




State of Wisconsin

LEGISLATIVE REFERENCE BUREAU


RESEARCH APPENDIX - PLEASE DO NOT REMOVE FROM DRAFTING FILE


Date Transfer Requested: 08/31/2015 (Per: MED)


Compile Draft – Appendix A

Appendix A  The 2015 drafting file for LRB-1676

Appendix B  The 2015 drafting file for LRB-1684

Appendix C  The 2015 drafting file for LRB-2087

Appendix D  The 2015 drafting file for LRB-2122

Appendix E  The 2015 drafting file for LRB-2260

has been copied/added to the drafting file for

2015 LRB-3011

2015 DRAFTING REQUEST

Bill

Received: 2/10/2015 Received By: pkahler
For: Frank Lasee (608) 266-3512 Same as LRB:
May Contact: By/Representing: Rob Kovach
Subject: Real Estate - landlord/tenant Drafter: pkahler
Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Lasee@legis.wisconsin.gov
Carbon copy (CC) to: fern.knepp@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Allow landlord to terminate tenancy for criminal activity without a right to cure

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 2/13/2015	jfrantze 2/23/2015	_____			
/P1	pkahler 4/17/2015		_____	sbasford 2/23/2015		
/P2	pkahler 4/28/2015	jdyer 4/21/2015	_____	mbarman 4/21/2015		
/1	pkahler	eweiss	_____	srose		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	5/5/2015	4/29/2015	_____	4/29/2015		
/2	pkahler 6/29/2015	jdye 5/6/2015	_____	sbasford 5/6/2015		
/3		jdye 6/29/2015	_____	lparisi 6/29/2015		

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

2-10

Rob Kovach Sen. Lasee's Office

wants a draft that is another take on crime-free
leases

(See 11-2098 + 13-0792)

a judge in a ll/tenant matter held that the
tenant has a "right to cure" criminal
activity

there is no right to cure under "Section 8"

allow termination of tenancy for criminal
activity with no right to cure

but retain the essence of s. 704.44 (9) + (10)



State of Wisconsin
2015 - 2016 LEGISLATURE

LPS-check
auto refs

LRB-1676/P1
PJK:.....

JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note
in 2-13
out by 2-23

4
1 Gen

AN ACT ...; relating to: terminating a tenancy for criminal activity. ✓

Analysis by the Legislative Reference Bureau ✓

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

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

- 2 SECTION 1. 704.17 (3m) ✓ of the statutes is created to read:
- 3 704.17 (3m) CRIMINAL ACTIVITY. ✓ (a) In this subsection: ✓
- 4 1. "Criminal activity" ✓ means any act or behavior committed by a person that
- 5 is punishable in this state by a fine or period of imprisonment. ✓
- 6 2. "Drug-related criminal activity" ✓ means criminal activity that involves the
- 7 manufacture, possession, use, or distribution of a ✓ controlled substance, as defined in
- 8 s. 961.01 (4). ✓
- 9 (b) Notwithstanding subs. (1) (b), (2) (b), and (3) (a), ✓ a landlord may terminate
- 10 the tenancy of a tenant, ✓ without giving the tenant an opportunity to remedy the

1 default, if the tenant, a member of the tenant's household, or a guest or other person
2 under the tenant's control engages in any criminal activity[✓] that threatens the health,
3 safety, or right to peaceful enjoyment of the premises by other tenants; engages in
4 any criminal activity that threatens the health, safety, or right to peaceful enjoyment
5 of their residences by persons residing in the immediate vicinity of the premises; or
6 engages in any drug-related[✓] criminal activity on or near the premises and if the
7 landlord gives the tenant notice that requires the tenant to vacate on or before a date
8 at least 5 days[✓] after the giving of the notice and that specifies the grounds for the
9 landlord's action.

10 (c) Paragraph[✓] (b) does not apply if the tenant's rental agreement is void because
11 s. 704.44 (9)[✓] or (10)[✓] applies. *insert 2-11[✓]*

12 **SECTION 2.** 704.17 (5) of the statutes is renumbered 704.17 (5) (a)[✓] and amended
13 to read:

14 704.17 (5) (a) Provisions in the lease or rental agreement for termination
15 contrary to ~~this section~~ sub. (1), (2), (3), or (4)[✓] are invalid except in leases for more
16 than one year.

17 History: 1981 c. 286; 1993 a. 139, 486; 1995 a. 267; 2005 a. 281; ~~2011~~ a. 143.
SECTION 3. 704.17 (5) (b) of the statutes is created to read:

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

20 **SECTION 4.** 704.19 (2) (b) 2.[✓] of the statutes is amended to read:

21 704.19 (2) (b) 2. Notwithstanding subd. 1., nothing in this section prevents
22 termination of a tenancy before the end of a rental period because of an imminent
23 threat of serious physical harm, as provided in s. 704.16, or for criminal activity[✓].

1 nonpayment of rent, or breach of any other condition of the tenancy, as provided in
2 s. 704.17.

3 History: 1993 a. 486; 1995 a. 225; 2001 a. 103; 2007 a. 184.

SECTION 5. Initial applicability.

a.r.A

4 (1) Except as provided in subsection (2), the treatment of sections 704.17 (3m)
5 and 704.19 (2) (b) 2. of the statutes first applies to criminal activities that are
6 committed on the effective date of this subsection.

7 (2) If a lease or rental agreement that is in effect on the effective date of this
8 subsection contains a provision that is inconsistent with the treatment of sections
9 704.17 (3m) and 704.19 (2) (b) 2. of the statutes, the treatment of sections 704.17 (3m)
10 and 704.19 (2) (b) 2. of the statutes first applies to criminal activities that are
11 committed on the date on which the lease or rental agreement is renewed.

12 (3) The creation of section 704.17 (5) (b) of the statutes first applies to leases
13 and rental agreements that are entered into or renewed on the effective date of this
14 subsection.

15 (END)

D. Note

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

LRB-1676/?ins
PJK.....

INSERT 2-11

- 1 *not* or if the tenant or someone who lawfully resides with the tenant is the victim,
- 2 as defined in s. 950.02 (4)[✓], of the criminal activity *NO*

(END OF INSERT 2-11)

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

date

LRB-1676/Pdn
PJK: ^:....
JG

To Rob Kovach: ✓

Here is a preliminary draft for you to use as a starting point for your discussions on "crime-free leases." The new provision applies regardless of whether there is a written lease, but not if there is a lease and it is void because it violates s. 704.44 (9) or (10). ✓ If the lease has a provision related to terminating a tenancy for criminal activity that does not violate s. 704.44 (9) or (10) ✓ but is different from what the bill provides, the current lease provision (which is a contract provision) would control until the lease is renewed.

I also added that the new provision does not apply if the tenant or someone lawfully residing with the tenant is the victim of the criminal activity. ✓ This is the language from s. 704.44 (9) ✓ and has the same logical problem, i.e., that the tenant may be abusing someone lawfully residing with the tenant, but since someone lawfully residing with the tenant is the victim, the tenant cannot be evicted. ✓

Pamela J. Kahler
Senior Legislative Attorney
(608) 266-2682
pam.kahler@legis.wisconsin.gov

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

LRB-1676/P1dn
PJK:jld:jf

February 23, 2015

To Rob Kovach:

Here is a preliminary draft for you to use as a starting point for your discussions on "crime-free leases." The new provision applies regardless of whether there is a written lease, but not if there is a lease and it is void because it violates s. 704.44 (9) or (10). If the lease has a provision related to terminating a tenancy for criminal activity that does not violate s. 704.44 (9) or (10) but is different from what the bill provides, the current lease provision (which is a contract provision) would control until the lease is renewed.

I also added that the new provision does not apply if the tenant or someone lawfully residing with the tenant is the victim of the criminal activity. This is the language from s. 704.44 (9) and has the same logical problem, i.e., that the tenant may be abusing someone lawfully residing with the tenant, but since someone lawfully residing with the tenant is the victim, the tenant cannot be evicted.

Pamela J. Kahler
Senior Legislative Attorney
(608) 266-2682
pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Kovach, Robert
Sent: Friday, April 17, 2015 1:37 PM
To: Kahler, Pam
Subject: FW: Draft review: LRB -1676/P1 Topic: Allow landlord to terminate tenancy for criminal activity without a right to cure
Attachments: Crime free LRB 1676 - revision 030615.docx

With the budget work, I can't remember if I sent this to you.

Can you let me know if any of these changes are unworkable?

Rob Kovach

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

From: Murray, Joe - Director of Political and Governmental Affairs [mailto:jmurray@wra.org]
Sent: Friday, April 17, 2015 12:32 PM
To: Kovach, Robert
Subject: FW: Draft review: LRB -1676/P1 Topic: Allow landlord to terminate tenancy for criminal activity without a right to cure

Rob,

Here is the suggested changes to the One Strike draft. It incorporates the changes from our attorneys. I hope we can get this soon?????

Thanks,

Joe

From: h giese [mailto:hgiese@ameritech.net]
Sent: Friday, March 06, 2015 3:12 PM
To: Murray, Joe - Director of Political and Governmental Affairs; Tristan Pettit; joe@milwaukeeemetromanagement.com
Cc: Conrad, Debbi - Director of Legal Services; Cori M. Lamont; Tim Ballering
Subject: Re: Draft review: LRB -1676/P1 Topic: Allow landlord to terminate tenancy for criminal activity without a right to cure

Attached is a red-lined version of the LRB draft with changes proposed by Tristan.
Also fixes up some issues raised by Cori and Debbi.

--Heiner

Atty Heiner Giese
1216 N. Prospect Ave.
Milwaukee, WI. 53202-3061
Tel. 414-276-7988 Fax: 414-276-8342

From: "Murray, Joe - Director of Political and Governmental Affairs" <jmurray@wra.org>
To: h giese <hgiese@ameritech.net>; Tristan Pettit <tpettit@petriestocking.com>;
joe@milwaukeeemetromanagement.com
Cc: "Conrad, Debbi - Director of Legal Services" <dconrad@wra.org>; Cori M. Lamont <CoriL@wra.org>
Sent: Thursday, February 26, 2015 12:49 PM
Subject: FW: Draft review: LRB -1676/P1 Topic: Allow landlord to terminate tenancy for criminal activity without a right to cure

Guys,

We have a draft of the One Strike bill to begin our work. I'm looking this over and I've asked Debbie and Cori in our office to do so as well. Now we can start working this over and move to introduction after we get this draft in shape. As soon as we reach introduction stage, I'll bring this bill to the WRA Policy Committee. It makes sense to me to let the attorneys take the first crack at this to reach agreement on what we want.

Joe

From: Sen.Lasee [mailto:Sen.Lasee@legis.wisconsin.gov]
Sent: Monday, February 23, 2015 3:40 PM
To: Larson, Tom; Cori M. Lamont; Murray, Joe - Director of Political and Governmental Affairs
Subject: FW: Draft review: LRB -1676/P1 Topic: Allow landlord to terminate tenancy for criminal activity without a right to cure

One strike draft

Rob Kovach

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

From: LRB.Legal
Sent: Monday, February 23, 2015 2:45 PM
To: Sen.Lasee
Subject: Draft review: LRB -1676/P1 Topic: Allow landlord to terminate tenancy for criminal activity without a right to cure

Following is the PDF version of draft LRB -1676/P1 and drafter's note.



2015 -
LRB-1676/P1

State of Wisconsin

2016 LEGISLATURE

PJK;jld:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 AN ACT to renumber and amend 704.17 (5); to amend 704.19 (2) (b) 2.; and to
2 create 704.17 (3m) and 704.17 (5) (b) of the statutes; relating to: terminating 3 a tenancy for
criminal activity.

Analysis by the Legislative Reference Bureau

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

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

- 4 SECTION 1. 704.17 (3m) of the statutes is created to read:
5 704.17 (3m) CRIMINAL ACTIVITY. (a) In this subsection:
6 1. "Criminal activity" means any act or behavior committed by a person that
67 7 is punishable in this state by a fine or a period of imprisonment.
8 2. "Drug-related criminal activity" means criminal activity that involves the

9 manufacture, possession, use, or distribution of a controlled substance, as defined in
10 s. 961.01 (4).

2015 - 2016 Legislature

- 2 -

LR8-1676/P1
PIK:jld:jf

SECTION 1

1 (b) Notwithstanding subs. (1) (b), (2) (b), and (3) (a), a landlord may terminate
2 the tenancy of a tenant, without giving the tenant an opportunity to remedy the
3 default, if the tenant, a member of the tenant's household, or a guest or other person
4 under the tenant's control invites (1) engages in any criminal activity that threatens the
5 health,
6 safety, or right to peaceful enjoyment of the premises by other tenants; (2) engages in
7 any criminal activity that threatens the health, safety, or right to peaceful enjoyment
8 of their residences by persons residing in the immediate vicinity of the premises; or (3)
9 engages in any drug-related criminal activity on or near the premises
10 and if the
11 landlord gives the tenant notice that requires Notice terminating the tenancy of a tenant
12 for any of the foregoing reasons shall specify the grounds for the landlord's action and
13 shall require the tenant to vacate on or before a date
14 at least 5 days after the giving of the notice, and that specifies the grounds for the
15 landlord's action. An arrest or
16 conviction for such criminal activity is not required as a basis for giving the notice.

15
16 (c) Paragraph (b) does not apply if the tenant's rental agreement is void because
17 s. 704.44 (9) or (10) applies or if the tenant or someone who lawfully resides with the
18 tenant is the victim, as defined in s. 950.02 (4), of the criminal activity.

1815 SECTION 2. 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and amended
1916 to read:

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Space After: 0 pt, Line spacing: Multiple 1.86 li,
Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... +
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Indent at: 1.05"

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1.86 li

not necessary, per Robk

2017 _____ 704.17 (5) (a) Provisions in the lease or rental agreement for termination
2118 _____ contrary to this section sub. (1), (2), (3), or (4) are invalid except in leases for more
2219 _____ than one year.
2320 _____ SECTION 3. 704.17 (5) (b) of the statutes is created to read:
2421 _____ 704.17 (5) (b) Provisions in the lease or rental agreement for termination
2522 _____ contrary to sub. (3m) are invalid.
2623 _____ SECTION 4. 704.19 (2) (b) 2. of the statutes is amended to read:
2724 _____ 704.19 (2) (b) 2. Notwithstanding subd. 1., nothing in this section prevents
2825 _____ termination of a tenancy before the end of a rental period because of an imminent 2015 –
2016 Legislature

LRB-1676/P1

- 3 -

PJKjld:ff

SECTION 4

1 threat of serious physical harm, as provided in s. 704.16, or for criminal activity,
2 nonpayment of rent, or breach of any other condition of the tenancy, as provided in
3 s. 704.17.
4 **SECTION 5. Initial applicability.**
5 (1) Except as provided in subsection (2), the treatment of sections 704.17 (3m)
6 and 704.19 (2) (b) 2. of the statutes first applies to criminal activities that are 7
committed on the effective date of this subsection.
8 (2) If a lease or rental agreement that is in effect on the effective date of this
9 subsection contains a provision that is inconsistent with the treatment of sections
10 704.17 (3m) and 704.19 (2) (b) 2. of the statutes, the treatment of sections 704.17 (3m)
11 and 704.19 (2) (b) 2. of the statutes first applies to criminal activities that are 12
committed on the date on which the lease or rental agreement is renewed.
13 (3) The creation of section 704.17 (5) (b) of the statutes first applies to leases
14 and rental agreements that are entered into or renewed on the effective date of this

15

subsection.

16

(END)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-167641
PJK:jld:*

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-108
(w/ 4-17)
out by 4-22

LX

Regen

1 AN ACT to renumber and amend 704.17 (5); to amend 704.19 (2) (b) 2.; and to
2 create 704.17 (3m) and 704.17 (5) (b) of the statutes; relating to: terminating
3 a tenancy for criminal activity.

Analysis by the Legislative Reference Bureau

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insert
A

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

4 SECTION 1. 704.17 (3m) of the statutes is created to read:
5 704.17 (3m) CRIMINAL ACTIVITY. (a) In this subsection:
6 1. "Criminal activity" means any act or behavior committed by a person that
7 is punishable in this state by a fine or period of imprisonment.
8 2. "Drug-related criminal activity" means criminal activity that involves the
9 manufacture, possession, use, or distribution of a controlled substance, as defined in
10 s. 961.01 (4).

1 (b) Notwithstanding subs. (1) (b), (2) (b), and (3) (a), a landlord may terminate
 2 the tenancy of a tenant, without giving the tenant an opportunity to remedy the
 3 default, if the tenant, a member of the tenant's household, or a guest or other person
 4 under the tenant's control engages in any criminal activity that threatens the health,
 5 safety, or right to peaceful enjoyment of the premises by other tenants; engages in
 6 any criminal activity that threatens the health, safety, or right to peaceful enjoyment
 7 of their residences by persons residing in the immediate vicinity of the premises; or
 8 engages in any drug-related criminal activity on or near the premises and if the
 9 landlord gives the tenant notice that requires the tenant to vacate on or before a date
 10 at least 5 days after the giving of the notice and that specifies the grounds for the
 11 landlord's action.

12 (c) Paragraph (b) does not apply if the tenant's rental agreement is void because
 13 s. 704.44 (9) or (10) applies or if the tenant or someone who lawfully resides with the
 14 tenant is the victim, as defined in s. 950.02 (4), of the criminal activity.

15 SECTION 2. 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and amended
 16 to read:

17 704.17 (5) (a) Provisions in the lease or rental agreement for termination
 18 contrary to this section sub. (1), (2), (3), or (4) are invalid except in leases for more
 19 than one year.

20 SECTION 3. 704.17 (5) (b) of the statutes is created to read:

21 704.17 (5) (b) Provisions in the lease or rental agreement for termination
 22 contrary to sub. (3m) are invalid.

23 SECTION 4. 704.19 (2) (b) 2. of the statutes is amended to read:

24 704.19 (2) (b) 2. Notwithstanding subd. 1., nothing in this section prevents
 25 termination of a tenancy before the end of a rental period because of an imminent

1 threat of serious physical harm, as provided in s. 704.16, or for criminal activity,
2 nonpayment of rent, or breach of any other condition of the tenancy, as provided in
3 s. 704.17.

4 **SECTION 5. Initial applicability.**

5 (1) Except as provided in subsection (2), the treatment of sections 704.17 (3m)
6 and 704.19 (2) (b) 2. of the statutes first applies to criminal activities that are
7 committed on the effective date of this subsection.

8 (2) If a lease or rental agreement that is in effect on the effective date of this
9 subsection contains a provision that is inconsistent with the treatment of sections
10 704.17 (3m) and 704.19 (2) (b) 2. of the statutes, the treatment of sections 704.17 (3m)
11 and 704.19 (2) (b) 2. of the statutes first applies to criminal activities that are
12 committed on the date on which the lease or rental agreement is renewed.

13 (3) The creation of section 704.17 (5) (b) of the statutes first applies to leases
14 and rental agreements that are entered into or renewed on the effective date of this
15 subsection.

16

(END)

D - note

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1676/P2ins
PJK.....

INSERT A

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, a landlord may terminate the tenancy of a tenant, without giving the tenant an opportunity to remedy the default, by giving the tenant notice if the tenant, a member of the tenant's household, or a guest or other invitee of the tenant or 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; or 3) engages in drug-related criminal activity on or near the premises.

✓ that the landlord gives the tenant

The notice given by the landlord 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.

(END OF INSERT A)

INSERT 2-4

- 1 ^{not} invitee of the tenant or a member of the tenant's household AS

(END OF INSERT 2-4)

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

LRB-1676/P2dn

PJK:K:...

date

Jld

Although I substituted "or invitee" for "person under the tenant's control," I added "of the tenant or a member of the tenant's household" to connect both "guest" and "invitee" to the tenant. Okay? ✓

I did not change the language regarding the notice to terminate the tenancy in the manner suggested. All of the other tenancy termination provisions in s. 704.17 provide that a landlord may terminate a tenancy if the tenant commits some act and the landlord gives the tenant notice to vacate. I wanted the new provision to be consistent with the other provisions in that section and I also wanted to retain the concept that the tenancy is terminated by the giving of the notice. If I simply say that a landlord may terminate a tenancy if the tenant commits some act, there is no description of how the landlord terminates the tenancy. If you think that proposed s. 704.17 (3m) (b) is too long and unwieldy and needs to be broken down into two sentences, I can restructure it. ✓

Do you want to limit the new provision to residential tenants?

Pamela J. Kahler
Senior Legislative Attorney
(608) 266-2682
pam.kahler@legis.wisconsin.gov

✓

the reason for
the suggested change
is because

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

LRB-1676/P2dn
PJK:jld:jd

April 21, 2015

Although I substituted "or invitee" for "person under the tenant's control," I added "of the tenant or a member of the tenant's household" to connect both "guest" and "invitee" to the tenant. Okay?

I did not change the language regarding the notice to terminate the tenancy in the manner suggested. All of the other tenancy termination provisions in s. 704.17 provide that a landlord may terminate a tenancy if the tenant commits some act and the landlord gives the tenant notice to vacate. I wanted the new provision to be consistent with the other provisions in that section and I also wanted to retain the concept that the tenancy is terminated by the giving of the notice. If I simply say that a landlord may terminate a tenancy if the tenant commits some act, there is no description of how the landlord terminates the tenancy. If the reason for the suggested change is because you think that proposed s. 704.17 (3m) (b) is too long and unwieldy and needs to be broken down into two sentences, I can restructure it.

Do you want to limit the new provision to residential tenants?

Pamela J. Kahler
Senior Legislative Attorney
(608) 266-2682
pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Kovach, Robert
Sent: Tuesday, April 28, 2015 12:44 PM
To: Kahler, Pam
Subject: more crime free suggestions

We have discussed this and have the following suggestions:

1. Page 3, line 2: the reference to (4) should be deleted. It's not necessary.
2. Page 2, line 13: after the word "tenants" add ", the landlord or the landlord's agents and employees". Criminal acts of tenants are often directed toward building management.
3. Page 3, line 17, delete sub 2 through line 21. Landlords often don't update their leases on a timely fashion. If a lease was inconsistent with the new crime-free amendments the statute would control. Moreover, leases are unlikely to have inconsistent provisions.

Rob Kovach

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

#2. can be limited to "health and safety"
per Rob

#3. okay with possible impairment
of contract

per Rob



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1676/P2

PJK:jld

1
ew
2emw

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

4-29, please

S.A. ✓
Kref ✓

Reger

- 1 AN ACT *to renumber and amend* 704.17 (5); *to amend* 704.19 (2) (b) 2.; and *to*
- 2 *create* 704.17 (3m) and 704.17 (5) (b) of the statutes; **relating to:** terminating
- 3 a tenancy for criminal activity.

Analysis by the Legislative Reference Bureau

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, a landlord may terminate the tenancy of a tenant, without giving the tenant an opportunity to remedy the default, by giving the tenant notice if the tenant, a member of the tenant's household, or a guest or other invitee of the tenant or 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; or 3) engages in drug-related criminal activity on or near the premises.

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,

OK

Parasit A

4

possession, use, or distribution of a controlled substance, which is defined in current law.

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

1 SECTION 1. 704.17 (3m) of the statutes is created to read:

2 704.17 (3m) CRIMINAL ACTIVITY. (a) In this subsection:

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

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

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

Subsect 2-15

19 SECTION 2. 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and amended
20 to read:

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

LRB-1676/lins
PJK:.....

INSERT A

^w 3) engages in criminal activity that threatens the health or safety of the
landlord or an agent or employee of the landlord;
(END OF INSERT A)

INSERT 2-15

- 1 ^w engages in any criminal activity that threatens the health or safety of the
- 2 landlord or an agent or employee of the landlord;

(END OF INSERT 2-15)

Kahler, Pam

From: Kovach, Robert
Sent: Friday, May 01, 2015 9:58 AM
To: Kahler, Pam
Subject: RE: Crime free feedback

1676

I think it has to be there.

Rob Kovach

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

From: Kahler, Pam
Sent: Thursday, April 30, 2015 4:35 PM
To: Kovach, Robert
Subject: RE: Crime free feedback

Rob:

The language may be included in a section 8 lease, but I don't see any reference to it in the federal law. Let me know (I'm sure you will) if you want me to add the language to the bill.

From: Kovach, Robert
Sent: Thursday, April 30, 2015 2:00 PM
To: Kahler, Pam
Subject: RE: Crime free feedback

Thanks!

Rob Kovach

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

From: Kahler, Pam
Sent: Thursday, April 30, 2015 12:48 PM
To: Kovach, Robert
Subject: RE: Crime free feedback

Rob:

I'll check HUD, but even if not necessary, I don't see any harm in adding the language. It certainly wouldn't be the first time that some language that wasn't necessary got into the statutes!

From: Kovach, Robert
Sent: Thursday, April 30, 2015 12:27 PM
To: Kahler, Pam
Subject: Crime free feedback

Dear Pam,

Can you speak to the feedback below?

1. Add the language that an arrest and/or conviction of the tenant for the crime is not **necessary** in order to use this subsection. **WE NEED THIS LANGUAGE.** Milwaukee County especially will not allow us to use this new law as we want to unless that language is included. Milw. Co. will simply say "oh that section does not apply to your situation Mr. Landlord because your tenant was never arrested or convicted so your eviction is premature – dismissed." Such language is needed or else this new law will be toothless. Such language is already included in the HUD section 8 lease --- so the Feds understood why such language needed to be included.

I agree that the grounds for eviction are the criminal "BEHAVIOR" and if the person who is getting evicted disputes the eviction based on the criminal behavior, it should be up to the judge to determine whether the landlord's account of the behavior or the tenant's account is more credible.

Rob Kovach

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

Kahler, Pam

From: Kovach, Robert
Sent: Thursday, April 30, 2015 12:27 PM
To: Kahler, Pam
Subject: Crime free feedback

Dear Pam,

Can you speak to the feedback below?

1. Add the language that an arrest and/or conviction of the tenant for the crime is not necessary in order to use this subsection. WE NEED THIS LANGUAGE. Milwaukee County especially will not allow us to use this new law as we want to unless that language is included. Milw. Co. will simply say "oh that section does not apply to your situation Mr. Landlord because your tenant was never arrested or convicted so your eviction is premature – dismissed." Such language is needed or else this new law will be toothless. Such language is already included in the HUD section 8 lease --- so the Feds understood why such language needed to be included.

I agree that the grounds for eviction are the criminal "BEHAVIOR" and if the person who is getting evicted disputes the eviction based on the criminal behavior, it should be up to the judge to determine whether the landlord's account of the behavior or the tenant's account is more credible.

Rob Kovach

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

42 USC 1437f



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1676/1²
PJK:jld&emw:ew

2015 BILL

in 5-5
out by 5-7

4
Regen

1 AN ACT to renumber and amend 704.17 (5); to amend 704.19 (2) (b) 2.; and to
2 create 704.17 (3m) and 704.17 (5) (b) of the statutes; relating to: terminating
3 a tenancy for criminal activity or drug-related criminal activity

Analysis by the Legislative Reference Bureau

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, a landlord may terminate the tenancy of a tenant, without giving the tenant an opportunity to remedy the default, by giving the tenant notice if the tenant, a member of the tenant's household, or a guest or other invitee of the tenant or of a member of the tenant's household does any of the following: 1) engages in criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants; 2) engages in criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; 3) engages in criminal activity that threatens the health or safety of the landlord or an agent or employee of the landlord; or 4) engages in drug-related criminal activity on or near the premises. *Insert A ✓*

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

BILL

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.

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

1 **SECTION 1.** 704.17 (3m) of the statutes is created to read:

2 704.17 (3m) **CRIMINAL ACTIVITY.** (a) In this subsection:

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

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

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

Insert 2-19 ✓ →

BILL

1 **SECTION 2.** 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and amended
2 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 3.** 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 4.** 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
13 nonpayment of rent, or breach of any other condition of the tenancy, as provided in
14 s. 704.17.

15 **SECTION 5. Initial applicability.**

16 (1) The treatment of sections 704.17 (3m) and 704.19 (2) (b) 2. of the statutes
17 first applies to criminal activities that are committed on the effective date of this
18 subsection.

19 (2) The creation of section 704.17 (5) (b) of the statutes first applies to leases
20 and rental agreements that are entered into or renewed on the effective date of this
21 subsection.

22

(END)

or drug-related criminal activity

or drug-related criminal activities

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1676/2ins
PJK:.....

INSERT A

WJ It is not necessary that the individual committing the criminal activity or drug-related criminal activity ^{y has} have been arrested for or convicted of the criminal activity or drug-related criminal activity.

(END OF INSERT A)

INSERT 2-19

1 2. To terminate a tenancy under this subsection, it is not necessary that the
2 individual committing the criminal activity or drug-related criminal activity ^{e has} have
3 been arrested for or convicted of the criminal activity or drug-related criminal
4 activity.

(END OF INSERT 2-19)

Kahler, Pam

From: Kovach, Robert
Sent: Friday, June 26, 2015 10:40 AM
To: Kahler, Pam
Subject: Irb 1676
Attachments: LRB 1676-2 704.17(3m) 062515.docx

Pam,

Does this work better for the changes to 1676?

Rob Kovach

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

(b) 1. Notwithstanding subs. (1) (b), (2) (b), and (3) (a), a landlord may upon notice terminate

the tenancy of a tenant, without giving the tenant an opportunity to remedy the default, 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 engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants; engages in any 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; engages in any criminal activity that threatens the health or safety of the landlord or an agent or employee of the landlord; or engages in any drug-related criminal activity on or near the premises. Such notice shall require ~~by giving the tenant notice that requires~~ the tenant to vacate on or before a date at least 5 days after the giving of the notice and ~~that shall~~ specifies the grounds for the landlord's action.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1676/3
PJK:jld&emw:jd

2015 BILL

Tues - 6-30

4

Regen

1 AN ACT *to renumber and amend* 704.17 (5); *to amend* 704.19 (2) (b) 2.; and *to*
2 *create* 704.17 (3m) and 704.17 (5) (b) of the statutes; **relating to:** terminating
3 a tenancy for criminal activity or drug-related criminal activity. ✓

Analysis by the Legislative Reference Bureau

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

BILL

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.

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

1 **SECTION 1.** 704.17 (3m) of the statutes is created to read:

2 704.17 (3m) **CRIMINAL ACTIVITY.** (a) In this subsection:

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

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

8 (b) 1. Notwithstanding subs. (1) (b), (2) (b), and (3) (a), a landlord may terminate
9 the tenancy of a tenant, without giving the tenant an opportunity to remedy the
10 default, if the tenant, a member of the tenant's household, or a guest or other invitee
11 of the tenant or of a member of the tenant's household engages in any criminal
12 activity that threatens the health, safety, or right to peaceful enjoyment of the
13 premises by other tenants; engages in any criminal activity that threatens the
14 health, safety, or right to peaceful enjoyment of their residences by persons residing
15 in the immediate vicinity of the premises; engages in any criminal activity that
16 threatens the health or safety of the landlord or an agent or employee of the landlord;
17 or engages in any drug-related criminal activity on or near the premises by giving

), upon notice to the tenant,

by giving

BILL

1
2

the (tenant) notice *shall require* the tenant to vacate on or before a date at least 5 days after the giving of the notice and *shall specify* the grounds for the landlord's action.

3 2. To terminate a tenancy under this subsection, it is not necessary that the
4 individual committing the criminal activity or drug-related criminal activity has
5 been arrested for or convicted of the criminal activity or drug-related criminal
6 activity.

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

9 704.17 (5) (a) Provisions in the lease or rental agreement for termination
10 contrary to ~~this section~~ sub. (1), (2), or (3) are invalid except in leases for more than
11 one year.

12 **SECTION 3.** 704.17 (5) (b) of the statutes is created to read:

13 704.17 (5) (b) Provisions in the lease or rental agreement for termination
14 contrary to sub. (3m) are invalid.

15 **SECTION 4.** 704.19 (2) (b) 2. of the statutes is amended to read:

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18 threat of serious physical harm, as provided in s. 704.16, or for criminal activity or
19 drug-related criminal activity, nonpayment of rent, or breach of any other condition
20 of the tenancy, as provided in s. 704.17.

21 **SECTION 5. Initial applicability.**

22 (1) The treatment of sections 704.17 (3m) and 704.19 (2) (b) 2. of the statutes
23 first applies to criminal activities or drug-related criminal activities that are
24 committed on the effective date of this subsection.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1676/3
PJK:jld&emw

2015 BILL

1 **AN ACT to renumber and amend 704.17 (5); to amend 704.19 (2) (b) 2.; and to**
2 **create 704.17 (3m) and 704.17 (5) (b) of the statutes; relating to: terminating**
3 a tenancy for criminal activity or drug-related criminal activity.

Analysis by the Legislative Reference Bureau

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

BILL

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.

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

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

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

BILL

1 5 days after the giving of the notice and shall specify the grounds for the landlord's
2 action.

3 2. To terminate a tenancy under this subsection, it is not necessary that the
4 individual committing the criminal activity or drug-related criminal activity has
5 been arrested for or convicted of the criminal activity or drug-related criminal
6 activity.

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

9 704.17 (5) (a) Provisions in the lease or rental agreement for termination
10 contrary to ~~this section sub. (1), (2), or (3)~~ are invalid except in leases for more than
11 one year.

12 **SECTION 3.** 704.17 (5) (b) of the statutes is created to read:

13 704.17 (5) (b) Provisions in the lease or rental agreement for termination
14 contrary to sub. (3m) are invalid.

15 **SECTION 4.** 704.19 (2) (b) 2. of the statutes is amended to read:

16 704.19 (2) (b) 2. Notwithstanding subd. 1., nothing in this section prevents
17 termination of a tenancy before the end of a rental period because of an imminent
18 threat of serious physical harm, as provided in s. 704.16, or for criminal activity or
19 drug-related criminal activity, nonpayment of rent, or breach of any other condition
20 of the tenancy, as provided in s. 704.17.

21 **SECTION 5. Initial applicability.**

22 (1) The treatment of sections 704.17 (3m) and 704.19 (2) (b) 2. of the statutes
23 first applies to criminal activities or drug-related criminal activities that are
24 committed on the effective date of this subsection.

