



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3011/P
ALL:emw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2015 Bill

S.A. ✓
Kref ✓

Regen.

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), 704.17 (5) and 943.14; *to amend* 20.505 (7) (h),
3 59.69 (4m), 60.64, 62.23 (7) (em), 66.0418 (title), 66.0809 (9), 101.02 (7m),
4 349.13 (3m) (dr) 2., 349.13 (3m) (e) 1., 349.13 (3m) (e) 3., 704.09 (1), 704.09 (3),
5 704.09 (4), 704.09 (5), 704.17 (2) (b), 704.19 (2) (b) 2. and 800.035 (1); and *to*
6 *create* 66.0102, 66.0104 (2) (e), 66.0104 (2) (f), 66.0104 (2) (g), 66.0104 (3) (c),
7 66.0418 (4), 175.403, 704.055, 704.17 (1) (b) 1., 704.17 (3m), 704.17 (5) (b) and
8 943.14 (1) of the statutes; **relating to:** terminating a tenancy for criminal
9 activity or drug-related criminal activity; disposition of personal property left
10 in rental property by a trespasser; subleasing; required notice for meetings
11 involving ordinance modifications; preexisting sprinkler ordinances that are
12 stricter than the multifamily dwelling code; towing vehicles illegally parked on
13 private property; terminating certain tenancies for breaches other than failure
14 to pay rent; limitations on the authority of political subdivisions to regulate

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rental units, historic properties, and signs; creating a criminal penalty; and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a right-to-cure for certain tenants for certain breaches; makes remaining on property without consent criminal trespass and provides for the disposition of personal property left in rental property by a trespasser; 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; limits the authority of political subdivisions to regulate rental units, historic properties, 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.

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Local government

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.

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, a political subdivision may not require or prohibit any action by an owner of a property related to preservation of the historic or aesthetic value of the 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 charge a fee for an inspection other than an inspection based on a complaint from a tenant alleging a violation of the local housing code.
3. Political subdivisions may not impose an occupancy or transfer of tenancy fee on a rental unit.
4. Political subdivisions may not impose a requirement or restriction based on the informational content of a sign that is not imposed on all signs.
5. Political subdivisions may not enact an ordinance that requires a landlord to obtain a license, certification, or registration in order to own, manage, or operate a residential rental property unless the ordinance applies uniformly to all residential properties, including owner-occupied properties.

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.

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.

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, except for a tenant who is the victim of the criminal activity, a landlord may terminate the tenancy of a tenant,

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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 a 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.

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, or of the owner of the property if no one is lawfully present there, regardless of whether the dwelling is currently occupied. The bill requires law enforcement agencies to establish policies that require officers to remove trespassers from dwellings.

Disposing of personal property left by trespasser

Current law does not address what happens to the personal property of a trespasser that is left behind after the trespasser leaves or is removed from residential rental property. This bill provides that, after a trespasser leaves or is removed from residential 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.

Subleasing

Under current law, a tenant under a lease may assign or sublease his or her interest under the lease unless the lease expressly restricts the tenant's ability to do so. This bill provides that, unless a lease expressly allows a tenant to assign or sublease his or her interest under the lease, the tenant may not do so without the consent of the landlord, and any attempt by the tenant to assign or sublease without the landlord's consent is void and does not convey any tenant's rights to the purported transferee.

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.** 20.505 (7) (h) of the statutes is amended to read:
- 2 20.505 (7) (h) *Funding for the homeless.* All moneys received from interest on
- 3 real estate trust accounts under s. 452.13 for grants under s. 16.307, and all moneys

1 received under s. ss. 704.05 (5) (a) 2. and 704.055 (2) (b), for grants to agencies and
2 shelter facilities for homeless individuals and families under s. 16.308 (2) (a) and (b).

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

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

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

19 **60.64 Historic preservation.** The town board, in the exercise of its zoning
20 and police powers for the purpose of promoting the health, safety and general welfare
21 of the community and of the state, may regulate any place, structure or object with
22 a special character, historic interest, aesthetic interest or other significant value for
23 the purpose of preserving the place, structure or object and its significant
24 characteristics. The town board may create a landmarks commission to designate
25 historic landmarks and establish historic districts. The board may regulate all

1 historic landmarks and all property within each historic district to preserve the
2 historic landmarks and property within the district and the character of the district.
3 The town board may not designate a property as a historic landmark without the
4 consent of the owner. The town board may not require or prohibit any action by an
5 owner of a property related to the preservation of special character, historic or
6 aesthetic interest, or any other significant value of the property without the consent
7 of the owner.

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

9 62.23 (7) (em) *Historic preservation.* A city, 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, or if a city contains any
12 property that is listed on the national register of historic places in Wisconsin or the
13 state register of historic places shall, not later than 1995, enact an ordinance to
14 regulate, any place, structure or object with a special character, historic,
15 archaeological or aesthetic interest, or other significant value, for the purpose of
16 preserving the place, structure or object and its significant characteristics. A city
17 may create a landmarks commission to designate historic or archaeological
18 landmarks and establish historic districts. The city may regulate, or if the city
19 contains any property that is listed on the national register of historic places in
20 Wisconsin or the state register of historic places shall regulate, all historic or
21 archaeological landmarks and all property within each historic district to preserve
22 the historic or archaeological landmarks and property within the district and the
23 character of the district. A city may not designate a property as a historic landmark
24 without the consent of the owner. A city may not require or prohibit any action by
25 an owner of a property related to the preservation of special character, historic or

1 aesthetic interest, or any other significant value of the property without the consent
2 of the owner.

3 **SECTION 5.** 66.0102 of the statutes is created to read:

4 **66.0102 Meeting notices.** Notwithstanding s. 19.84 (3), before a
5 governmental body, as defined in s. 19.82 (1), may consider any matter involving the
6 enactment, adoption, amendment, or repeal of any local government ordinance or
7 resolution at a meeting of that body, it shall give public notice of such consideration
8 at least 14 days prior to the commencement of the meeting. Public notice of matters
9 to which this section applies may be given separately from and prior to matters to
10 which this section does not apply, but shall otherwise be governed by s. 19.84.

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

12 66.0104 (2) (e) No city, village, town, or county may enact an ordinance that
13 does any of the following:

- 14 1. Requires that a rental unit be inspected without a showing of good cause or
15 be certified or registered.
- 16 2. Charges a fee for conducting an inspection other than an inspection based
17 on a complaint from a tenant alleging a violation of the local housing code of the city,
18 village, town, or county.

19 **SECTION 7.** 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 or
21 transfer of tenancy fee on a rental unit.

22 **SECTION 8.** 66.0104 (2) (g) of the statutes is created to read:

23 66.0104 (2) (g) 1. No city, village, town, or county may enact an ordinance that
24 requires a landlord to obtain a license, certification, or registration in order to do any
25 of the following:

1 a. Own a residential rental property.

2 b. Manage or operate a residential rental property.

3 2. Subdivision 1. does not apply to an ordinance that applies uniformly to all
4 residential properties, including owner-occupied properties.

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

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

9 **SECTION 10.** 66.0418 (title) of the statutes is amended to read:

10 **66.0418** (title) ~~Prohibition of Miscellaneous limitations on local~~
11 ~~regulation of certain foods, beverages.~~ → 3

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

13 66.0418 (4) ^{3B} No political subdivision may impose a restriction or requirement
14 on a sign based on the sign's informational content that it does not impose on all
15 signs.

16 **SECTION 12.** 66.0809 (9) of the statutes is amended to read:

17 66.0809 (9) A municipal utility is not required to offer a customer who is a
18 tenant at a rental dwelling unit a deferred payment agreement. Notwithstanding.
19 ss. 196.03, 196.19, 196.20, 196.22, 196.37, and 196.60, a determination by a
20 municipal utility to offer or not offer a deferred payment agreement does not require
21 approval, and is not subject to disapproval, by the public service commission.

22 **SECTION 13.** 66.1019 (3) (a) of the statutes is renumbered 66.1019 (3) and
23 amended to read:

24 66.1019 (3) ~~Except as provided in par. (b), any~~ Any ordinance enacted by a
25 county, city, village or town relating to the construction or inspection of multifamily

1 dwellings, as defined in s. 101.971 (2), shall conform to subch. VI of ch. 101 and s.
2 101.02 (7m).

3 **SECTION 14.** 66.1019 (3) (b) of the statutes is repealed.

4 **SECTION 15.** 101.02 (7m) of the statutes is amended to read:

5 101.02 (7m) Notwithstanding sub. (7) (a), no city, village, or town may make
6 or enforce any ordinance that is applied to any multifamily dwelling, as defined in
7 s. 101.971 (2), and that does not conform to subch. VI and this section or is contrary
8 to an order of the department under this subchapter, ~~except that if a city, village or~~
9 ~~town has a preexisting stricter sprinkler ordinance, as defined in s. 101.975 (3) (a),~~
10 ~~that ordinance remains in effect, except that the city, village or town may take any~~
11 ~~action with regard to that ordinance that a political subdivision may take under s.~~
12 ~~101.975 (3) (b).~~ Any contract between a city, village, or town and a property owner
13 of a multifamily dwelling that requires the property owner to comply with an
14 ordinance that does not conform to subch. VI and this section or is contrary to an
15 order of the department under this subchapter is void and unenforceable.

16 **SECTION 16.** 101.975 (3) of the statutes is repealed.

17 **SECTION 17.** 175.403 of the statutes is created to read:

18 **175.403 Trespassing; arrest and removal.** (1) In this section:

19 (a) “Law enforcement agency” has the meaning given in s. 165.83 (1) (b).

20 (b) “Law enforcement officer” has the meaning given in s. 165.85 (2) (c).

21 (2) Each law enforcement agency shall have a written policy regarding the
22 investigation of complaints alleging a violation of s. 943.14. The policy shall require
23 a law enforcement officer who has probable cause to arrest a person for a violation
24 of s. 943.14 to remove the person from a dwelling.

25 **SECTION 18.** 349.13 (3m) (dr) 2. of the statutes is amended to read:

1 349.13 (3m) (dr) 2. A towing service may not collect any charges for the removal
2 or storage of an illegally parked vehicle under this subsection if unless the towing
3 service ~~has not complied~~ made a good faith effort to comply with par. (d) 2. with
4 respect to the vehicle.

5 **SECTION 19.** 349.13 (3m) (e) 1. of the statutes is amended to read:

6 349.13 (3m) (e) 1. Reasonable charges for removal and storage of vehicles
7 under this subsection when no citation has been issued.

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

9 349.13 (3m) (e) 3. Guidelines for towing services to notify law enforcement
10 under par. (d) upon removal of a vehicle when no citation has been issued.

11 **SECTION 21.** 704.055 of the statutes is created to read:

12 **704.055 Disposition of personalty left by trespasser. (1) DEFINITION.** In
13 this section, “trespasser” means a person who is not a tenant and who enters or
14 remains in residential rental property without the consent of the landlord or another
15 person lawfully on the property.

16 **(2) AT THE LANDLORD'S DISCRETION.** (a) If a trespasser is removed or otherwise
17 removes from residential rental property and leaves personal property, the landlord
18 shall hold the personal property for 7 days from the date on which the landlord
19 discovers the personal property. After that time, the landlord may presume that the
20 trespasser has abandoned the personal property and may dispose of the personal
21 property in any manner that the landlord, in the landlord’s sole discretion,
22 determines is appropriate but shall promptly return the personal property to the
23 trespasser if the landlord receives a request for its return before the landlord
24 disposes of it.

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

6 (3) RIGHTS OF 3RD PERSONS. The landlord's power to dispose as provided by this
7 section applies to any personal property left on the landlord's property by the
8 trespasser, whether owned by the trespasser or by others. The power to dispose
9 under this section applies notwithstanding any rights of others existing under any
10 claim of ownership or security interest. The trespasser, other owner, or any secured
11 party has the right to redeem the personal property at any time before the landlord
12 has disposed of it or entered into a contract for its disposition by payment of any
13 expenses that the landlord has incurred with respect to the disposition of the
14 personal property.

15 SECTION 22. 704.09 (1) of the statutes is amended to read:

16 704.09 (1) TRANSFERABILITY OF INTEREST OF TENANT OR LANDLORD. ~~A~~ Unless a
17 lease expressly allows, a tenant under a tenancy at will or any periodic tenancy less
18 than year-to-year may not assign or sublease except with the agreement or consent
19 of the landlord, and any attempt to assign or sublease without the landlord's consent
20 is void and does not convey any tenant's rights to the purported transferee. The
21 interest of ~~any other tenant or the interest of any landlord~~ may be transferred except
22 as the lease expressly restricts power to transfer. A lease restriction on transfer is
23 construed to apply only to voluntary transfer unless there is an express restriction
24 on transfer by operation of law.

25 SECTION 23. 704.09 (3) of the statutes is amended to read:

1 704.09 (3) COVENANTS WHICH APPLY TO TRANSFEREE. All covenants and provisions
2 in a lease which are not either expressly or by necessary implication personal to the
3 original parties are enforceable by or against the successors in interest of any party
4 to the lease who transferred the party's interest under sub. (1). However, a successor
5 in interest is liable in damages, or entitled to recover damages, only for a breach
6 which occurs during the period when the successor holds his or her interest, unless
7 the successor has by contract assumed greater liability; a personal representative
8 may also recover damages for a breach for which the personal representative's
9 decedent could have recovered.

10 **SECTION 24.** 704.09 (4) of the statutes is amended to read:

11 704.09 (4) SAME PROCEDURAL REMEDIES. The remedies available between the
12 original landlord and tenant are also available to or against any successor in interest
13 to either party who transferred the party's interest under sub. (1).

14 **SECTION 25.** 704.09 (5) of the statutes is amended to read:

15 704.09 (5) CONSENT AS AFFECTING SUBSEQUENT TRANSFERS. ~~If a lease restricts~~
16 ~~transfer, consent~~ Regardless of whether a transfer is in violation of sub. (1), consent
17 or other acquiescence to a transfer or waiver of a breach of ~~the~~ a transfer restriction
18 in a lease is not a consent or waiver as to any subsequent transfers.

****NOTE: Please carefully review the proposed changes to s. 704.09 to ensure that
the changes are consistent with your intent.

19 **SECTION 26.** 704.17 (1) (b) of the statutes is renumbered 704.17 (1) (b) (intro.)
20 and amended to read:

21 704.17 (1) (b) (intro.) If a month-to-month or a week-to-week tenant commits
22 waste or a material violation of s. 704.07 (3) or breaches any covenant or condition

1 of the tenant's agreement, other than for payment of rent, the tenancy ~~can be~~ is
2 terminated if ~~the landlord gives~~ any of the following applies:

3 2. Using the method described in s. 704.21 (1) (d), the landlord gives the tenant
4 notice requiring the tenant to vacate on or before a date at least 14 days after the
5 giving of the notice.

6 **SECTION 27.** 704.17 (1) (b) 1. of the statutes is created to read:

7 704.17 (1) (b) 1. Using the method described in s. 704.21 (1) (d), the landlord
8 gives the tenant a notice that requires the tenant to either remedy the default or
9 vacate the premises no later than a date at least 5 days after the giving of the notice,
10 and the tenant fails to comply with the notice. A tenant is considered to be complying
11 with the notice if promptly upon receipt of the notice the tenant takes reasonable
12 steps to remedy the default and proceeds with reasonable diligence, or if damages are
13 adequate protection for the landlord and the tenant makes a bona fide and
14 reasonable offer to pay the landlord all damages for the tenant's breach. If, within
15 one year from receiving of a notice under this subdivision, the tenant again commits
16 waste or breaches the same or any other covenant or condition of the tenant's rental
17 agreement, other than for payment of rent, the tenant's tenancy is terminated if the
18 landlord gives the tenant notice to vacate on or before a date at least 5 days after the
19 giving of the notice.

20 **SECTION 28.** 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 29.** 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), and except as provided
20 in par. (c), a landlord may, upon notice to the tenant, terminate the tenancy of a
21 tenant, without giving the tenant an opportunity to remedy the default, if the tenant,
22 a member of the tenant's household, or a guest or other invitee of the tenant or of a
23 member of the tenant's household engages in any criminal activity that threatens the
24 health or safety of, or right to peaceful enjoyment of the premises by, other tenants;
25 engages in any criminal activity that threatens the health or safety of, or right to

1 peaceful enjoyment of their residences by, persons residing in the immediate vicinity
2 of the premises; engages in any criminal activity that threatens the health or safety
3 of the landlord or an agent or employee of the landlord; or engages in any
4 drug-related criminal activity on or near the premises. The notice shall require the
5 tenant to vacate on or before a date at least 5 days after the giving of the notice and
6 shall specify the grounds for the landlord's 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 (c) Paragraph (b) does not apply to a tenant who is the victim, as defined in s.
12 950.02 (4), of the criminal activity.

****NOTE: You indicated that you wanted something similar to the language of s. 704.44 (9), which mentions the tenant or a person lawfully residing with the tenant as being victims. The problem with the "person lawfully residing with the tenant" language is that if it is the tenant who is perpetrating the criminal activity on a person residing with the tenant, the tenant cannot be evicted. Is that what you want? If so, I can add "person lawfully residing with the tenant."

The language above allows for the eviction of a tenant who is perpetrating criminal activity on another tenant, but not the eviction of the tenant who is the victim. It also allows eviction of a tenant who is perpetrating criminal activity on a person residing with the tenant, but does not offer protection for that victim if the victim is not a tenant. The language also protects a tenant from eviction if the tenant is the victim of criminal activity that is perpetrated by a person residing with the tenant, but does not protect the tenant from the person residing with the tenant if he or she is not also a tenant and cannot be evicted.

13 **SECTION 30.** 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and
14 amended to read:

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

18 **SECTION 31.** 704.17 (5) (b) of the statutes is created to read:

1 704.17 (5) (b) Provisions in the lease or rental agreement for termination
2 contrary to sub. (3m) are invalid.

3 **SECTION 32.** 704.19 (2) (b) 2. of the statutes is amended to read:

4 704.19 (2) (b) 2. Notwithstanding subd. 1., nothing in this section prevents
5 termination of a tenancy before the end of a rental period because of an imminent
6 threat of serious physical harm, as provided in s. 704.16, or for criminal activity or
7 drug-related criminal activity, nonpayment of rent, or breach of any other condition
8 of the tenancy, as provided in s. 704.17.

9 **SECTION 33.** 800.035 (1) of the statutes is amended to read:

10 800.035 (1) A defendant may make an initial appearance in person or by
11 submitting a written response to the citation or complaint except when the judge has
12 required an appearance under s. 800.02 (2) (ag) 4. For the purposes of this section,
13 if a defendant is a limited liability company, the defendant appears in person if the
14 appearance is by a member, as defined in s. 183.0102 (15), by an agent or authorized
15 employee of the defendant, or by an agent of the member or an authorized employee
16 of the agent.

17 **SECTION 34.** 943.14 of the statutes is renumbered 943.14 (2) and amended to
18 read:

19 943.14 (2) Whoever intentionally enters or remains in the dwelling of another
20 without the consent of some person lawfully upon the premises or, if no person is
21 lawfully upon the premises, without the consent of the owner of the property that
22 includes the dwelling, under circumstances tending to create or provoke a breach of
23 the peace, is guilty of a Class A misdemeanor.

24 **SECTION 35.** 943.14 (1) of the statutes is created to read:

Insert 17-8

Memo

To: Eric, Mike D., Krista, and Fern

From: PJK

Subject: LRB-3011

Date: Nov. 19, 2015

We have some (probably) final redraft instructions for this draft. (I've already changed it to a "/1" at their request and incorporated LRB-2827.)

- ✓ • Mike D.: They want to remove Section 5 (in /P4) on meeting notices. Please make sure I've caught everything.
- ✓ • Eric: They want to include an exception to the requirement under s. 66.0104 (2) (e) 2. in Section 5 (in /1). Please give Chris (7-2369) a call for the details. They also want to change "landlord" on p. 9, line 11 to "property owner."
- Krista: They want the new requirements in s. 704.09 to apply to only residential property. In other words, current law would remain as is for everything other than residential property. We can talk about this if you want.
- ✓ • Fern: They would like to remove Section 25 and, in Section 26, they would like to remove the "(1) (d)" on p. 14, line 19 and change "method" on that line to "methods." (Looks like you'll have to combine parts of Sections 25 and 26.) In addition, they would like to change the "5 days" on p. 15, line 5 (but not the "5 days" on p. 14, line 21 – I asked about that one) to "14 days."

11-23
Chris from Rep Brooks's Office - by phone

in definition of "criminal activity" add
"or five or both" after
"imprisonment"

Kahler, Pam

From: Kahler, Pam
Sent: Monday, November 23, 2015 1:35 PM
To: Schaefer, Christopher
Subject: RE: AB 3011

Hi, Chris:

I don't have any questions about the new addition, but I do want to mention that Dave hasn't contacted me yet to authorize the inclusion of LRB-2827.

From: Schaefer, Christopher
Sent: Friday, November 20, 2015 8:54 AM
To: Kahler, Pam <Pam.Kahler@legis.wisconsin.gov>
Subject: RE: AB 3011

Will do.

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: "Kahler, Pam" <Pam.Kahler@legis.wisconsin.gov>
Date: 11/20/2015 8:51 AM (GMT-06:00)
To: "Schaefer, Christopher" <Christopher.Schaefer@legis.wisconsin.gov>
Subject: RE: AB 3011

Hi, Chris:

I forgot to ask you yesterday if you could have Dave Boardman from Rep. Murphy's office either call or email me to say it's okay to use their draft (LRB-2827) in another bill. Thanks!

Pam

From: Schaefer, Christopher
Sent: Thursday, November 19, 2015 9:29 AM
To: Kahler, Pam <Pam.Kahler@legis.wisconsin.gov>
Subject: RE: AB 3011

Yes, that should be fine.

Mr. Christopher Schaefer, M.A.
Legislative Assistant,
Office of Representative Rob Brooks
60th Assembly District
(608) 267-2369

Christopher.Schaefer@legis.wisconsin.gov

From: Kahler, Pam
Sent: Thursday, November 19, 2015 9:27 AM
To: Schaefer, Christopher <Christopher.Schaefer@legis.wisconsin.gov>
Subject: RE: AB 3011

We've included (with Rob's permission) in the drafting file for LRB-3011, the drafting files of all the underlying drafts (when there was an underlying draft). Is it okay to include the drafting file for LRB-2827 also?

From: Schaefer, Christopher
Sent: Thursday, November 19, 2015 9:17 AM
To: Kahler, Pam <Pam.Kahler@legis.wisconsin.gov>
Subject: AB 3011

Pam:

I was wondering if we could have the attached language included in the slash one draft of LRB 3011?
Thank you.

Mr. Christopher Schaefer, M.A.
Legislative Assistant,
Office of Representative Rob Brooks
60th Assembly District
(608) 267-2369
Christopher.Schaefer@legis.wisconsin.gov

Kahler, Pam

From: Kahler, Pam
Sent: Monday, November 23, 2015 1:40 PM
To: Boardman, David
Cc: Schaefer, Christopher
Subject: Use of LRB-2827

Hi, Dave:

Got your message – thanks for the permission!

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

Kahler, Pam

From: Kahler, Pam
Sent: Tuesday, November 24, 2015 11:22 AM
To: Kovach, Robert; Schaefer, Christopher
Cc: Hurley, Peggy
Subject: Criminal activity

Rob and Chris:

This email addresses adding “fines or both fines and imprisonment” to the definition of “criminal activity” in LRB-3011, which currently contains only “imprisonment.”

The vast majority, if not all, of the crimes that are punishable by imprisonment are also punishable by a fine or both a fine and imprisonment, so it is not really necessary to include “fine” since that will automatically be included if a crime is punishable by imprisonment. (Keep in mind that the operative term is “punishable” not what the actual punishment is.) These are the crimes that would threaten the health or safety of other tenants or the right to peaceful enjoyment of the premises by other tenants.

There are other “crimes” that are punishable by a fine only, which would also be included by defining “criminal activity” as activity that is punishable by fine OR imprisonment OR both. This second type of “crime” is a crime technically because s. 939.12 defines a crime as conduct that is punishable by fine or imprisonment or both. When the statutes providing the penalties for these “crimes” were drafted, the penalty was called a fine, but if those statutes were drafted today, the penalty would be called a forfeiture, which is a civil penalty. Take a look at 2015 AB 128, which is a Joint Legislative Council bill that corrects the terminology related to penalties in the statutes. If conduct is punishable by a fine of a certain amount and imprisonment of a certain length of time, AB 128 changes the terminology to reflect whether the conduct is a felony or a misdemeanor and the class of each. If conduct is punishable by only a fine, AB 128 changes the word “fine” to “forfeiture.” Some examples of conduct punishable by only a “fine” are obstructing a drain in a drainage district (s. 88.82 (6)), an employer engaged in painting or drywalling that misclassifies an employee for the purpose of evading the requirements under subch. II of ch. 111 (s. 111.327), use of the term “cooperative” as part of a business title by an entity that is not an association or credit union organized under ch. 186 (s. 185.94 (2)), and a railroad company that fails to comply with an order issued under s. 192.327 (7) (s. 192.327 (8)). These are the types of “crimes” that are punishable by only a “fine.” They are not the type of conduct that would threaten another tenant’s health, safety, or peaceful enjoyment of the premises. Any of the types of crimes that would do so are punishable by imprisonment (as well as a fine or both), so if you limited the definition of “criminal activity” to behavior that is punishable by imprisonment, you would capture all of the crimes that you intend and not bring in all of the crimes that are only technically crimes because of the definition under s. 939.12 and not really what we think of as crimes.

Let me know if you have any other questions.

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

Kahler, Pam

From: Schaefer, Christopher
Sent: Monday, November 30, 2015 9:01 AM
To: Kahler, Pam
Subject: RE: Landlord tenant bill

Yes, that is what we are looking to do.

Mr. Christopher Schaefer, M.A.
Legislative Assistant,
Office of Representative Rob Brooks
60th Assembly District
(608) 267-2369
Christopher.Schaefer@legis.wisconsin.gov

From: Kahler, Pam
Sent: Monday, November 30, 2015 8:58 AM
To: Schaefer, Christopher <Christopher.Schaefer@legis.wisconsin.gov>
Subject: RE: Landlord tenant bill

You want to remove the definition of "criminal activity" but keep the definition of "drug-related criminal activity"?

From: Schaefer, Christopher
Sent: Monday, November 30, 2015 8:49 AM
To: Kahler, Pam <Pam.Kahler@legis.wisconsin.gov>
Subject: RE: Landlord tenant bill

Here is the latest on that provision: We would like to remove the definition on page 15, lines 14 and 15. This was option two instead of including the four words "or fine or both."

Mr. Christopher Schaefer, M.A.
Legislative Assistant,
Office of Representative Rob Brooks
60th Assembly District
(608) 267-2369
Christopher.Schaefer@legis.wisconsin.gov

From: Kahler, Pam
Sent: Monday, November 30, 2015 8:47 AM
To: Schaefer, Christopher <Christopher.Schaefer@legis.wisconsin.gov>
Subject: RE: Landlord tenant bill

Chris:

I was holding off on putting the draft through until the definition of "criminal activity" was resolved, i.e., whether it should stay the way it is or include punishable by a fine.

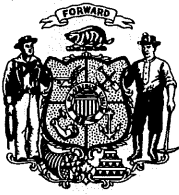
Pam

From: Schaefer, Christopher
Sent: Monday, November 30, 2015 8:13 AM
To: Kahler, Pam <Pam.Kahler@legis.wisconsin.gov>
Subject: Landlord tenant bill

Pam:

I just wanted to follow up with you to inquire about the status of the slash one draft of LRB 3011. When do you anticipate a draft will be available for our office to review? Thank you for all of your work on this legislation; I greatly appreciate it.

Mr. Christopher Schaefer, M.A.
Legislative Assistant,
Office of Representative Rob Brooks
60th Assembly District
(608) 267-2369
Christopher.Schaefer@legis.wisconsin.gov



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3011/1
ALL:emw
stays

2015 BILL

*out: today (Mon)
or Tues.*

*S.A. ✓
Xref ✓*

Reopen.

1 AN ACT *to repeal* 66.1019 (3) (b) and 101.975 (3); *to renumber* 706.22 (2) (a) 1.,
2 706.22 (2) (a) 2. and 706.22 (2) (a) 3.; *to renumber and amend* 66.1019 (3) (a),
3 704.17 (1) (b), 704.17 (5), 706.22 (2) (b), 706.22 (3) and 943.14; *to amend* 20.505
4 (7) (h), 59.69 (4m), 60.64, 62.23 (7) (em), 66.0418 (title), 66.0809 (9), 101.02 (7m),
5 349.13 (3m) (dr) 2., 349.13 (3m) (e) 1., 349.13 (3m) (e) 3., 704.09 (1), 704.09 (3),
6 704.09 (4), 704.09 (5), 704.17 (2) (b), 704.19 (2) (b) 2., 706.22 (title), 706.22 (2)
7 (title), 706.22 (2) (a) (intro.) and 800.035 (1); and *to create* 66.0104 (2) (e),
8 66.0104 (2) (f), 66.0104 (2) (g), 66.0104 (3) (c), 66.0418 (3), 175.403, 704.055,
9 704.17 (1) (b) 1., 704.17 (3m), 704.17 (5) (b), 706.22 (2) (a) 2m., 706.22 (2) (a) 3m.,
10 706.22 (2) (b) 2., 706.22 (3) (b) and 943.14 (1) of the statutes; **relating to:**
11 terminating a tenancy for criminal activity or drug-related criminal activity;
12 disposition of personal property left in rental property by a trespasser;
13 subleasing; preexisting sprinkler ordinances that are stricter than the
14 multifamily dwelling code; towing vehicles illegally parked on private property;

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1 terminating certain tenancies for breaches other than failure to pay rent;
 2 limitations on the authority of political subdivisions to regulate rental units,
 3 historic properties, and signs; prohibiting local governmental units from
 4 imposing real property purchase or residential real property occupancy
 5 requirements; creating a criminal penalty; and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a right-to-cure for certain tenants for certain breaches; makes remaining on property without consent criminal trespass and provides for the disposition of personal property left in rental property by a trespasser; 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; limits the authority of political subdivisions to regulate rental units, historic properties, ^{and} signs, and certain outdoor fire pits; prohibits a local governmental unit from making the purchase or transfer of real property or the occupancy of residential real property contingent on whether a purchaser or other transferee takes certain actions with respect to the property; 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.

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, a political subdivision may not require or prohibit any action by an owner of a property related to preservation of the historic or aesthetic value of the 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 charge a fee for an inspection other than an inspection based on a complaint from a tenant alleging a violation of the local housing code.

allows

to collect charges if it

BILL

3. Political subdivisions may not impose an occupancy or transfer of tenancy fee on a rental unit.

4. Political subdivisions may not impose a requirement or restriction based on the informational content of a sign that is not imposed on all signs.

5. Political subdivisions may not enact an ordinance that requires a landlord to obtain a license, certification, or registration in order to own, manage, or operate a residential rental property unless the ordinance applies uniformly to all residential properties, including owner-occupied properties.

Under current law, a local governmental unit is prohibited from requiring a real property owner to take certain actions with respect to the property or pay a related fee; to show compliance with taking certain actions with respect to the property; or to pay a fee for failing to take certain actions with respect to the property before the owner may sell, refinance, or transfer title to the property; at the time of selling, refinancing, or transferring title to the property; or within a certain period of time after selling, refinancing, or transferring title to the property. A local governmental unit may, however, require a real property owner to take certain actions with respect to the property not in connection with selling, refinancing, or transferring title to the property. The definition of “actions with respect to the property” includes such actions as having an inspection made by an employee or agent of the local governmental unit; making improvements or repairs; removing junk or debris; paving or painting; and installing fixtures or other items.

This bill does all of the following:

1. Prohibits a local governmental unit from requiring a person who is a prospective purchaser of, or person who will take title to, real property to take certain actions with respect to the property, as defined under current law, or pay a related fee; to show compliance with taking certain actions with respect to the property; or to pay a fee for failing to take certain actions with respect to the property before the person may complete the purchase of, or take title to, the property; at the time of completing the purchase of, or taking title to, the property; or within a certain time after completing the purchase of, or taking title to, the property.

2. Prohibits a local governmental unit from requiring a purchaser of, or transferee of title to, residential real property to take certain actions with respect to the property, as defined under current law, or pay a related fee; to show compliance with taking certain actions with respect to the property; or to pay a fee for failing to take certain actions with respect to the property before the purchaser or transferee may take occupancy of the property; at the time of taking occupancy of the property; or within a certain time after taking occupancy of the property.

3. Provides that a local governmental unit may require a real property owner to take certain actions with respect to the property not in connection with purchasing or taking occupancy of the property.

4. Provides that any ordinance, resolution, or policy currently in effect that is inconsistent with the prohibitions in the bill does not apply and is unenforceable.

5. Provides that the prohibitions in the bill and under current law on local governmental units do not affect a local governmental unit’s responsibility, authority, or ability to enforce a state or federal requirement that does any of the

BILL

things that a local governmental unit is prohibited from doing in the bill or under current law.

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.

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.

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, except for a tenant who is the victim of the criminal activity, 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

BILL

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.

Under the bill,
IS terminated
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 a 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.

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

BILL

the permission of a person who is lawfully on the premises, or of the owner of the property if no one is lawfully present there, regardless of whether the dwelling is currently occupied. The bill requires law enforcement agencies to establish policies that require officers to remove trespassers from dwellings.

Disposing of personal property left by trespasser

Current law does not address what happens to the personal property of a trespasser that is left behind after the trespasser leaves or is removed from residential rental property. This bill provides that, after a trespasser leaves or is removed from residential 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.

Subleasing

Under current law, a tenant under a lease may assign or sublease his or her interest under the lease unless the lease expressly restricts the tenant's ability to do so. This bill provides that, ^{for residential leases,} unless a lease expressly allows a tenant to assign or sublease his or her interest under the lease, the tenant may not do so without the consent of the landlord, and any attempt by the tenant to assign or sublease without the landlord's consent is void and does not convey any tenant's rights to the purported transferee.

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.** 20.505 (7) (h) of the statutes is amended to read:

2 20.505 (7) (h) *Funding for the homeless.* All moneys received from interest on
3 real estate trust accounts under s. 452.13 for grants under s. 16.307, and all moneys
4 received under ~~s. ss.~~ 704.05 (5) (a) 2. and 704.055 (2) (b), for grants to agencies and
5 shelter facilities for homeless individuals and families under s. 16.308 (2) (a) and (b).

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

7 59.69 (4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and
8 police powers for the purpose of promoting the health, safety and general welfare of
9 the community and of the state, may regulate by ordinance any place, structure or

BILL

1 object with a special character, historic interest, aesthetic interest or other
2 significant value, for the purpose of preserving the place, structure or object and its
3 significant characteristics. The county may create a landmarks commission to
4 designate historic landmarks and establish historic districts. The county may
5 regulate all historic landmarks and all property within each historic district to
6 preserve the historic landmarks and property within the district and the character
7 of the district. A county may not designate a property as a historic landmark without
8 the consent of the owner. A county may not require or prohibit any action by an owner
9 of a property related to the preservation of special character, historic or aesthetic
10 interest, or any other significant value of the property without the consent of the
11 owner.

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

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

BILL**SECTION 3**

1 aesthetic interest, or any other significant value of the property without the consent
2 of the owner.

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

4 62.23 (7) (em) *Historic preservation.* A city, as an exercise of its zoning and
5 police powers for the purpose of promoting the health, safety and general welfare of
6 the community and of the state, may regulate by ordinance, or if a city contains any
7 property that is listed on the national register of historic places in Wisconsin or the
8 state register of historic places shall, not later than 1995, enact an ordinance to
9 regulate, any place, structure or object with a special character, historic,
10 archaeological or aesthetic interest, or other significant value, for the purpose of
11 preserving the place, structure or object and its significant characteristics. A city
12 may create a landmarks commission to designate historic or archaeological
13 landmarks and establish historic districts. The city may regulate, or if the city
14 contains any property that is listed on the national register of historic places in
15 Wisconsin or the state register of historic places shall regulate, all historic or
16 archaeological landmarks and all property within each historic district to preserve
17 the historic or archaeological landmarks and property within the district and the
18 character of the district. A city may not designate a property as a historic landmark
19 without the consent of the owner. A city may not require or prohibit any action by
20 an owner of a property related to the preservation of special character, historic or
21 aesthetic interest, or any other significant value of the property without the consent
22 of the owner.

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

24 66.0104 (2) (e) No city, village, town, or county may enact an ordinance that
25 does any of the following:

BILL

1 1. Requires that a rental unit be inspected without a showing of good cause or
2 be certified or registered.

3 2. Charges a fee for conducting an inspection other than an inspection based
4 on a complaint from a tenant alleging a violation of the local housing code of the city,
5 village, town, or county.

*or an inspection required for all
properties and for which a uniform
fee is charged.*

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

7 66.0104 (2) (f) No city, village, town, or county may impose an occupancy or
8 transfer of tenancy fee on a rental unit.

9 **SECTION 7.** 66.0104 (2) (g) of the statutes is created to read:

10 66.0104 (2) (g) 1. No city, village, town, or county may enact an ordinance that

11 requires a landlord ^{property owner} to obtain a license, certification, or registration in order to do any
12 of the following:

13 a. Own a residential rental property.

14 b. Manage or operate a residential rental property.

15 2. Subdivision 1. does not apply to an ordinance that applies uniformly to all
16 residential properties, including owner-occupied properties.

17 **SECTION 8.** 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), (f), or (g), the ordinance does not apply and may not be enforced.

21 **SECTION 9.** 66.0418 (title) of the statutes is amended to read:

22 **66.0418 (title) Prohibition of Miscellaneous limitations on local**
23 **regulation of certain foods, beverages.**

24 **SECTION 10.** 66.0418 (3) of the statutes is created to read:

BILL**SECTION 10**

1 66.0418 (3) No political subdivision may impose a restriction or requirement
2 on a sign based on the sign's informational content that it does not impose on all
3 signs.

4 **SECTION 11.** 66.0809 (9) of the statutes is amended to read:

5 66.0809 (9) A municipal utility is not required to offer a customer who is a
6 tenant at a rental dwelling unit a deferred payment agreement. Notwithstanding.
7 ss. 196.03, 196.19, 196.20, 196.22, 196.37, and 196.60, a determination by a
8 municipal utility to offer or not offer a deferred payment agreement does not require
9 approval, and is not subject to disapproval, by the public service commission.

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

12 66.1019 (3) ~~Except as provided in par. (b), any~~ Any ordinance enacted by a
13 county, city, village or town relating to the construction or inspection of multifamily
14 dwellings, as defined in s. 101.971 (2), shall conform to subch. VI of ch. 101 and s.
15 101.02 (7m).

16 **SECTION 13.** 66.1019 (3) (b) of the statutes is repealed.

17 **SECTION 14.** 101.02 (7m) of the statutes is amended to read:

18 101.02 (7m) Notwithstanding sub. (7) (a), no city, village, or town may make
19 or enforce any ordinance that is applied to any multifamily dwelling, as defined in
20 s. 101.971 (2), and that does not conform to subch. VI and this section or is contrary
21 to an order of the department under this subchapter, ~~except that if a city, village or~~
22 ~~town has a preexisting stricter sprinkler ordinance, as defined in s. 101.975 (3) (a),~~
23 ~~that ordinance remains in effect, except that the city, village or town may take any~~
24 ~~action with regard to that ordinance that a political subdivision may take under s.~~
25 101.975 (3) (b). Any contract between a city, village, or town and a property owner

BILL

1 of a multifamily dwelling that requires the property owner to comply with an
2 ordinance that does not conform to subch. VI and this section or is contrary to an
3 order of the department under this subchapter is void and unenforceable.

4 **SECTION 15.** 101.975 (3) of the statutes is repealed.

5 **SECTION 16.** 175.403 of the statutes is created to read:

6 **175.403 Trespassing; arrest and removal.** (1) In this section:

7 (a) “Law enforcement agency” has the meaning given in s. 165.83 (1) (b).

8 (b) “Law enforcement officer” has the meaning given in s. 165.85 (2) (c).

9 (2) Each law enforcement agency shall have a written policy regarding the
10 investigation of complaints alleging a violation of s. 943.14. The policy shall require
11 a law enforcement officer who has probable cause to arrest a person for a violation
12 of s. 943.14 to remove the person from a dwelling.

13 **SECTION 17.** 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 18.** 349.13 (3m) (e) 1. of the statutes is amended to read:

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

21 **SECTION 19.** 349.13 (3m) (e) 3. of the statutes is amended to read:

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

24 **SECTION 20.** 704.055 of the statutes is created to read:

BILL**SECTION 20**

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

5 **(2) AT THE LANDLORD’S DISCRETION.** (a) If a trespasser is removed or otherwise
6 removes from residential rental property and leaves personal property, the landlord
7 shall hold the personal property for 7 days from the date on which the landlord
8 discovers the personal property. After that time, the landlord may presume that the
9 trespasser has abandoned the personal property and may dispose of the personal
10 property in any manner that the landlord, in the landlord’s sole discretion,
11 determines is appropriate but shall promptly return the personal property to the
12 trespasser if the landlord receives a request for its return before the landlord
13 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
23 claim of ownership or security interest. The trespasser, other owner, or any secured
24 party has the right to redeem the personal property at any time before the landlord
25 has disposed of it or entered into a contract for its disposition by payment of any

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1 expenses that the landlord has incurred with respect to the disposition of the
2 personal property.

3 **SECTION 21.** 704.09 (1) of the statutes is amended to read:

4 704.09 (1) TRANSFERABILITY OF INTEREST OF TENANT OR LANDLORD. ~~A Unless a~~
5 ~~lease expressly allows, a tenant under a tenancy at will or any periodic tenancy less~~
6 ~~than year-to-year may not assign or sublease except with the agreement or consent~~
7 ~~of the landlord, and any attempt to assign or sublease without the landlord's consent~~
8 ~~is void and does not convey any tenant's rights to the purported transferee.~~ The
9 interest of ~~any other tenant or the interest of any landlord~~ may be transferred except
10 as the lease expressly restricts power to transfer. A lease restriction on transfer is
11 construed to apply only to voluntary transfer unless there is an express restriction
12 on transfer by operation of law.

13 **SECTION 22.** 704.09 (3) of the statutes is amended to read:

14 704.09 (3) COVENANTS WHICH APPLY TO TRANSFEREE. All covenants and provisions
15 in a lease which are not either expressly or by necessary implication personal to the
16 original parties are enforceable by or against the successors in interest of any party
17 to the lease who transferred the party's interest under sub. (1). However, a successor
18 in interest is liable in damages, or entitled to recover damages, only for a breach
19 which occurs during the period when the successor holds his or her interest, unless
20 the successor has by contract assumed greater liability; a personal representative
21 may also recover damages for a breach for which the personal representative's
22 decedent could have recovered.

23 **SECTION 23.** 704.09 (4) of the statutes is amended to read:

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1 704.09 (4) SAME PROCEDURAL REMEDIES. The remedies available between the
2 original landlord and tenant are also available to or against any successor in interest
3 to either party who transferred the party's interest under sub. (1).

4 **SECTION 24.** 704.09 (5) of the statutes is amended to read:
5 704.09 (5) CONSENT AS AFFECTING SUBSEQUENT TRANSFERS. ~~If a lease restricts~~
6 ~~transfer, consent~~ Regardless of whether a transfer is in violation of sub. (1), consent
7 or other acquiescence to a transfer or waiver of a breach of the a transfer restriction
8 in a lease is not a consent or waiver as to any subsequent transfers.

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14-9

9 **SECTION 25.** 704.17 (1) (b) of the statutes is renumbered 704.17 (1) (b) (intro.)
10 and amended to read:
11 704.17 (1) (b) (intro.) If a month-to-month or a week-to-week tenant commits
12 waste or a material violation of s. 704.07 (3) or breaches any covenant or condition
13 of the tenant's agreement, other than for payment of rent, the tenancy ~~can be~~ is
14 terminated if the landlord gives any of the following applies:
15 2. Using the method described in s. 704.21 (1) (d), the landlord gives the tenant
16 notice requiring the tenant to vacate on or before a date at least 14 days after the
17 giving of the notice.

18 **SECTION 26.** 704.17 (1) (b) 1. of the statutes is created to read:
19 704.17 (1) (b) 1. Using the method described in s. 704.21 (1) (d), the landlord
20 gives the tenant a notice that requires the tenant to either remedy the default or
21 vacate the premises no later than a date at least 5 days after the giving of the notice,
22 and the tenant fails to comply with the notice. A tenant is considered to be complying
23 with the notice if promptly upon receipt of the notice the tenant takes reasonable
24 steps to remedy the default and proceeds with reasonable diligence, or if damages are
25 adequate protection for the landlord and the tenant makes a bona fide and

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1 reasonable offer to pay the landlord all damages for the tenant's breach. If, within
 2 one year from receiving ^{of} a notice under this ^{paragraph} ~~(subdivision)~~, the tenant again commits
 3 waste or breaches the same or any other covenant or condition of the tenant's rental
 4 agreement, other than for payment of rent, the tenant's tenancy is terminated if the
 5 landlord gives the tenant notice to vacate on or before a date at least 5 days after the
 6 giving of the notice.

requiring the tenant

14

SECTION 27. 704.17 (2) (b) of the statutes is amended to read:

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

SECTION 28. 704.17 (3m) of the statutes is created to read:

24 704.17 (3m) CRIMINAL ACTIVITY. (a) In this subsection:
 25

↓

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

3 2. "Drug-related criminal activity" means criminal activity that involves the
4 manufacture, possession, use, or distribution of a controlled substance, as defined in
5 s. 961.01 (4). *↑ move up to previous page*

6 (b) 1. Notwithstanding subs. (1) (b), (2) (b), and (3) (a), and except as provided
7 in par. (c), a landlord may, upon notice to the tenant, terminate the tenancy of a
8 tenant, without giving the tenant an opportunity to remedy the default, if the tenant,
9 a member of the tenant's household, or a guest or other invitee of the tenant or of a
10 member of the tenant's household engages in any criminal activity that threatens the
11 health or safety of, or right to peaceful enjoyment of the premises by, other tenants;
12 engages in any criminal activity that threatens the health or safety of, or right to
13 peaceful enjoyment of their residences by, persons residing in the immediate vicinity
14 of the premises; engages in any criminal activity that threatens the health or safety
15 of the landlord or an agent or employee of the landlord; or engages in any
16 drug-related criminal activity on or near the premises. The notice shall require the
17 tenant to vacate on or before a date at least 5 days after the giving of the notice and
18 shall specify the grounds for the landlord's action.

19 2. To terminate a tenancy under this subsection, it is not necessary that the
20 individual committing the criminal activity or drug-related criminal activity has
21 been arrested for or convicted of the criminal activity or drug-related criminal
22 activity.

23 (c) Paragraph (b) does not apply to a tenant who is the victim, as defined in s.
24 950.02 (4), of the criminal activity.

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1 **SECTION 29.** 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and
2 amended to read:

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

6 **SECTION 30.** 704.17 (5) (b) of the statutes is created to read:

7 704.17 (5) (b) Provisions in the lease or rental agreement for termination
8 contrary to sub. (3m) are invalid.

9 **SECTION 31.** 704.19 (2) (b) 2. of the statutes is amended to read:

10 704.19 (2) (b) 2. Notwithstanding subd. 1., nothing in this section prevents
11 termination of a tenancy before the end of a rental period because of an imminent
12 threat of serious physical harm, as provided in s. 704.16, or for criminal activity or
13 drug-related criminal activity, nonpayment of rent, or breach of any other condition
14 of the tenancy, as provided in s. 704.17.

15 **SECTION 32.** 706.22 (title) of the statutes, as created by 2015 Wisconsin Act 55,
16 is amended to read:

17 **706.22 (title) Prohibition on imposing time-of-sale, purchase, or**
18 **occupancy requirements.**

19 **SECTION 33.** 706.22 (2) (title) of the statutes, as created by 2015 Wisconsin Act
20 55, is amended to read:

21 706.22 (2) (title) REQUIREMENTS TIED TO SALE, PURCHASE, OR TAKING OCCUPANCY
22 OF PROPERTY PROHIBITED.

23 **SECTION 34.** 706.22 (2) (a) (intro.) of the statutes, as created by 2015 Wisconsin
24 Act 55, is amended to read:

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1 706.22 (2) (a) (intro.) Except as provided in par. (b), no local governmental unit
2 may by ordinance, resolution, or any other means restrict do any of the following:

3 1m. Restrict the ability of an owner of real property to sell or otherwise transfer
4 title to or refinance the property by requiring the owner or an agent of the owner to
5 take certain actions with respect to the property or pay a related fee, to show
6 compliance with taking certain actions with respect to the property, or to pay a fee
7 for failing to take certain actions with respect to the property, at any of the following
8 times:

9 **SECTION 35.** 706.22 (2) (a) 1. of the statutes, as created by 2015 Wisconsin Act
10 55, is renumbered 706.22 (2) (a) 1m. a.

11 **SECTION 36.** 706.22 (2) (a) 2. of the statutes, as created by 2015 Wisconsin Act
12 55, is renumbered 706.22 (2) (a) 1m. b.

13 **SECTION 37.** 706.22 (2) (a) 2m. of the statutes is created to read:

14 706.22 (2) (a) 2m. Restrict the ability of a person to purchase or take title to real
15 property by requiring the person or an agent of the person to take certain actions with
16 respect to the property or pay a related fee, to show compliance with taking certain
17 actions with respect to the property, or to pay a fee for failing to take certain actions
18 with respect to the property, at any of the following times:

19 a. Before the person may complete the purchase of or take title to the property.

20 b. At the time of completing the purchase of or taking title to the property.

21 c. Within a certain period of time after completing the purchase of or taking title
22 to the property.

23 **SECTION 38.** 706.22 (2) (a) 3. of the statutes, as created by 2015 Wisconsin Act
24 55, is renumbered 706.22 (2) (a) 1m. c.

25 **SECTION 39.** 706.22 (2) (a) 3m. of the statutes is created to read:

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1 706.22 (2) (a) 3m. Restrict the ability of a purchaser of or transferee of title to
2 residential real property to take occupancy of the property by requiring the
3 purchaser or transferee or an agent of the purchaser or transferee to take certain
4 actions with respect to the property or pay a related fee, to show compliance with
5 taking certain actions with respect to the property, or to pay a fee for failing to take
6 certain actions with respect to the property, at any of the following times:

7 a. Before the purchaser or transferee may take occupancy of the property.

8 b. At the time of taking occupancy of the property.

9 c. Within a certain period of time after taking occupancy of the property.

10 **SECTION 40.** 706.22 (2) (b) of the statutes, as created by 2015 Wisconsin Act 55,
11 is renumbered 706.22 (2) (b) (intro.) and amended to read:

12 706.22 (2) (b) (intro.) Paragraph (a) does not ~~prohibit~~ do any of the following:

13 1. Prohibit a local governmental unit from requiring a real property owner or
14 the owner's agent to take certain actions with respect to the property not in
15 connection with the purchase, sale or, refinancing, or taking occupancy of, or the
16 transfer of title to, the property.

17 **SECTION 41.** 706.22 (2) (b) 2. of the statutes is created to read:

18 706.22 (2) (b) 2. Prohibit a local governmental unit from enforcing, or otherwise
19 affect the responsibility, authority, or ability of a local governmental unit to enforce,
20 a federal or state requirement that does any of the things a local governmental unit
21 is prohibited from doing under par. (a).

22 **SECTION 42.** 706.22 (3) of the statutes, as created by 2015 Wisconsin Act 55, is
23 renumbered 706.22 (3) (a) and amended to read:

BILL**SECTION 42**

1 706.22 (3) (a) If a local governmental unit has in effect on July 14, 2015, an
2 ordinance, resolution, or policy that is inconsistent with sub. (2) (a) 1m., the
3 ordinance, resolution, or policy does not apply and may not be enforced.

4 **SECTION 43.** 706.22 (3) (b) of the statutes is created to read:

5 706.22 (3) (b) If a local governmental unit has in effect on the effective date of
6 this paragraph [LRB inserts date], an ordinance, resolution, or policy that is
7 inconsistent with sub. (2) (a) 2m. or 3m., the ordinance, resolution, or policy does not
8 apply and may not be enforced.

9 **SECTION 44.** 800.035 (1) of the statutes is amended to read:

10 800.035 (1) A defendant may make an initial appearance in person or by
11 submitting a written response to the citation or complaint except when the judge has
12 required an appearance under s. 800.02 (2) (ag) 4. For the purposes of this section,
13 if a defendant is a limited liability company, the defendant appears in person if the
14 appearance is by a member, as defined in s. 183.0102 (15), by an agent or authorized
15 employee of the defendant, or by an agent of the member or an authorized employee
16 of the agent.

17 **SECTION 45.** 943.14 of the statutes is renumbered 943.14 (2) and amended to
18 read:

19 943.14 (2) Whoever intentionally enters or remains in the dwelling of another
20 without the consent of some person lawfully upon the premises or, if no person is
21 lawfully upon the premises, without the consent of the owner of the property that
22 includes the dwelling, under circumstances tending to create or provoke a breach of
23 the peace, is guilty of a Class A misdemeanor.

24 **SECTION 46.** 943.14 (1) of the statutes is created to read:

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3011/1
KRP:...

INSERT 13-13

1 **SECTION 1.** 704.09 (1) of the statutes is renumbered 704.09 (1) (a) and amended
2 to read:

3 704.09 (1) (a) This paragraph applies to any nonresidential tenancy. A tenant
4 under a tenancy at will or any periodic tenancy less than year-to-year may not
5 assign or sublease except with the agreement or consent of the landlord. The interest
6 of any other tenant ~~or the interest of any landlord~~ may be transferred except as the
7 lease expressly restricts power to transfer. A lease restriction on transfer is
8 construed to apply only to voluntary transfer unless there is an express restriction
9 on transfer by operation of law.

History: 1971 c. 211 s. 126; 1993 a. 486.

10 **SECTION 2.** 704.09 (1) (b) and (c) of the statutes are created to read:

11 704.09 (1) (b) This paragraph applies to any residential tenancy. Unless a lease
12 expressly allows, a tenant may not assign or sublease except with the agreement or
13 consent of the landlord, and any attempt to assign or sublease without the landlord's
14 consent is void and does not convey any tenant's rights to the purported transferee.

15 (c) This paragraph applies to any tenancy. The interest of any landlord may
16 be transferred except as the lease expressly restricts power to transfer. A lease
17 restriction on transfer is construed to apply only to voluntary transfer unless there
18 is an express restriction on transfer by operation of law.

(END INSERT 13-13)

INSERT 14-9

19 **SECTION 3.** 704.09 (5) of the statutes is amended to read:

20 704.09 (5) **CONSENT AS AFFECTING SUBSEQUENT TRANSFERS.** ~~If a lease restricts~~
21 ~~transfer, consent~~ Consent or other acquiescence to a transfer, or waiver of a breach

1 of ~~the~~ a transfer restriction in a lease, is not a consent or waiver as to any subsequent
2 transfers.

History: 1971 c. 211 s. 126; 1993 a. 486.

(END INSERT 14-9)

INSERT 21-5

3 renumbering and amendment of section 704.09 (1) of the statutes, the
4 amendment of section 704.09 (3), (4), and (5) of the statutes, and the creation of
5 section 704.09 (1) (b) and (c) of the statutes first apply

(END INSERT 21-5)

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LRB-3011/1insfk
FFK:...

INS 14-19

1 **SECTION 1.** 704.17 (1) (b) of the statutes is amended to read:

2 704.17 (1) (b) If a month-to-month tenant commits waste or a material
3 violation of s. 704.07 (3) or breaches any covenant or condition of the tenant's
4 agreement, other than for payment of rent, the tenancy ~~can be~~ is terminated if the
5 landlord

History: 1981 c. 286; 1993 a. 139, 486; 1995 a. 267; 2005 a. 281; 2011 a. 143.

END INS 14-19

6

Kahler, Pam

From: Schaefer, Christopher
Sent: Tuesday, December 01, 2015 9:58 AM
To: Kahler, Pam
Subject: RE: LRB 3011/1

Pam:

We do not want to add rental agreement to the other instances of lease.

Mr. Christopher Schaefer, M.A.
Legislative Assistant,
Office of Representative Rob Brooks
60th Assembly District
(608) 267-2369
Christopher.Schaefer@legis.wisconsin.gov

From: Kahler, Pam
Sent: Tuesday, December 01, 2015 9:40 AM
To: Schaefer, Christopher <Christopher.Schaefer@legis.wisconsin.gov>
Subject: RE: LRB 3011/1

Chris,

There are more instances of "lease" in s. 704.09. Do you want to add "or rental agreement" after each one?

From: Schaefer, Christopher
Sent: Tuesday, December 01, 2015 9:25 AM
To: Kahler, Pam <Pam.Kahler@legis.wisconsin.gov>
Subject: LRB 3011/1

Pam:

The current draft is excellent. Here are the final changes we would like to see made: In section twenty-eight, line eight, page sixteen, it says the one-strike notice "shall specify the grounds for the landlord's action." We would like to expand this to include the following: "The notice shall state the basis for its issuance and the right of the tenant to contest the termination of the tenancy in an eviction action under chapter 799. If the tenant contests the termination of tenancy, the tenancy may not be terminated without proof by the landlord by the greater preponderance of the credible evidence of the allegation in the notice."

On page 13, line 2, we would like it to read "lease **or rental agreement.**"

On page 13, line 6, we would also like it to read "lease **or rental agreement.**"

On page 13, line 11, we would like it to read "except as **lease or rental agreement.**"

On page 13, line 18, we would like it to read "to the **lease or rental agreement.**"

If you have any questions, do not hesitate to contact.

Mr. Christopher Schaefer, M.A.

Legislative Assistant,

Office of Representative Rob Brooks

60th Assembly District

(608) 267-2369

Christopher.Schaefer@legis.wisconsin.gov