler ordinance, as defined in s. 101.975 (3) (a),~~

1 that ordinance remains in effect, except that the city, village or town may take any
2 action with regard to that ordinance that a political subdivision may take under s.
3 101.975 (3) (b). Any contract between a city, village, or town and a property owner
4 of a multifamily dwelling that requires the property owner to comply with an
5 ordinance that does not conform to subch. VI and this section or is contrary to an
6 order of the department under this subchapter is void and unenforceable.

7 **SECTION 14.** 101.975 (3) of the statutes is repealed.

8 **SECTION 15.** 349.13 (3m) (dr) 2. of the statutes is amended to read:

9 349.13 (3m) (dr) 2. A towing service may not collect any charges for the removal
10 or storage of an illegally parked vehicle under this subsection if unless the towing
11 service ~~has not complied~~ made a good faith effort to comply with par. (d) 2. with
12 respect to the vehicle.

13 **SECTION 16.** 349.13 (3m) (dr) 3. of the statutes is created to read:

14 349.13 (3m) (dr) 3. A towing service that made a good faith effort to comply with
15 par. (d) 2. shall be immune from liability for any claim arising from a failure to comply
16 with par. (d) 2.

17 **SECTION 17.** 349.13 (3m) (e) 1. of the statutes is amended to read:

18 349.13 (3m) (e) 1. Reasonable charges for removal and storage of vehicles
19 under this subsection when no citation has been issued.

20 **SECTION 18.** 349.13 (3m) (e) 3. of the statutes is amended to read:

21 349.13 (3m) (e) 3. Guidelines for towing services to notify law enforcement
22 under par. (d) upon removal of a vehicle when no citation has been issued.

23 **SECTION 19.** 704.17 (1) (b) of the statutes is renumbered 704.17 (1) (b) (intro.)

24 and amended to read:

1 704.17 (1) (b) (intro.) If a month-to-month or a week-to-week tenant commits
2 waste or a material violation of s. 704.07 (3) or breaches any covenant or condition
3 of the tenant's agreement, other than for payment of rent, the tenancy can be
4 terminated ^{plan} ~~if the landlord gives~~ any of the following applies:

5 2. The landlord gives the tenant notice requiring the tenant to vacate on or
6 before a date at least 14 days after the giving of the notice.

7 **SECTION 20.** 704.17 (1) (b) 1. of the statutes is created to read:

8 704.17 (1) (b) 1. The landlord gives the tenant a notice that requires the tenant
9 to either remedy the default or vacate the premises no later than a date at least 5 days
10 after the giving of the notice, and the tenant fails to comply with the notice. A tenant
11 is considered to be complying with the notice if promptly upon receipt of the notice
12 the tenant takes reasonable steps to remedy the default and proceeds with
13 reasonable diligence, or if damages are adequate protection for the landlord and the
14 tenant makes a bona fide and reasonable offer to pay the landlord all damages for
15 the tenant's breach. If, within one year from receiving of a notice under this
16 subdivision, the tenant again commits waste or breaches the same or any other
17 covenant or condition of the tenant's rental agreement, other than for payment of
18 rent, the tenant's tenancy is terminated if the landlord gives the tenant notice to
19 vacate on or before a date at least 5 days after the giving of the notice.

20 **SECTION 21.** 704.17 (2) (b) of the statutes is amended to read:

21 704.17 (2) (b) If a tenant under a lease for a term of one year or less, or a
22 year-to-year tenant, commits waste or a material violation of s. 704.07 (3) or
23 breaches any covenant or condition of the tenant's lease, other than for payment of
24 rent, the tenant's tenancy is terminated if the landlord gives the tenant a notice
25 requiring the tenant to remedy the default or vacate the premises on or before a date

1 at least 5 days after the giving of the notice, and if the tenant fails to comply with such
2 notice. A tenant is deemed to be complying with the notice if promptly upon receipt
3 of such notice the tenant takes reasonable steps to remedy the default and proceeds
4 with reasonable diligence, or if damages are adequate protection for the landlord and
5 the tenant makes a bona fide and reasonable offer to pay the landlord all damages
6 for the tenant's breach. If within one year from the giving of any such notice, the
7 tenant again commits waste or breaches the same or any other covenant or condition
8 of the tenant's lease, other than for payment of rent, the tenant's tenancy is
9 terminated if the landlord, ~~prior to the tenant's remedying the waste or breach,~~ gives
10 the tenant notice to vacate on or before a date at least 14 days after the giving of the
11 notice.

12 **SECTION 22.** 704.17 (3m) of the statutes is created to read:

13 704.17 (3m) CRIMINAL ACTIVITY. (a) In this subsection:

14 1. "Criminal activity" means any act or behavior committed by a person that
15 is punishable in this state by a period of imprisonment.

16 2. "Drug-related criminal activity" means criminal activity that involves the
17 manufacture, possession, use, or distribution of a controlled substance, as defined in
18 s. 961.01 (4).

19 (b) 1. Notwithstanding subs. (1) (b), (2) (b), and (3) (a), a landlord may, upon
20 notice to the tenant, terminate the tenancy of a tenant, without giving the tenant an
21 opportunity to remedy the default, if the tenant, a member of the tenant's household,
22 or a guest or other invitee of the tenant or of a member of the tenant's household
23 engages in any criminal activity that threatens the health, safety, or right to peaceful
24 enjoyment of the premises by other tenants; engages in any criminal activity that
25 threatens the health, safety, or right to peaceful enjoyment of their residences by

1 persons residing in the immediate vicinity of the premises; engages in any criminal
2 activity that threatens the health or safety of the landlord or an agent or employee
3 of the landlord; or engages in any drug-related criminal activity on or near the
4 premises. The notice shall require the tenant to vacate on or before a date at least
5 5 days after the giving of the notice and shall specify the grounds for the landlord's
6 action.

7 2. To terminate a tenancy under this subsection, it is not necessary that the
8 individual committing the criminal activity or drug-related criminal activity has
9 been arrested for or convicted of the criminal activity or drug-related criminal
10 activity.

11 **SECTION 23.** 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and
12 amended to read:

13 704.17 (5) (a) Provisions in the lease or rental agreement for termination
14 contrary to ~~this section sub. (1), (2), or (3)~~ sub. (1), (2), or (3) are invalid except in leases for more than
15 one year.

16 **SECTION 24.** 704.17 (5) (b) of the statutes is created to read:

17 704.17 (5) (b) Provisions in the lease or rental agreement for termination
18 contrary to sub. (3m) are invalid.

19 **SECTION 25.** 704.19 (2) (b) 2. of the statutes is amended to read:

20 704.19 (2) (b) 2. Notwithstanding subd. 1., nothing in this section prevents
21 termination of a tenancy before the end of a rental period because of an imminent
22 threat of serious physical harm, as provided in s. 704.16, or for criminal activity or
23 drug-related criminal activity, nonpayment of rent, or breach of any other condition
24 of the tenancy, as provided in s. 704.17.

25 **SECTION 26. Initial applicability.**

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3011/P1ins
ALL:...

INSERT ANALYSIS INTRO.

④ This bill authorizes a landlord to terminate the tenancy of a tenant based on criminal activity committed by the tenant or a member of the tenant's household; creates a right-to-cure for certain tenants for certain breaches; limits the authority of political subdivisions to regulate rental units, historic properties, certain signs, and certain outdoor fire pits; increases the length of time for giving notice of a meeting at which a local governmental body may consider the enactment, amendment, or repeal of an ordinance or resolution; eliminates a statutory exception for certain local ordinances having automatic sprinkler requirements that are stricter than the state multifamily dwelling code; and provides immunity from liability for a towing company that makes a good faith effort to notify law enforcement.

(END OF INSERT ANALYSIS INTRO.)

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3011/P1ins
ALL:...

INSERT PJK TITLE

Terminating tenancies

(END OF INSERT PJK TITLE)

INSERT EVM

Local government

Under current law, a city, village, town, or county (political subdivision) may regulate places, structures, or objects with special character, historic interest, aesthetic interest, or other significant value. A political subdivision may also designate historic landmarks and establish historic districts and may regulate the historic landmarks or the properties within a historic district for historic preservation purposes.

Under this bill, a political subdivision may not designate a property as a historic landmark without the consent of the owner. Also under this bill, when acting under its historic preservation authority, a political subdivision may not require or prohibit any action by an owner of a property without the consent of the owner.

This bill also limits the authority of political subdivisions in several respects including:

1. Political subdivisions may not enact an ordinance that requires that a rental unit be inspected without a showing of good cause or be certified or registered.
2. Political subdivisions may not impose an occupancy fee on a rental unit.
3. Political subdivisions may not impose a requirement or restriction on a sign advertising real estate for lease that is not also imposed on a sign advertising real estate for sale.
4. Political subdivisions may not prohibit or regulate the placement, installation, or use of an outdoor fire pit that was lawfully installed before the effective date of this bill.

END INSERT EVM

INSERT MPG

Automatic sprinklers in multifamily dwellings

END INSERT MPG

INSERT ZDW

Towing vehicles from private property

(END OF INSERT ZDW)

INS MD ANALYSIS

Required notice under ~~Open Meetings Law~~

Currently under the ~~Open Meetings Law~~, public notice of every meeting of a governmental body must be given at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than two hours in advance of the meeting.

This bill provides that, notwithstanding this notice requirement under current law, before a governmental body may consider any matter involving the enactment, adoption, amendment, or repeal of any local government ordinance or resolution at a meeting of that body, it must give public notice of such consideration at least 14 days prior to the commencement of the meeting. The bill provides, however, that notice of matters to which the 14-day notice requirement in the bill applies may be given separately from and prior to matters to which the requirement does not apply.

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3011/P1insRK
RNK:...

INSERT 4-1

1 **SECTION 1.** 66.0408 of the statutes is created to read:
2 **66.0408 Local regulation of fire pits.** A county, city, village, or town may
3 not prohibit or regulate the placement, installation, or use of an outdoor fire pit if the
4 fire pit was lawfully placed or installed before the effective date of this section ...
5 [LRB inserts date].

****NOTE: Do you want to include a definition of a "fire pit?" For example, should
this provision only apply to the type of fire pits that are dug into the ground?

Do not use

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3011/P1dn

PJK:...

emw

— Dkt —

This version of the draft includes all of the requested parts except for the part on squatters. We are waiting for further instruction on what is needed, in light of the trespass statute under s. 943.14.

Pamela J. Kahler
Senior Legislative Attorney
(608) 266-2682
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3011/P1dn
PJK:emw

September 3, 2015

This version of the draft includes all of the requested parts except for the part on squatters. We are waiting for further instruction on what is needed, in light of the trespass statute under s. 943.14.

Pamela J. Kahler
Senior Legislative Attorney
(608) 266-2682
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9-4

phone call w/ Rob

do modify trespass to dwelling stat (943.14)
to cover someone who enters w/ permission
but remains on the property w/o
consent

allow 7 days to retrieve personal property
(landlord must keep property
at least 7 days before
disposal)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3011/P1
ALL:emw

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Wednesday
9-9

S.A.
Xrefv

1 **AN ACT** *to repeal* 66.1019 (3) (b) and 101.975 (3); *to renumber and amend*
2 66.1019 (3) (a), 704.17 (1) (b) and 704.17 (5); *to amend* 59.69 (4m), 60.64, 62.23
3 (7) (em), 66.0418 (title), 101.02 (7m), 349.13 (3m) (dr) 2., 349.13 (3m) (e) 1.,
4 349.13 (3m) (e) 3., 704.17 (2) (b) and 704.19 (2) (b) 2.; and *to create* 19.84 (3m),
5 66.0104 (2) (e), 66.0104 (2) (f), 66.0104 (3) (c), 66.0418 (3), 66.0418 (4), 349.13
6 (3m) (dr) 3., 704.17 (1) (b) 1., 704.17 (3m) and 704.17 (5) (b) of the statutes;
7 **relating to:** terminating a tenancy for criminal activity or drug-related
8 criminal activity; required notice under the open meetings law; preexisting
9 sprinkler ordinances that are stricter than the multifamily dwelling code;
10 towing vehicles illegally parked on private property; terminating certain
11 tenancies for breaches other than failure to pay rent; and limitations on the

→ disposition of personal property left in rental property by a trespasser;

making an opportunity
and creating a criminal penalty, and

1
2

authority of political subdivisions to regulate rental units, historic properties,
certain signs, and fire pits;

Analysis by the Legislative Reference Bureau

This bill authorizes a landlord to terminate the tenancy of a tenant based on criminal activity committed by the tenant or a member of the tenant's household; creates a right-to-cure for certain tenants for certain breaches; limits the authority of political subdivisions to regulate rental units, historic properties, certain signs, and certain outdoor fire pits; increases the length of time for giving notice of a meeting at which a local governmental body may consider the enactment, amendment, or repeal of an ordinance or resolution; eliminates a statutory exception for certain local ordinances having automatic sprinkler requirements that are stricter than the state multifamily dwelling code; and provides immunity from liability for a towing company that makes a good faith effort to notify law enforcement.

Insert
2-A

Terminating tenancies

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, a landlord may terminate the tenancy of a tenant, without giving the tenant an opportunity to remedy the default, by giving the tenant notice if the tenant, a member of the tenant's household, or a guest or other invitee of the tenant or of a member of the tenant's household does any of the following: 1) engages in criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants; 2) engages in criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; 3) engages in criminal activity that threatens the health or safety of the landlord or an agent or employee of the landlord; or 4) engages in drug-related criminal activity on or near the premises. It is not necessary that the individual committing the criminal activity or drug-related criminal activity has been arrested for or convicted of the criminal activity or drug-related criminal activity.

The notice that the landlord gives the tenant must require the tenant to vacate on or before a date at least five days after the giving of the notice and must specify the grounds for the landlord's action. The bill defines criminal activity as any act or behavior that is punishable in this state by a period of imprisonment. Drug-related criminal activity is defined as criminal activity that involves the manufacture, possession, use, or distribution of a controlled substance, which is defined in current law.

Under current law, a landlord may terminate the tenancy of a month-to-month tenant who commits waste, violates certain statutory tenant duties, or breaches a

condition of the lease, other than by failing to pay rent (commits a qualifying breach) by providing the tenant with a notice that requires the tenant to vacate the premises within 14 days. Current law does not provide a landlord of a month-to-month or week-to-week tenant the option to terminate such a tenancy by providing a notice that requires the tenant to cure the qualifying breach or vacate the premises.

This bill creates a procedure for a landlord to terminate a month-to-month or week-to-week tenancy if 1) the tenant commits a qualifying breach and 2) the landlord provides the tenant with a notice that requires the tenant to cure the qualifying breach or vacate the premises and the tenant fails to comply with the notice. The procedure is identical to the procedure described below for a landlord of year-to-year tenant, except that if the tenant commits another qualifying breach within one year of receiving an initial notice, the landlord of a month-to-month or week-to-week tenant may terminate the tenancy by providing the tenant with a notice to vacate the premises within five days. This bill also applies the existing termination procedure for month-to-month tenancies to week-to-week tenancies.

Under current law, a landlord may terminate the tenancy of a year-to-year tenant or a tenant under a lease for a term of one year or less if 1) the tenant commits a qualifying breach and 2) the landlord provides the tenant with a notice that requires the tenant to cure the qualifying breach or vacate the premises and the tenant fails to comply with the notice. Current law specifies that a tenant may comply with the landlord's notice by taking reasonable steps to remedy the qualifying breach or by making a bona fide reasonable offer to pay the landlord all damages associated with the qualifying breach. Current law also provides that if the tenant commits another qualifying breach within one year of receiving such a notice, the landlord may terminate the tenant's tenancy by providing the tenant with a notice to vacate the premises within 14 days if the landlord provides the notice before the tenant cures the qualifying breach. This bill eliminates the condition that the landlord provide the subsequent notice to vacate before the tenant remedies the qualifying breach.

Required notice under open meetings law

Currently under the open meetings law, public notice of every meeting of a governmental body must be given at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than two hours in advance of the meeting.

This bill provides that, notwithstanding this notice requirement under current law, before a governmental body may consider any matter involving the enactment, adoption, amendment, or repeal of any local government ordinance or resolution at a meeting of that body, it must give public notice of such consideration at least 14 days prior to the commencement of the meeting. The bill provides, however, that notice of matters to which the 14-day notice requirement in the bill applies may be given separately from and prior to matters to which the requirement does not apply.

Local government

Under current law, a city, village, town, or county (political subdivision) may regulate places, structures, or objects with special character, historic interest,

aesthetic interest, or other significant value. A political subdivision may also designate historic landmarks and establish historic districts and may regulate the historic landmarks or the properties within a historic district for historic preservation purposes.

Under this bill, a political subdivision may not designate a property as a historic landmark without the consent of the owner. Also under this bill, when acting under its historic preservation authority, a political subdivision may not require or prohibit any action by an owner of a property without the consent of the owner.

This bill also limits the authority of political subdivisions in several respects including:

1. Political subdivisions may not enact an ordinance that requires that a rental unit be inspected without a showing of good cause or be certified or registered
2. Political subdivisions may not impose an occupancy fee on a rental unit.
3. Political subdivisions may not impose a requirement or restriction on a sign advertising real estate for lease that is not also imposed on a sign advertising real estate for sale.
4. Political subdivisions may not prohibit or regulate the placement, installation, or use of an outdoor fire pit that was lawfully installed before the effective date of this bill.

Automatic sprinklers in multifamily dwellings

Under current law, the Department of Safety and Professional Services (DSPS) administers the multifamily dwelling code, including requirements concerning automatic sprinklers. Currently, a city, village, or town generally may not enact or enforce an ordinance that does not conform to the multifamily dwelling code or that is contrary to an order of DSPS enforcing the multifamily dwelling code, except that certain preexisting sprinkler ordinances that are stricter than the multifamily dwelling code may remain in effect.

This bill repeals that exception for preexisting stricter sprinkler ordinances. The bill also provides that any contract between a city, village, or town pursuant to such an ordinance is unenforceable.

Towing vehicles from private property

Under current law, before any vehicle is removed from private property by a towing service, the towing service must notify a local law enforcement agency of the make, model, vehicle identification number, and registration plate number of the vehicle and the location to which the vehicle will be removed. A towing service that fails to comply with this requirement may not collect any charges for the removal and storage of the vehicle. Under this bill, a towing service that makes a good faith effort to comply with the notification requirement may collect charges for the removal and storage of the vehicle and is immune from liability from any claim arising from a failure to comply with the requirement.

Under current law, the Department of Transportation is required to promulgate rules establishing reasonable charges for removal of vehicles from private property and guidelines for notifying law enforcement. Under this bill, these charges and guidelines apply only when no citation was issued.

Insert Analysis →
Insert KRP A-2 →

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 19.84 (3m) of the statutes is created to read:

2 19.84 (3m) Notwithstanding sub. (3), before a governmental body may consider
3 any matter involving the enactment, adoption, amendment, or repeal of any local
4 government ordinance or resolution at a meeting of that body, it shall give public
5 notice of such consideration at least 14 days prior to the commencement of the
6 meeting. Notice of matters to which this subsection applies may be given separately
7 from and prior to matters to which this subsection does not apply.

****NOTE: As written, this would cover "any matter involving..." a change to an ordinance or resolution, regardless of the subject of the ordinance or resolution or the nature of the body that is meeting about it, so if this seems potentially too broad, let me know.

****NOTE: As written, this would require notice of the consideration of an ordinance change to be given at least 2 weeks out, but other items on the agenda would *not* be subject to this requirement and could receive shorter notice. As such, I added a sentence to make this clear. Let me know if this was not the intent.

Insert 5-8 →

8 **SECTION 2.** 59.69 (4m) of the statutes is amended to read:

9 59.69 (4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and
10 police powers for the purpose of promoting the health, safety and general welfare of
11 the community and of the state, may regulate by ordinance any place, structure or
12 object with a special character, historic interest, aesthetic interest or other
13 significant value, for the purpose of preserving the place, structure or object and its
14 significant characteristics. The county may create a landmarks commission to
15 designate historic landmarks and establish historic districts. The county may
16 regulate all historic landmarks and all property within each historic district to
17 preserve the historic landmarks and property within the district and the character

1 of the district. A county may not designate a property as a historic landmark without
2 the consent of the owner. When acting under this subsection, a county may not
3 require or prohibit any action by an owner of a property without the consent of the
4 owner.

****NOTE: Do you want the limitation here to apply only to things with historical interest? Or also to things with “special character, ... aesthetic interest or other significant value”? Do you want to limit the authority to establish historic districts? Can consent given under this provision be revoked? Do you want a change to s. 66.1111 (2)?

5 **SECTION 3.** 60.64 of the statutes is amended to read:

6 **60.64 Historic preservation.** The town board, in the exercise of its zoning
7 and police powers for the purpose of promoting the health, safety and general welfare
8 of the community and of the state, may regulate any place, structure or object with
9 a special character, historic interest, aesthetic interest or other significant value for
10 the purpose of preserving the place, structure or object and its significant
11 characteristics. The town board may create a landmarks commission to designate
12 historic landmarks and establish historic districts. The board may regulate all
13 historic landmarks and all property within each historic district to preserve the
14 historic landmarks and property within the district and the character of the district.
15 The town board may not designate a property as a historic landmark without the
16 consent of the owner. When acting under this section, the town board may not
17 require or prohibit any action by an owner of a property without the consent of the
18 owner.

19 **SECTION 4.** 62.23 (7) (em) of the statutes is amended to read:

20 62.23 (7) (em) *Historic preservation.* A city, as an exercise of its zoning and
21 police powers for the purpose of promoting the health, safety and general welfare of
22 the community and of the state, may regulate by ordinance, or if a city contains any
23 property that is listed on the national register of historic places in Wisconsin or the

1 state register of historic places shall, not later than 1995, enact an ordinance to
2 regulate, any place, structure or object with a special character, historic,
3 archaeological or aesthetic interest, or other significant value, for the purpose of
4 preserving the place, structure or object and its significant characteristics. A city
5 may create a landmarks commission to designate historic or archaeological
6 landmarks and establish historic districts. The city may regulate, or if the city
7 contains any property that is listed on the national register of historic places in
8 Wisconsin or the state register of historic places shall regulate, all historic or
9 archaeological landmarks and all property within each historic district to preserve
10 the historic or archaeological landmarks and property within the district and the
11 character of the district. A city may not designate a property as a historic landmark
12 without the consent of the owner. When acting under this paragraph, a city may not
13 require or prohibit any action by an owner of a property without the consent of the
14 owner.

15 **SECTION 5.** 66.0104 (2) (e) of the statutes is created to read:

16 66.0104 (2) (e) No city, village, town, or county may enact an ordinance that
17 requires that a rental unit be inspected without a showing of good cause, certified,
18 or registered.

19 **SECTION 6.** 66.0104 (2) (f) of the statutes is created to read:

20 66.0104 (2) (f) No city, village, town, or county may impose an occupancy fee
21 on a rental unit.

***NOTE: Will the term "occupancy fee" be properly understood?

22 **SECTION 7.** 66.0104 (3) (c) of the statutes is created to read:

1 66.0104 (3) (c) If a city, village, town, or county has in effect on the effective date
2 of this paragraph [LRB inserts date], an ordinance that is inconsistent with sub.
3 (2) (e) or (f), the ordinance does not apply and may not be enforced.

4 **SECTION 8.** 66.0418 (title) of the statutes is amended to read:

5 **66.0418 (title) ~~Prohibition of Miscellaneous limitations on local~~**
6 **regulation of certain foods, beverages.**

7 **SECTION 9.** 66.0418 (3) of the statutes is created to read:

8 66.0418 (3) No political subdivision may prohibit or regulate the placement,
9 installation, or use of a fire pit if the fire pit was lawfully placed or installed before
10 the effective date of this subsection [LRB inserts date].

 ****NOTE: Do you want to include a definition of "fire pit"? For example, should this provision only apply to the type of fire pits that are dug into the ground?

11 **SECTION 10.** 66.0418 (4) of the statutes is created to read:

12 66.0418 (4) No political subdivision may impose a restriction or requirement
13 on a sign advertising real estate for lease that it does not also impose on a sign
14 advertising real estate for sale.

15 **SECTION 11.** 66.1019 (3) (a) of the statutes is renumbered 66.1019 (3) and
16 amended to read:

17 66.1019 (3) ~~Except as provided in par. (b), any~~ Any ordinance enacted by a
18 county, city, village or town relating to the construction or inspection of multifamily
19 dwellings, as defined in s. 101.971 (2), shall conform to subch. VI of ch. 101 and s.
20 101.02 (7m).

21 **SECTION 12.** 66.1019 (3) (b) of the statutes is repealed.

22 **SECTION 13.** 101.02 (7m) of the statutes is amended to read:

1 101.02 (7m) Notwithstanding sub. (7) (a), no city, village, or town may make
2 or enforce any ordinance that is applied to any multifamily dwelling, as defined in
3 s. 101.971 (2), and that does not conform to subch. VI and this section or is contrary
4 to an order of the department under this subchapter, ~~except that if a city, village or~~
5 ~~town has a preexisting stricter sprinkler ordinance, as defined in s. 101.975 (3) (a),~~
6 ~~that ordinance remains in effect, except that the city, village or town may take any~~
7 ~~action with regard to that ordinance that a political subdivision may take under s.~~
8 101.975 (3) (b). Any contract between a city, village, or town and a property owner
9 of a multifamily dwelling that requires the property owner to comply with an
10 ordinance that does not conform to subch. VI and this section or is contrary to an
11 order of the department under this subchapter is void and unenforceable.

12 **SECTION 14.** 101.975 (3) of the statutes is repealed.

13 **SECTION 15.** 349.13 (3m) (dr) 2. of the statutes is amended to read:

14 349.13 (3m) (dr) 2. A towing service may not collect any charges for the removal
15 or storage of an illegally parked vehicle under this subsection if unless the towing
16 service ~~has not complied~~ made a good faith effort to comply with par. (d) 2. with
17 respect to the vehicle.

18 **SECTION 16.** 349.13 (3m) (dr) 3. of the statutes is created to read:

19 349.13 (3m) (dr) 3. A towing service that made a good faith effort to comply with
20 par. (d) 2. shall be immune from liability for any claim arising from a failure to comply
21 with par. (d) 2.

22 **SECTION 17.** 349.13 (3m) (e) 1. of the statutes is amended to read:

23 349.13 (3m) (e) 1. Reasonable charges for removal and storage of vehicles
24 under this subsection when no citation has been issued.

25 **SECTION 18.** 349.13 (3m) (e) 3. of the statutes is amended to read:

Insert 10-3

1 349.13 (3m) (e) 3. Guidelines for towing services to notify law enforcement
2 under par. (d) upon removal of a vehicle when no citation has been issued.

3 SECTION 19. 704.17 (1) (b) of the statutes is renumbered 704.17 (1) (b) (intro.)
4 and amended to read:

5 704.17 (1) (b) (intro.) If a month-to-month or a week-to-week tenant commits
6 waste or a material violation of s. 704.07 (3) or breaches any covenant or condition
7 of the tenant's agreement, other than for payment of rent, the tenancy can be
8 terminated if ~~the landlord gives~~ any of the following applies:

9 2. The landlord gives the tenant notice requiring the tenant to vacate on or
10 before a date at least 14 days after the giving of the notice.

11 SECTION 20. 704.17 (1) (b) 1. of the statutes is created to read:

12 704.17 (1) (b) 1. The landlord gives the tenant a notice that requires the tenant
13 to either remedy the default or vacate the premises no later than a date at least 5 days
14 after the giving of the notice, and the tenant fails to comply with the notice. A tenant
15 is considered to be complying with the notice if promptly upon receipt of the notice
16 the tenant takes reasonable steps to remedy the default and proceeds with
17 reasonable diligence, or if damages are adequate protection for the landlord and the
18 tenant makes a bona fide and reasonable offer to pay the landlord all damages for
19 the tenant's breach. If, within one year from receiving of a notice under this
20 subdivision, the tenant again commits waste or breaches the same or any other
21 covenant or condition of the tenant's rental agreement, other than for payment of
22 rent, the tenant's tenancy is terminated if the landlord gives the tenant notice to
23 vacate on or before a date at least 5 days after the giving of the notice.

24 SECTION 21. 704.17 (2) (b) of the statutes is amended to read:

1 704.17 (2) (b) If a tenant under a lease for a term of one year or less, or a
2 year-to-year tenant, commits waste or a material violation of s. 704.07 (3) or
3 breaches any covenant or condition of the tenant's lease, other than for payment of
4 rent, the tenant's tenancy is terminated if the landlord gives the tenant a notice
5 requiring the tenant to remedy the default or vacate the premises on or before a date
6 at least 5 days after the giving of the notice, and if the tenant fails to comply with such
7 notice. A tenant is deemed to be complying with the notice if promptly upon receipt
8 of such notice the tenant takes reasonable steps to remedy the default and proceeds
9 with reasonable diligence, or if damages are adequate protection for the landlord and
10 the tenant makes a bona fide and reasonable offer to pay the landlord all damages
11 for the tenant's breach. If within one year from the giving of any such notice, the
12 tenant again commits waste or breaches the same or any other covenant or condition
13 of the tenant's lease, other than for payment of rent, the tenant's tenancy is
14 terminated if the landlord, ~~prior to the tenant's remedying the waste or breach,~~ gives
15 the tenant notice to vacate on or before a date at least 14 days after the giving of the
16 notice.

17 **SECTION 22.** 704.17 (3m) of the statutes is created to read:

18 704.17 (3m) CRIMINAL ACTIVITY. (a) In this subsection:

19 1. "Criminal activity" means any act or behavior committed by a person that
20 is punishable in this state by a period of imprisonment.

21 2. "Drug-related criminal activity" means criminal activity that involves the
22 manufacture, possession, use, or distribution of a controlled substance, as defined in
23 s. 961.01 (4).

24 (b) 1. Notwithstanding subs. (1) (b), (2) (b), and (3) (a), a landlord may, upon
25 notice to the tenant, terminate the tenancy of a tenant, without giving the tenant an

1 opportunity to remedy the default, if the tenant, a member of the tenant's household,
2 or a guest or other invitee of the tenant or of a member of the tenant's household
3 engages in any criminal activity that threatens the health, safety, or right to peaceful
4 enjoyment of the premises by other tenants; engages in any criminal activity that
5 threatens the health, safety, or right to peaceful enjoyment of their residences by
6 persons residing in the immediate vicinity of the premises; engages in any criminal
7 activity that threatens the health or safety of the landlord or an agent or employee
8 of the landlord; or engages in any drug-related criminal activity on or near the
9 premises. The notice shall require the tenant to vacate on or before a date at least
10 5 days after the giving of the notice and shall specify the grounds for the landlord's
11 action.

12 2. To terminate a tenancy under this subsection, it is not necessary that the
13 individual committing the criminal activity or drug-related criminal activity has
14 been arrested for or convicted of the criminal activity or drug-related criminal
15 activity.

16 **SECTION 23.** 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and
17 amended to read:

18 704.17 (5) (a) Provisions in the lease or rental agreement for termination
19 contrary to ~~this section sub. (1), (2), or (3)~~ are invalid except in leases for more than
20 one year.

21 **SECTION 24.** 704.17 (5) (b) of the statutes is created to read:

22 704.17 (5) (b) Provisions in the lease or rental agreement for termination
23 contrary to sub. (3m) are invalid.

24 **SECTION 25.** 704.19 (2) (b) 2. of the statutes is amended to read:

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3011/P2ins
ALL:...

INSERT 2-A

will makes remaining on property without consent criminal trespass and provides
for the disposition of personal property left in rental property by a trespasser;
(END OF INSERT 2-A)

INSERT KRP 2-2 (RELATING CLAUSE)

1 ; establishing a procedure for disposing of personal property of a trespasser left
2 in rental property; and making an appropriation

(END INSERT KRP 2-2)

INSERT KRP A-1

; and establishes a procedure for a landlord to dispose of personal property left
by a trespasser in rental property

(END OF INSERT KRP A-1)

INSERT KRP A-2

Disposing of personal property left by trespasser

Current law does not address what happens to personal property of a trespasser that is left behind after the trespasser leaves or is removed from rental property. This bill provides that, after a trespasser leaves or is removed from rental property, a landlord must hold any personal property left by the trespasser for seven days, during which time the trespasser may request its return. After that time, the landlord may dispose of the personal property in any manner that the landlord determines is appropriate.

(END OF INSERT KRP A-2)

INSERT KRP 5-8

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 704.055 (2) (b), for grants to agencies and
7 shelter facilities for homeless individuals and families under s. 16.308 (2) (a) and (b).

History: 1971 c. 108, 125, 215; 1971 c. 270 s. 104; 1973 c. 90 and supp., 157, 305; 1975 c. 39 ss. 179 to 184f, 735 (5); 1975 Ex. Order No. 24; 1975 c. 224, 397; 1977 c. 29; 1977 c. 196 ss. 70, 131; 1977 c. 377 s. 30; 1977 c. 418 s. 929 (1), (55); 1979 c. 32 s. 92 (5); 1979 c. 34, 175, 221; 1979 c. 355 s. 241; 1979 c. 361; 1981 c. 20 ss. 400b to 421, 2202 (57) (b); 1981 c. 44 s. 3; 1981 c. 62, 121; 1981 c. 202 s. 23; 1981 c. 314, 374, 391; 1983 a. 27 ss. 439 to 456, 2202 (1); 1983 a. 36, 187, 282, 371, 393; 1985 a. 29, 31, 57, 120, 296, 297, 332; 1987 a. 27 ss. 296n, 296q, 297b, 297d, 299a to 299r, 300a, 301a, 418 to 432; 1987 a. 142, 147, 342, 399; 1989 a. 31, 56, 107, 122, 336, 339, 345, 366; 1991 a. 39 s. 469, 593q to 614; 1991 a. 105, 269, 315; 1993 a. 16 ss. 470g, 470m, 470r, 488 to 506m; 1993 a. 33, 75, 193, 349, 358, 374, 414, 437, 477, 491; 1995 a. 27, 56, 201, 216, 225, 227, 370, 403; 1997 a. 3; 1997 a. 27 ss. 199, 227 to 229m, 233, 666g to 692, 9456 (3m); 1997 a. 237, 283; 1999 a. 5; 1999 a. 9 ss. 508 to 587d, 9401 (2zt), (2zu); 1999 a. 24, 52, 105, 113, 148, 185; 2001 a. 16 ss. 684d, 685d, 800 to 905; 2001 a. 104 ss. 21, 141; 2001 a. 109; 2003 a. 33 ss. 364d, 365d, 369d, 370d, 374d, 376d, 378d, 380d to 384d, 567 to 615f, 639, 640, 642d to 644, 2811 to 2813; 2003 a. 48 ss. 10, 11; 2003 a. 84; 2003 a. 139 ss. 9 to 12; 2003 a. 206 s. 23; 2003 a. 326; 2005 a. 25 ss. 389 to 429m, 2493, 2494, 2495, 9401, 9409; 2005 a. 60, 124, 141, 142, 253, 344, 414, 433; 2007 a. 20 ss. 323, 326, 516e to 542g, 9121 (6) (a); 2007 a. 226; 2009 a. 11, 28, 302, 318; 2011 a. 29,

32 ss. 406, 421m, 435m to 446m, 716m to 747c, 755, 759 to 766; 2011 a. 166, 260; 2013 a. 20 ss. 215, 216, 379m, 413s to 461; 2013 a. 41, 115, 165, 166, 173; 2015 a. 55 ss. 775 to 810, 815, 817 to 820.

(END OF INSERT KRP 5-8)

INSERT KRP 10-3

1 SECTION 2. 704.055 of the statutes is created to read:

2 704.055 Disposition of personalty left by trespasser. (1) DEFINITION. In
3 this section, "trespasser" means a person who is not a tenant who enters or remains
4 in rental property without the consent of the landlord or another person lawfully on
5 the property.

6 (2) AT THE LANDLORD'S DISCRETION. (a) If a trespasser is removed or otherwise
7 removes from rental property and leaves personal property, the landlord shall hold
8 the personal property for 7 days from the date on which the landlord discovers the
9 personal property. After that time, the landlord may presume that the trespasser
10 has abandoned the personal property and may dispose of the personal property in
11 any manner that the landlord, in the landlord's sole discretion, determines is
12 appropriate but shall promptly return the personal property to the trespasser if the
13 landlord receives a request for its return before the landlord disposes of it.

14 (b) If the landlord disposes of the abandoned personal property by private or
15 public sale, the landlord may send the proceeds of the sale minus any costs of sale
16 and, if the landlord has first stored the personal property, minus any storage charges
17 to the department of administration for deposit in the appropriation under s. 20.505
18 (7) (h).

19 (3) RIGHTS OF 3RD PERSONS. The landlord's power to dispose as provided by this
20 section applies to any personal property left on the landlord's property by the
21 trespasser, whether owned by the trespasser or by others. The power to dispose
22 under this section applies notwithstanding any rights of others existing under any

Insert 2-13 ins.

1 claim of ownership or security interest. The trespasser, other owner, or any secured
2 party has the right to redeem the personal property at any time before the landlord
3 has disposed of it or entered into a contract for its disposition by payment of any
4 expenses that the landlord has incurred with respect to the disposition of the
5 personal property.

(END OF INSERT KRP 10-3)

6

(END)

1 INSERT ANALYSIS:

2 *Trespass*

Under current law, a person who enters into the dwelling of another without the permission of a person who is lawfully on the premises may be guilty of criminal trespass to a dwelling, a Class A misdemeanor. Under the bill, a person may be guilty of criminal trespass to a dwelling if he or she enters or remains in a dwelling without the permission of a person who is lawfully on the premises, regardless of whether the dwelling is currently occupied.

3 INSERT: 13-5

4 SECTION 1. 943.14 of the statutes is renumbered 943.14 (2) and amended to
5 read:

6 943.14 (2) **Criminal trespass to dwellings.** Whoever intentionally enters
7 or remains in the dwelling of another without the consent of some person lawfully
8 upon the premises, under circumstances tending to create or provoke a breach of the
9 peace, is guilty of a Class A misdemeanor.

10 History: 1977 c. 173.

SECTION 2. 943.14 (1) of the statutes is created to read:

11 943.14 (1) In this section, "dwelling" has the meaning given in s. 30.1335 (1)
12 (h). For the purposes of this section, a dwelling meets that definition regardless of
13 whether the dwelling is currently occupied by a resident.

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3011/P2ins
PJK:...

INSERT 2-13INS

***NOTE: Would you prefer to limit this provision to someone trespassing on *residential* rental property or trespassing in a dwelling or dwelling unit?

(END OF INSERT 2-13INS)

Kahler, Pam

From: Schaefer, Christopher
Sent: Thursday, October 15, 2015 4:55 PM
To: Kahler, Pam
Subject: LRB 3011/P1
Attachments: 201510151432.pdf; 201510151433.pdf

Good Afternoon, Pam:

Our office is the Assembly lead on the landlord-tenant omnibus bill and there are a few changes that we are looking to have made. Attached are two documents. The first is a list of the things that we would like changed. In that document we are fine with the language, as currently written, for points number one, four, seven, nine and ten. The remaining items need to be revised and the document lists the specific revisions that we would like to see made. For point number six, related to signage restrictions, I have attached an article regarding a recent United States Supreme Court case related specifically to this issue. Feel free to use language from that article or case, when drafting the language.

The following is some language we would like to see added to point two, related to Landmark Ordinance/Historic: I'm wondering if language could be added to the Landlord/Tenant bill, Item # 3 Landmark Ordinance/Historic Designation to read: "Pre-empt local government from designating private property as a historic landmark or mandate historic preservation or architectural restrictions beyond the UDC without property owners consent".

This would help to help address local ordinances that place "historic preservation-like" requirements on homes WITHOUT any historic designation, but based simply on the fact that they are older homes and have older architecture which some people want to keep from being altered. Again, these homes are not qualified as a landmark or included in any historic preservation district, and thus, are NOT eligible for any tax credits.

A prime example is Oshkosh. Oshkosh has an ordinance that creates "overlay zoning districts" for certain neighborhoods that significantly alters what they are allowed to change on the exterior of their homes, including any additions. Below are some examples of the most concerning provisions of the ordinance. Oshkosh clearly stated that they chose this ordinance as a loophole to exceed the prohibition of local units of government from exceeding the requirements of the UDC for single family residential homes. **One of the prime targets for the overlay zones were for areas with a lot of rental units in Oshkosh.**

The answer to the question you posed on page section, section two, as it relates to historic tax credits, is yes. The information above provides more specifics as it relates to that section.

Lastly, point eleven in the attached document needs to be drafted. We just found that our change in the statute giving the 'member' of an LLC the ability to represent themselves, is a bit vague, and the

city of Madison is saying it applies only to Circuit Court, not Municipal Courts. The city is hauling owners who have set up LLC's to protect their properties, into Municipal Court and refusing to let them represent themselves, requiring they have a lawyer represent themselves.

The statute we have worked with was 799.06 (2) which relates to eviction process in circuit courts. It refers to s. 183.0102 (15) to define member. We are hoping there is somewhere if not in one of these to statutes that would allow us create language making it acceptable for members of an LLC to represent the LLC in Municipal and Circuit Court.

All the best,

Mr. Christopher Schaefer, M.A.
Legislative Assistant,
Office of Representative Rob Brooks
60th Assembly District
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Real Estate Counsel

Real Estate and Land Use Law in California

US Supreme Court holds sign regulations can't impose different restrictions based on informational content

Posted on July 8, 2015

If a city or county's laws impose different restrictions on signs based on their informational content, the laws are presumptively unconstitutional and may be justified only if the government proves they are narrowly tailored to serve compelling state interests, the US Supreme Court has held.

In *Reed v. Town of Gilbert*, decided in the last blockbuster month at the US Supreme Court, the justices established a powerful tool for real estate owners, developers and brokers to challenge local sign ordinances. Cities and counties throughout the US should carefully review their signage laws and regulations in light of the court's decision, as many local governments likely have non-compliant laws on the books.

The Town of Gilbert is a municipality in Arizona that had, like many U.S. cities, a sign code that limits the use and display of outdoor signs without a permit. The Town's sign code applied different time, size, and other restrictions on the signs, depending on whether they were ideological, political or for religious assembly, among other categories. The petitioners, a church and its pastor, held temporary worship services in and near the Town. The church posted signs early each Saturday bearing the church's name and the time and location of the next service. The church did not remove the signs until around midday Sunday. The Church was cited by the Town for exceeding the time limits for displaying temporary directional signs and for failing to include an event date.

The U.S. Supreme Court held that the sign code's provisions were content-based regulations of speech, violating the First Amendment to the U.S. Constitution. The Town's sign code defines categories of temporary, political and ideological signs on the basis of their messages and then subjects each category to different restrictions. Because the nature of the restrictions depend entirely on the signs communicative content, the signs are subject to the strictest level of Constitutional review. The Town's claims that the disparate treatment was justified on the basis of keeping the Town beautiful and safe were inadequate and rejected by the high court.

Justice Thomas, writing for the court, rejected the Ninth Circuit's prior decision upholding the Town's sign code. A court must first ask whether a law is content based on its face. If so, the inquiry ends and strict scrutiny applies. It doesn't matter if a local government has a benign motive, content-neutral justification, or lack of animus toward the ideas contained in the regulated speech. However, if a sign law *is* content neutral on its face, the inquiry is not over. A court must still inquire into the purpose and justification for the law and determine whether it is content based.

The Court rejected the Ninth Circuit's conclusion that the Sign Code did not single out any idea or viewpoint for discrimination. While the Town may not have been guilty of blatant content discrimination, the sign code did single out specific subject matter for differential treatment.

In light of the Court's decision, local governments enacting sign ordinances must resolve their public policy concerns with regulations that focus on size, building materials, lighting, moving parts, portability, and location. Those requirements cannot differ based on the content or message of the sign. For example, it is no longer acceptable to have different sign requirements for political signs and commercial real estate listing signs.

Only in extraordinary circumstances would a content-based sign survive strict scrutiny — such as, for example, where absolutely necessary to protect the safety of pedestrians, drivers and passengers. Local governments are well advised to closely review Justice Alito's concurring opinion, which describes additional helpful examples of sign restrictions that would likely survive First Amendment testing.

Real estate owners, developers and brokers often confront cities and counties that seek to impose strict limits on the types of signage that can be placed on public and private property. In light of the holding of *Reed v. Town of Gilbert*, commercial signage will be harder for local governments to prohibit and limit. All signage in the community must be treated equally, regardless of its content, with very limited exceptions.

SHARE THIS:

ok as is (1) Sprinklers – Repeal and Affirmative Statement of preemption
(Draft from budget)(pp 8 and 9 of P1)

EVM → (2) – Landmark Ordinance/Historic – make designation voluntary. Need to expand to cover the other items listed in 59.69(4m). And include language to cover Oshkosh situation. (pp 5&6) ?
EVM → (3) – Landlord Registration – Support adding Giese language – “No city...may enact an ordinance that requires a landlord to obtain a license, certification, or registration in order to own, manage or operate residential rental properties unless such ordinance applies to all residential properties, including those occupied by the owner.” “Any inspections for which a fee is charged may only be conducted upon a complaint from the tenant regarding an alleged violation of the city...housing code.” (pp 7&8)

ok as is (4) One strike evictions – per HUD language (pp 11-13)

RNK → (5) – Fire Pits – preempt local ban, include greenspace, define fire pit per Minneapolis or Brookfield or Uniform Building Code. (p 8)

EVM → (6) – Signage Restrictions – per Supreme Court ruling, can't discriminate based on content of the sign (p 8)

ok as is (7) Right to cure – Allows landlord to opt for a 5 day right to cure instead of just 14 day eviction or nothing on month to month leases. (pp 10 and 11)

done in PZ → (8) – Squatters – build a framework for quick, appeal-less, evictions including definition of squatter, end case law that creates rights for squatters, except give them 7 days after eviction to claim and dispose of their property. (Needs to be drafted)

ok as is (9) – More than 24 hours' notice for local ordinance adoption
(p 5 of bill)

ok as is (10) – Tech fixes for towing rules
Stolen vehicle clarification
Towing fee schedule to apply only when there is no ticket issued
(p 9 of bill)

PSH (11) – Assure that current law allowing LLC members to represent themselves in court does apply to municipal court. (Needs to be drafted)