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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2015 Assembly Bill 568</b>	<b>Assembly Substitute Amendment 2 and Assembly Amendment 1 to Assembly Substitute Amendment 2</b>
<i>Memo published:</i> February 15, 2016	<i>Contact:</i> Larry Konopacki, Principal Attorney (267-0683)

### **2015 ASSEMBLY BILL 568**

This bill does all of the following:

#### **Termination of tenancy**

- Allows a property owner to terminate a tenancy without providing the tenant an opportunity to cure the breach, if a member of the tenant's household or one of their guests engages in criminal activity under specified circumstances, and if particular conditions are met with respect to notice provided to the tenant.
- Creates a requirement that a property owner must provide a month-to-month tenant with an opportunity to cure specified types of breaches within five days of providing notice about the breach. This requirement does not apply to second or subsequent breaches within one year.
- Eliminates a current law provision requiring a property owner to provide notice of termination of a year-to-year tenancy to a tenant for certain types of breaches before the tenant remedies the breach.

#### **Local regulation of rental property**

- Prohibits the enactment or enforcement of local ordinances that require that rental units be certified, be registered, or be inspected without a showing of good cause and imposes restrictions on local inspection fees.
- Prohibits local occupancy or transfer of tenancy fees on rental units.
- Prohibits local requirements that a landlord 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.

#### **Local regulation of historic property**

- Prohibits local units of government from designating a property as a historic landmark without the consent of the property owner.
- Prohibits a political subdivision from requiring or prohibiting any action by an owner of a property related to the preservation of special character, historic or aesthetic interest, or any other significant value of the property without the consent of the property owner.

#### **Local time of sale regulation**

- The bill expands existing restrictions on local regulations associated with the time of sale of property to also prohibit local regulations with respect to taking title to or occupancy of property.

#### **Trespass law**

- Provides that a “criminal trespass to a dwelling” occurs if a person intentionally enters or remains in the dwelling of another without the consent of some person lawfully upon the premises or, if no person is lawfully upon the premises, without the consent of the owner of the property that includes the dwelling, under circumstances tending to create or provoke a breach of the peace. The bill also clarifies that this prohibition applies to a home or residence regardless of whether someone is currently living there. Under the bill, law enforcement agencies are required to establish policies that require officers to remove trespassers from dwellings.
- Allows a property owner to dispose of any personal property left by a former trespasser if the return of the property is not requested by the trespasser during the seven days after its discovery by the property owner.

#### **Local automatic sprinkler ordinances**

- Repeals an exception in the law that allows cities, villages, and towns to continue to enforce preexisting automatic sprinkler ordinances that are more restrictive than they are required to be under the state multifamily dwelling code.

#### **Towing charges**

- Allows a towing service to collect towing and storage charges if it makes a good faith effort to comply with the statutory requirement to notify law enforcement regarding the vehicles it tows from private property.

#### **Miscellaneous**

- Prohibits local regulation of signs based on a sign’s informational content that is not imposed on all signs.

- Clarifies that a municipal utility's decision related to customer deferred payment agreements is not subject to review by the Public Service Commission.
- Specifies that a defendant that is a limited liability company (LLC) satisfies a municipal court requirement to appear in person if an LLC member, agent, or authorized employee appears.

## **ASSEMBLY SUBSTITUTE AMENDMENT 2**

Assembly Substitute Amendment 2 makes all of the following changes to the bill:

- Allows the termination of a tenancy for drug-related criminal activity as described above only for manufacture or distribution of a controlled substance, not possession or use of a controlled substance. The substitute amendment also requires the property owner to provide additional specified details related to the alleged criminal activity in the notice provided to the tenant.
- Eliminates the requirement that a month-to-month tenant be given an opportunity to cure a specified type of breach, and instead makes this type of notice to a tenant optional.
- Replaces the "local regulation of rental property" provisions in the bill with prohibitions against the enactment or enforcement of a local requirement that does any of the following:
  - Requires that a rental property or rental unit be inspected except upon a complaint by any person, as part of a program of regularly scheduled inspections conducted in compliance with municipal inspection warrant requirements, or as required under state or federal law.
  - Charges a fee for conducting an inspection of a residential rental property unless the amount of the fee is uniform for residential rental inspections and the fee is charged at the time that the inspection is actually performed. The amendment also requires that a fee for a subsequent reinspection of a residential rental property may not be more than twice the fee charged for an initial reinspection.
  - Requires that a rental property or rental unit be certified, registered, or licensed, except that an ordinance may require that a rental unit owner provide his or her name, a contact person, and an address and telephone number at which the contact person may be contacted.
  - Except as provided in the bullet point above, requires a residential rental property owner to register or obtain a certification or license related to owning or managing the residential rental property, unless the requirement applies uniformly to all residential rental property owners, including owners of owner-occupied rental property.
  - Imposes an occupancy or transfer of tenancy fee on a rental unit.

- Replaces the “local regulation of historic property” bill provisions with a requirement that these local units of government provide notification of a proposed designation of a historic landmark or new historic district and provide property owners an opportunity to vote on the designation (at least a majority vote is needed for designation). Anyone who has received a tax credit related to historic preservation of a proposed landmark or property proposed for inclusion in a historic district, or whose property is listed in the National Register of Historic Places in Wisconsin or the State Register of Historic Places, may not vote against designation of the proposed landmark or district. Once a landmark or district is created, it remains in effect, with respect to all property included, until a contrary decision by the local government that created it. The amendment prohibits re-designation within one year if a proposed landmark or district fails to receive the votes necessary to allow its designation.
- Clarifies the provision in the bill which adds “buying property” or “taking occupancy” to local time of sale restrictions that exist under current law, to ensure that local regulatory authority over occupancy not associated with the transfer of a property is retained.
- Makes the towing-related provisions in the bill not applicable to towing services operating in a first class city.
- Removes the provision in the bill restricting local regulation of signs.

### **ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 2**

Assembly Amendment 1 to Substitute Amendment 2 makes all of the following changes to the substitute amendment:

- Eliminates the “local regulation of historic property” substitute amendment provisions and replaces them with a requirement that these local units of government hold a public hearing before designating a historic landmark or a establishing a new historic district and notify any affected owner of the proposed designation or establishment.
- Allows a property owner affected by a decision by a local government to create a landmarks commission to appeal the decision, and allows the governing body to overturn its decision by a simple majority vote.

### **BILL HISTORY**

Assembly Substitute Amendment 2 and Assembly Amendment 1 to Assembly Substitute Amendment 2 were offered by Representative R. Brooks. On February 11, 2016, the Assembly adopted both of these amendments by voice votes and passed the bill, as amended, by a vote of Ayes, 60; Noes, 31; and Paired, 4.

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