



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2582/1
ALL:amn/jld/kjf

2017 ASSEMBLY BILL 771

December 19, 2017 - Introduced by Representatives R. BROOKS, SCHRAA and BRANDTJEN, cosponsored by Senators LASEE and CRAIG. Referred to Committee on Housing and Real Estate.

1 **AN ACT to repeal** 66.0104 (2) (d) 2. c., 66.0104 (2) (g) and 106.50 (2r) (bm); **to**
2 **renumber** 704.17 (1) and 799.06 (3); **to renumber and amend** 66.0809 (5)
3 (am) and 704.07 (3) (a); **to amend** 59.69 (4m) (a), 60.64 (1), 62.23 (7) (em) 1.,
4 66.0104 (2) (e) 1., 66.0104 (2) (e) 4., 66.0104 (3) (c), 66.0602 (2m) (b) 1., 66.0602
5 (2m) (b) 2., 66.0602 (2m) (b) 3., 66.0809 (3m) (a), 66.0809 (5) (b), 66.0821 (4) (a),
6 101.132 (2) (a) (intro.), 106.50 (2r) (c), 175.403 (2), 196.643 (title), 704.07 (4),
7 799.206 (3), 799.40 (4) (a) and 802.05 (2m); and **to create** 59.69 (4m) (bm), 60.64
8 (2m), 62.23 (7) (em) 2m., 66.0104 (2) (e) 2. am., 66.0104 (2m), 66.0628 (2m),
9 68.125, 101.02 (7w), 106.50 (1m) (im), 106.50 (1m) (mx), 106.50 (2r) (bg) and
10 (br), 196.643 (3), 196.643 (4), 704.07 (3) (a) 1. and 2., 704.07 (5), 704.085, 704.10,
11 704.17 (1g), 704.17 (4m), 758.20, 799.06 (3) (b), 799.40 (1g) and 799.40 (1s) of
12 the statutes; **relating to:** the authority of political subdivisions to regulate
13 rental properties and historic properties and of municipalities to inspect
14 dwellings, public utility service to rental dwelling units, landlord and tenant

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1 regulations, fees imposed by a political subdivision, certain levy limit
2 reductions, certain procedural changes in eviction actions, information
3 available on the consolidated court automated Internet site, discrimination in
4 housing against individuals who keep certain animals, falsely claiming an
5 animal to be a service animal, municipal administrative procedure,
6 enforcement of the rental unit energy efficiency program, and providing
7 penalties.

Analysis by the Legislative Reference Bureau**HISTORIC PRESERVATION**

Under current law, a 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, in the repair or replacement of a property that is designated as a historic landmark or included within a historic district, a political subdivision must permit an owner to use materials that an ordinary observer would perceive as having a substantially similar appearance to the original material.

LANDLORD AND TENANT REGULATION

This bill provides that if a political subdivision has in effect an ordinance that authorizes the inspection of a rental property or rental unit upon a complaint from an inspector or other employee or elected official of the political subdivision, the political subdivision must maintain a record of certain information related to inspections performed upon a complaint from an employee or official.

Current law prohibits a political subdivision from charging a fee for an inspection unless the fee is uniform for all residential rental inspections. Under this bill, the fee must also not exceed the actual and direct cost of performing the inspection.

The bill makes various changes to the requirements that apply to the notice that a landlord must give to a tenant to terminate a lease based on the tenant's failure to pay rent. First, the bill provides that, when calculating the amount due in the notice, "rent" includes any past due rent and any late fees.

Second, the bill specifies that a notice for failure to pay rent or other amount due under a rental agreement that includes an incorrect statement of the amount due is valid unless the tenant has paid or tendered payment of the amount that the tenant admits is actually due.

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The bill make various changes to the law regarding background and credit checks. The bill raises the maximum amount a landlord can charge a tenant for a consumer credit report, specified in administrative code provisions, from \$20 to \$25. The bill also specifies that a landlord may charge a prospective tenant who is not a resident of this state up to \$25 for conducting a background check.

The bill also specifies that, when a landlord charges a tenant for reasonable costs of remediation, repair, or redecoration, reasonable costs include materials provided and labor performed by the landlord and time spent by the landlord doing specified activities. Finally, the bill allows a landlord and tenant to agree in the rental agreement that the landlord may provide documents, such as an advanced notice of entry and the security deposit refund, to the tenant through electronic means.

Finally, under the bill, an ordinance enacted by a city, town, village, or county to regulate the abatement of rent may only provide abatement for conditions that materially affect the health or safety of a tenant or substantially affect the use and occupancy of the premises.

LOCAL FEES AND CHARGES

This bill specifies that a political subdivision may not impose a fee or charge related to the political subdivision enforcing an ordinance related to building or property maintenance standards unless the political subdivision first notifies, by first class mail or e-mail or other electronic means, the person against whom the fee or charge is to be imposed that the fee or charge may be imposed.

MUNICIPAL DWELLING INSPECTION

The bill prohibits a city, village, or town from enacting or enforcing an ordinance or otherwise imposing a requirement that includes aesthetic considerations for purposes of inspection criteria for the interior of any structure or part of a structure that is used or intended to be used as a home, residence, or sleeping place. The bill defines "aesthetic considerations" to include considerations relating to color and texture and design considerations that do not relate to health or safety.

PUBLIC UTILITY SERVICE TO RENTAL DWELLING UNITS

The bill requires a public utility that provides electric service to a tenant residing in a rental dwelling unit to notify the owner of the unit no later than five days before disconnecting service based on nonpayment by the tenant, but only if the owner has requested the public utility to make the notification. In addition, the bill allows a public utility to provide information about a tenant's past due charges to the owner by telephone. The bill also prohibits a public utility that provides any type of service to require the owner of a rental dwelling unit to provide proof of eviction or other evidence that a tenant has vacated the unit as a condition for providing or resuming service to the unit.

MUNICIPAL UTILITY ARREARAGE COLLECTION

Current law provides certain procedures for the collection of municipal utility charges that are in arrears. Under one procedure, if a municipal utility provides utility service to a property and payment for the service is in arrears, the utility has a lien on the property and may have arrearages inserted as a tax on the property.

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In addition, if the municipal utility uses the arrearage collection procedure for a property that is a rental dwelling unit and provides a notice of arrearage to the owner, the municipality has a lien on the property of a tenant who is responsible for the arrearage. Also under current law, a municipal utility must send bills for water or electric service to a customer who is a tenant in the tenant's own name.

Under this bill, a municipal utility may make use of the procedures described above only if the utility is in compliance with the requirement that it send bills for water or electric service to a tenant in the tenant's own name.

LEVY LIMITS

Generally, under current law, local levy limits are applied to the property tax levies that are imposed by political subdivisions in December of each year. Current law prohibits a political subdivision from increasing its levy by a percentage that exceeds its "valuation factor," which is defined as the greater of either 0 percent or the percentage change in the political subdivision's equalized value due to new construction, less improvements removed.

Also under current law, a political subdivision must reduce its allowable levy by the estimated amount of any revenue from fees or payments in lieu of taxes if the revenue is received for providing certain "covered services" that were funded with property tax revenues in calendar year 2013. The "covered services" are garbage collection, fire protection, snow plowing, street sweeping, and storm water management, except garbage collection by a political subdivision that owned and operated a landfill on January 1, 2013.

This bill eliminates the levy limit reduction exception for garbage collection by a political subdivision that owned and operated a landfill on January 1, 2013. Also under this bill, the amount by which a political subdivision must reduce its levy under this provision is limited to the amount expended in 2013 from the levy of the political subdivision for providing the covered service.

PROCEDURAL CHANGES IN EVICTION ACTIONS

This bill makes certain changes to the requirements for filing and pleading an action for eviction and to the defenses and remedies available in an eviction action.

COURT RECORDS

Under current law, the director of state courts maintains the consolidated court automation program website, which is an internet site that is the statewide electronic circuit court case management system. The director of state courts has discretion regarding what information is available through the CCAP website. Under the bill, the director of state courts may not remove case management information from CCAP for any civil case that is not a closed, confidential, or sealed case for a period of at least ten years after the date that final judgment was entered in the case.

SERVICE OR ASSISTANCE ANIMALS; EMOTIONAL SUPPORT ANIMALS

Under the state open housing law, various forms and types of discrimination in housing are prohibited, including discrimination against persons with disabilities. In addition, the open housing law contains a provision that specifically addresses

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individuals whose vision, hearing, or mobility is impaired and who keep an animal specially trained to lead or assist the individual.

The bill repeals this provision and replaces it with provisions that address 1) animals that are individually trained to do work or perform tasks for persons with disabilities and 2) emotional support animals, which are defined in the bill as animals that provide emotional support, well-being, comfort, or companionship but that are not trained to perform tasks for the benefit of persons with disabilities. Subject to certain exceptions, the bill provides that it is discrimination in housing to deny housing to an individual with a disability who keeps either type of animal. However, the bill provides that a person seeking to keep an animal that is individually trained to do work or perform tasks for a person with a disability may be requested to provide documentation of his or her disability and disability-related need for the animal, unless such disability or need is already known or apparent. The bill also provides that a person seeking to keep an emotional support animal may be requested to provide documentation, from a state-licensed health professional acting within his or her scope of practice, of his or her disability and disability-related need for the animal. Finally, the bill includes forfeiture penalties for a person who misrepresents having a disability or a disability-related need for an emotional support animal in order to obtain housing, and for a licensed health professional who makes such misrepresentations regarding his or her patient.

MUNICIPAL ADMINISTRATIVE REVIEW

Current law provides a procedure by which a person who is adversely affected by an administrative determination made by a municipality may have review of the determination. This bill provides that if a municipal authority's order is overturned or the municipal authority withdraws the order that was the subject of the appeal, the municipality and municipal authority must refund any fee paid to it by the appellant as a condition of filing the appeal.

ENFORCEMENT OF RENTAL UNIT ENERGY EFFICIENCY PROGRAM

The 2017-19 budget act, 2017 Wisconsin Act 59, eliminated the rental unit energy efficiency program effective January 1, 2018. Under the program, the Department of Safety and Professional Services established a code of minimum energy efficiency standards for rental units. Also under the program, an owner of a rental unit, before transferring an ownership interest in the unit, was required do one of the following:

1. Have the unit inspected by a certified inspector who issues a certificate stating that the unit meets the minimum energy efficiency standards.
2. If the unit is scheduled for demolition within two years, obtain a waiver of the certification requirement from DSPS or a certified inspector.
3. Obtain a stipulation between the transferee of the unit and DSPS or the city, village, or town in which the unit is located stating that the transferee will bring the unit into compliance with the minimum energy efficiency standards no later than one year after the date of the transfer.

This bill provides that, effective on the program elimination date, 1) an order related to the program issued by DSPS before that date is void and unenforceable; 2) DSPS may not take any enforcement action related to a violation of the program

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that occurs before that date; and 3) a stipulation or waiver related to the program entered into before that date is void and unenforceable.

Because this bill may increase or decrease the cost of the development, construction, financing, purchasing, sale, ownership, or availability of housing in this state, the Department of Administration, as required by law, will prepare a housing impact analysis to be printed as an appendix to this bill.

For further information see the *state and 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.** 59.69 (4m) (a) of the statutes is amended to read:

2 59.69 (4m) (a) Subject to ~~par.~~ pars. (b) and (bm), a county, as an exercise of its
3 zoning and police powers for the purpose of promoting the health, safety and general
4 welfare of the community and of the state, may regulate by ordinance any place,
5 structure or object with a special character, historic interest, aesthetic interest or
6 other significant value, for the purpose of preserving the place, structure or object
7 and its significant characteristics. Subject to pars. (b), (bm), and (c), the county may
8 create a landmarks commission to designate historic landmarks and establish
9 historic districts. Subject to ~~par.~~ pars. (b) and (bm), the county may regulate all
10 historic landmarks and all property within each historic district to preserve the
11 historic landmarks and property within the district and the character of the district.

12 **SECTION 2.** 59.69 (4m) (bm) of the statutes is created to read:

13 59.69 (4m) (bm) In the repair or replacement of a property that is designated
14 as a historic landmark or included within a historic district or neighborhood
15 conservation district under this subsection, a county shall permit an owner to use
16 materials that an ordinary observer would perceive, when viewed from the

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1 centerline of an adjacent highway, as having a substantially similar appearance to
2 the original material.

3 **SECTION 3.** 60.64 (1) of the statutes is amended to read:

4 60.64 (1) Subject to ~~sub.~~ subs. (2) and (2m), the town board, in the exercise of
5 its zoning and police powers for the purpose of promoting the health, safety and
6 general welfare of the community and of the state, may regulate any place, structure
7 or 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. Subject to subs. (2), (2m), and (3), the town board may
10 create a landmarks commission to designate historic landmarks and establish
11 historic districts. Subject to ~~sub.~~ subs. (2) and (2m), the board may regulate all
12 historic landmarks and all property within each historic district to preserve the
13 historic landmarks and property within the district and the character of the district.

14 **SECTION 4.** 60.64 (2m) of the statutes is created to read:

15 60.64 (2m) In the repair or replacement of a property that is designated as a
16 historic landmark or included within a historic district or neighborhood conservation
17 district under this section, the town board shall allow an owner to use materials that
18 an ordinary observer would perceive, when viewed from the centerline of an adjacent
19 highway, as having a substantially similar appearance to the original material.

20 **SECTION 5.** 62.23 (7) (em) 1. of the statutes is amended to read:

21 62.23 (7) (em) 1. Subject to ~~subd.~~ subds. 2. and 2m., a city, as an exercise of its
22 zoning and police powers for the purpose of promoting the health, safety and general
23 welfare of the community and of the state, may regulate by ordinance, or if a city
24 contains any property that is listed on the national register of historic places in
25 Wisconsin or the state register of historic places shall, not later than 1995, enact an

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1 ordinance to regulate, any place, structure or object with a special character, historic,
2 archaeological or aesthetic interest, or other significant value, for the purpose of
3 preserving the place, structure or object and its significant characteristics. Subject
4 to subds. 2., 2m., and 3., a city may create a landmarks commission to designate
5 historic or archaeological landmarks and establish historic districts. Subject to ~~subd.~~
6 subds. 2. and 2m., the city may regulate, or if the city contains any property that is
7 listed on the national register of historic places in Wisconsin or the state register of
8 historic places shall regulate, all historic or archaeological landmarks and all
9 property within each historic district to preserve the historic or archaeological
10 landmarks and property within the district and the character of the district.

11 **SECTION 6.** 62.23 (7) (em) 2m. of the statutes is created to read:

12 62.23 (7) (em) 2m. In the repair or replacement of a property that is designated
13 as a historic landmark or included within a historic district or neighborhood
14 conservation district under this paragraph, a city shall allow an owner to use
15 materials that an ordinary observer would perceive, when viewed from the
16 centerline of an adjacent highway, as having a substantially similar appearance to
17 the original material.

18 **SECTION 7.** 66.0104 (2) (d) 2. c. of the statutes is repealed.

19 **SECTION 8.** 66.0104 (2) (e) 1. of the statutes is amended to read:

20 66.0104 (2) (e) 1. Requires that a rental property or rental unit be inspected
21 except upon a complaint by any person, ~~as part of a program of regularly scheduled~~
22 ~~inspections conducted in compliance with~~ under s. 66.0119, ~~as applicable~~, or as
23 required under state or federal law.

24 **SECTION 9.** 66.0104 (2) (e) 2. am. of the statutes is created to read:

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1 66.0104 (2) (e) 2. am. The amount of the fee does not exceed the actual and
2 direct cost of performing the inspection.

3 **SECTION 10.** 66.0104 (2) (e) 4. of the statutes is amended to read:

4 66.0104 (2) (e) 4. Except as provided in this subdivision, requires that a rental
5 property or rental unit be certified, registered, or licensed or requires that a
6 residential rental property owner register or obtain a certification or license related
7 to owning or managing the residential rental property. A city, village, town, or county
8 may require that a rental unit or residential rental property owner be registered if
9 the registration consists only of providing the one name of the an owner ~~and an~~ or
10 authorized contact person and an address ~~and, telephone number, and, if available,~~
11 an electronic mail address or other information necessary to receive communications
12 by other electronic means at which the contact person may be contacted. No city,
13 village, town, or county, except a 1st class city, may charge a fee for registration under
14 this subdivision. No fee charged for registration under this subdivision may exceed
15 the reasonable and direct cost of operating a registration program.

16 **SECTION 11.** 66.0104 (2) (g) of the statutes is repealed.

17 **SECTION 12.** 66.0104 (2m) of the statutes is created to read:

18 66.0104 (2m) If a city, village, town, or county has in effect an ordinance that
19 authorizes the inspection of a rental property or rental unit upon a complaint from
20 an inspector or other employee or elected official of the city, village, town, or county,
21 the city, village, town, or county shall maintain for each inspection performed upon
22 a complaint from an employee or official a record of the name of the person making
23 the complaint, the nature of the complaint, and any inspection conducted upon the
24 complaint.

25 **SECTION 13.** 66.0104 (3) (c) of the statutes is amended to read:

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1 66.0104 (3) (c) If a city, village, town, or county has in effect on March 2, 2016,
2 an ordinance that is inconsistent with sub. (2) (e), or (f), ~~or~~ (g), the ordinance does not
3 apply and may not be enforced.

4 **SECTION 14.** 66.0602 (2m) (b) 1. of the statutes, as affected by 2017 Wisconsin
5 Act 59, is amended to read:

6 66.0602 (2m) (b) 1. In this paragraph, “covered service” means garbage
7 collection, fire protection, snow plowing, street sweeping, or storm water
8 management, ~~except that garbage collection may not be a covered service for any~~
9 ~~political subdivision that owned and operated a landfill on January 1, 2013.~~ With
10 regard to fire protection, “covered service” does not include the production, storage,
11 transmission, sale and delivery, or furnishing of water for public fire protection
12 purposes.

13 **SECTION 15.** 66.0602 (2m) (b) 2. of the statutes is amended to read:

14 66.0602 (2m) (b) 2. Except as provided in subd. 4., if a political subdivision
15 receives revenues that are designated to pay for a covered service that was funded
16 in 2013 by the levy of the political subdivision, the political subdivision shall reduce
17 its levy limit in the current year by an amount equal to the estimated amount of fee
18 revenue collected for providing the covered service, less any previous reductions
19 made under this subdivision, not to exceed the amount funded in 2013 by the levy
20 of the political subdivision.

21 **SECTION 16.** 66.0602 (2m) (b) 3. of the statutes is amended to read:

22 66.0602 (2m) (b) 3. Except as provided in subd. 4., if a political subdivision
23 receives payments in lieu of taxes that are designated to pay for a covered service that
24 was funded in 2013 by the levy of the political subdivision, the political subdivision
25 shall reduce its levy limit in the current year by the estimated amount of payments

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1 in lieu of taxes received by the political subdivision to pay for the covered service, less
2 any previous reductions made under this subdivision, not to exceed the amount
3 funded in 2013 by the levy of the political subdivision.

4 **SECTION 17.** 66.0628 (2m) of the statutes is created to read:

5 66.0628 (2m) A political subdivision may not impose a fee or charge related to
6 the political subdivision enforcing an ordinance related to noxious weeds, electronic
7 waste, or other building or property maintenance standards unless the political
8 subdivision first notifies, by 1st class mail, or if the person against whom the fee or
9 charge is to be imposed has provided an electronic mail address or information
10 necessary to receive communications by other electronic means, by electronic mail
11 or other electronic means, the person against whom the fee or charge is to be imposed
12 that the fee or charge may be imposed.

13 **SECTION 18.** 66.0809 (3m) (a) of the statutes is amended to read:

14 66.0809 (3m) (a) If sub. (5) applies, the municipal utility is complying with sub.
15 (5) (am) 1., and a notice of arrears under sub. (3) (a) is given or past-due charges are
16 certified to the comptroller under s. 62.69 (2) (f), on the date the notice of arrears is
17 given, or the past-due charges are certified under s. 62.69 (2) (f), the municipality
18 has a lien upon the assets of each tenant of a rental dwelling unit who is responsible
19 for arrears in the amount of the arrears, including any penalty assessed pursuant
20 to the rules of the utility.

21 **SECTION 19.** 66.0809 (5) (am) of the statutes is renumbered 66.0809 (5) (am)

22 1. and amended to read:

23 66.0809 (5) (am) 1. A municipal public utility shall send bills for water or
24 electric service to a customer who is a tenant in the tenant's own name.

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1 2. If a customer who is a tenant vacates his or her rental dwelling unit, and the
2 owner of the rental dwelling unit provides the municipal public utility, no later than
3 21 days after the date on which the tenant vacates the rental dwelling unit, with a
4 written notice that contains a forwarding address for the tenant and the date that
5 the tenant vacated the rental dwelling unit, the utility shall continue to send
6 past-due notices to the customer at his or her forwarding address until the past-due
7 charges are paid or until notice has been provided under sub. (3) (a) or the past-due
8 charges have been certified to the comptroller under s. 62.69 (2) (f).

9 **SECTION 20.** 66.0809 (5) (b) of the statutes is amended to read:

10 66.0809 (5) (b) A municipal public utility may use sub. (3) or, if s. 62.69 applies,
11 s. 62.69 (2) (f), to collect arrearages incurred after the owner of a rental dwelling unit
12 has provided the utility with written notice under par. (a) if the municipal public
13 utility is complying with par. (am) 1. and serves notice of the past-due charges on the
14 owner of the rental dwelling unit within 14 days of the date on which the tenant's
15 charges became past due. The municipal public utility shall serve notice in the
16 manner provided in s. 801.14 (2).

17 **SECTION 21.** 66.0821 (4) (a) of the statutes is amended to read:

18 66.0821 (4) (a) The governing body of the municipality may establish sewerage
19 service charges in an amount to meet all or part of the requirements for the
20 construction, reconstruction, improvement, extension, operation, maintenance,
21 repair, and depreciation of the sewerage system, and for the payment of all or part
22 of the principal and interest of any indebtedness incurred for those purposes,
23 including the replacement of funds advanced by or paid from the general fund of the
24 municipality. Service charges made by a metropolitan sewerage district to any town,
25 village, or city shall be levied by the town, village, or city against the individual sewer

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1 system users within the corporate limits of the municipality, and the municipality
2 shall collect the charges and promptly remit them to the metropolitan sewerage
3 district. Delinquent charges shall be collected in accordance with sub. (4) (d). The
4 governing body of a municipality may not establish any charge under this paragraph
5 that is not related to providing sewerage service.

6 **SECTION 22.** 68.125 of the statutes is created to read:

7 **68.125 Refund of fees.** If in an administrative appeal under s. 68.10, the
8 municipal authority's order is overturned or the municipal authority withdraws the
9 order that was the subject of the appeal, the municipality and municipal authority
10 shall refund any fee paid to it by the appellant as a condition of filing the appeal.

11 **SECTION 23.** 101.02 (7w) of the statutes is created to read:

12 101.02 (7w) (a) In this subsection, "aesthetic considerations" include
13 considerations relating to color and texture and design considerations that do not
14 relate to health or safety.

15 (b) Notwithstanding subs. (7) (a) and (7r), no city, village, or town may enact
16 or enforce an ordinance, or otherwise impose any requirement, that includes
17 aesthetic considerations for purposes of inspection criteria for the interior of any
18 structure or part of a structure that is used or intended to be used as a home,
19 residence, or sleeping place.

20 **SECTION 24.** 101.132 (2) (a) (intro.) of the statutes is amended to read:

21 101.132 (2) (a) *Design and construction of covered multifamily housing.* (intro.)
22 In addition to discrimination prohibited under s. 106.50 (2), (2m) and (2r) (b), (bg),
23 and ~~(bm)~~ (br), no person may design or construct covered multifamily housing unless
24 it meets all of the following standards:

25 **SECTION 25.** 106.50 (1m) (im) of the statutes is created to read:

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1 106.50 (1m) (im) “Emotional support animal” means an animal that provides
2 emotional support, well-being, comfort, or companionship for an individual but that
3 is not trained to perform tasks for the benefit of an individual with a disability.

4 **SECTION 26.** 106.50 (1m) (mx) of the statutes is created to read:

5 106.50 (1m) (mx) “Licensed health professional” means a physician,
6 psychologist, social worker, or other health professional who satisfies all of the
7 following:

- 8 1. He or she is licensed or certified in this state.
- 9 2. He or she is acting within the scope of his or her license or certification.

10 **SECTION 27.** 106.50 (2r) (bg) and (br) of the statutes are created to read:

11 106.50 (2r) (bg) *Animals that do work or perform tasks for individuals with*
12 *disabilities.* 1. If an individual has a disability and a disability-related need for an
13 animal that is individually trained to do work or perform tasks for the individual, it
14 is discrimination for a person to refuse to rent or sell housing to the individual, cause
15 the eviction of the individual from housing, require extra compensation from the
16 individual as a condition of continued residence in housing, or engage in the
17 harassment of the individual because he or she keeps such an animal.

18 2. If an individual keeps or is seeking to keep an animal that is individually
19 trained to do work or perform tasks in housing, an owner, lessor, lessor’s agent,
20 owner’s agent, or representative of a condominium association may request that the
21 individual submit to the owner, lessor, agent, or representative reliable
22 documentation that the individual has a disability and reliable documentation of the
23 disability-related need for the animal, unless the disability is readily apparent or
24 known. If the disability is readily apparent or known but the disability-related need

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1 for the animal is not, the individual may be requested to submit reliable
2 documentation of the disability-related need for the animal.

3 3. An individual with a disability who keeps an animal that is individually
4 trained to do work or perform tasks in housing shall accept liability for sanitation
5 with respect to, and damage to the premises caused by, the animal.

6 4. Nothing in this subsection prohibits an owner, lessor, lessor's agent, owner's
7 agent, or representative of a condominium association from denying an individual
8 the ability to keep an animal in housing if any of the following applies:

9 a. The individual is not disabled, does not have a disability-related need for the
10 animal, or fails to provide the documentation requested under subd 2.

11 b. Allowing the animal would impose an undue financial and administrative
12 burden or would fundamentally alter the nature of services provided by the lessor,
13 owner, or representative.

14 c. The specific animal in question poses a direct threat to a person's health or
15 safety that cannot be reduced or eliminated by another reasonable accommodation.

16 d. The specific animal in question would cause substantial physical damage to
17 a person's property that cannot be reduced or eliminated by another reasonable
18 accommodation.

19 (br) *Emotional support animals.* 1. If an individual has a disability and a
20 disability-related need for an emotional support animal, it is discrimination for a
21 person to refuse to rent or sell housing to the individual, cause the eviction of the
22 individual from housing, require extra compensation from the individual as a
23 condition of continued residence in housing, or engage in the harassment of the
24 individual because he or she keeps such an animal.

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1 2. If an individual keeps or is seeking to keep an emotional support animal in
2 housing, an owner, lessor, lessor's agent, owner's agent, or representative of a
3 condominium association may request that the individual submit to the owner,
4 lessor, agent, or representative reliable documentation that the individual has a
5 disability and reliable documentation of the disability-related need for the
6 emotional support animal from a licensed health professional.

7 3. An individual with a disability who keeps an emotional support animal in
8 housing shall accept liability for sanitation with respect to, and damage to the
9 premises caused by, the animal.

10 4. Nothing in this subsection prohibits an owner, lessor, lessor's agent, owner's
11 agent, or representative of a condominium association from denying an individual
12 the ability to keep an animal in housing if any of the following applies:

13 a. The individual is not disabled, does not have a disability-related need for the
14 animal, or fails to provide the documentation requested under subd 2.

15 b. Allowing the animal would impose an undue financial and administrative
16 burden or would fundamentally alter the nature of services provided by the lessor,
17 owner, or representative.

18 c. The specific animal in question poses a direct threat to a person's health or
19 safety that cannot be reduced or eliminated by another reasonable accommodation.

20 d. The specific animal in question would cause substantial physical damage to
21 a person's property that cannot be reduced or eliminated by another reasonable
22 accommodation.

23 5. An individual shall forfeit not less than \$500 if he or she, for the purpose of
24 obtaining housing, intentionally misrepresents that he or she has a disability or

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1 misrepresents the need for an emotional support animal to assist with his or her
2 disability.

3 6. A licensed health professional shall forfeit not less than \$500 if he or she, for
4 the purpose of allowing the patient to obtain housing, misrepresents that his or her
5 patient has a disability or misrepresents his or her patient's need for an emotional
6 support animal to assist with his or her patient's disability.

7 **SECTION 28.** 106.50 (2r) (bm) of the statutes is repealed.

8 **SECTION 29.** 106.50 (2r) (c) of the statutes is amended to read:

9 106.50 **(2r)** (c) *Design and construction of covered multifamily housing.* In
10 addition to discrimination prohibited under pars. (b), ~~(bg)~~, and ~~(bm)~~ **(br)** and subs.
11 (2) and (2m), no person may design or construct covered multifamily housing, as
12 defined in s. 101.132 (1) (d), unless it meets the standards specified in s. 101.132 (2)
13 (a) 1. to 4. In addition, no person may remodel, as defined in s. 101.132 (1) (h),
14 housing with 3 or more dwelling units unless the remodeled housing meets the
15 standards specified in s. 101.132 (2) (a) 1. to 4. as required under s. 101.132 (2) (b)
16 1., 2. or 3., whichever is applicable.

17 **SECTION 30.** 175.403 (2) of the statutes is amended to read:

18 175.403 **(2)** ~~Each~~ By July 1, 2018, each law enforcement agency shall have a
19 written policy regarding the investigation of complaints alleging a violation of s.
20 943.14. The policy shall require a law enforcement officer who has probable cause
21 to arrest a person for a violation of s. 943.14 to remove the person from a dwelling.

22 **SECTION 31.** 196.643 (title) of the statutes is amended to read:

23 **196.643** (title) ~~Owner responsibility for~~ Public utility service to rental
24 dwelling unit.

25 **SECTION 32.** 196.643 (3) of the statutes is created to read:

ASSEMBLY BILL 771**SECTION 32**

1 196.643 (3) NOTIFICATIONS; ELECTRIC SERVICE. If requested by the owner of a
2 rental dwelling unit, a public utility that provides electric service to a tenant residing
3 in the unit shall notify the owner no later than 5 days before disconnecting service
4 based on the tenant's nonpayment of past due charges. A public utility may provide
5 information about a tenant's past due charges to the owner by telephone.

6 **SECTION 33.** 196.643 (4) of the statutes is created to read:

7 196.643 (4) RESUMPTION OF SERVICE. No public utility may require the owner
8 of a rental dwelling unit to provide proof of eviction or other evidence that a tenant
9 has vacated the unit as a condition for providing or resuming public utility service
10 to the unit.

11 **SECTION 34.** 704.07 (3) (a) of the statutes is renumbered 704.07 (3) (a) (intro.)
12 and amended to read:

13 704.07 (3) (a) (intro.) If the premises are damaged, including by an infestation
14 of insects or other pests, due to the acts or inaction of the tenant, the landlord may
15 elect to allow the tenant to remediate or repair the damage and restore the
16 appearance of the premises by redecorating. However, the landlord may elect to
17 undertake the remediation, repair, or redecoration, and in such case the tenant must
18 reimburse the landlord for the reasonable cost thereof; the cost to the landlord is
19 presumed reasonable unless proved otherwise by the tenant. Reasonable costs
20 include any of the following:

21 **SECTION 35.** 704.07 (3) (a) 1. and 2. of the statutes are created to read:

22 704.07 (3) (a) 1. Materials provided or labor performed by the landlord.

23 2. At a reasonable hourly rate, time the landlord spends doing any of the
24 following:

25 a. Purchasing or providing materials.

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1 b. Supervising an agent of the landlord.

2 c. Hiring a 3rd-party contractor.

3 **SECTION 36.** 704.07 (4) of the statutes is amended to read:

4 704.07 (4) UNTENANTABILITY. If the premises become untenable because of
5 damage by fire, water, or other casualty or because of any condition hazardous to
6 health, or if there is a substantial violation of sub. (2) materially affecting the health
7 or safety of the tenant, the tenant may remove from the premises unless the landlord
8 proceeds promptly to repair or rebuild or eliminate the health hazard or the
9 substantial violation of sub. (2) materially affecting the health or safety of the tenant;
10 or the tenant may remove if the inconvenience to the tenant by reason of the nature
11 and period of repair, rebuilding, or elimination would impose undue hardship on the
12 tenant. If the tenant remains in possession and the condition materially affects the
13 health or safety of the tenant or substantially affects the use and occupancy of the
14 premises, rent abates to the extent the tenant is deprived of the full normal use of
15 the premises. This section does not authorize rent to be withheld in full, if the tenant
16 remains in possession. If the tenant justifiably moves out under this subsection, the
17 tenant is not liable for rent after the premises become untenable and the landlord
18 must repay any rent paid in advance apportioned to the period after the premises
19 become untenable. This subsection is inapplicable if the damage or condition is
20 caused by negligence or improper use by the tenant.

21 **SECTION 37.** 704.07 (5) of the statutes is created to read:

22 704.07 (5) RESTRICTION OF REGULATION OF ABATEMENT. An ordinance enacted by
23 a city, town, village, or county regulating abatement of rent shall permit abatement
24 only for conditions that materially affect the health or safety of the tenant or
25 substantially affect the use and occupancy of the premises.

ASSEMBLY BILL 771**SECTION 38**

1 **SECTION 38.** 704.085 of the statutes is created to read:

2 **704.085 Credit and background checks. (1)** (a) Except as provided under
3 par. (b), a landlord may require a prospective tenant to pay the landlord's actual cost,
4 up to \$25, to obtain a consumer credit report on the prospective tenant from a
5 consumer credit reporting agency that compiles and maintains files on consumers
6 on a nationwide basis. The landlord shall notify the prospective tenant of the charge
7 before requesting the consumer credit report, and shall provide the prospective
8 tenant with a copy of the report.

9 (b) A landlord may not require a prospective tenant to pay for a consumer credit
10 report under par. (a) if, before the landlord requests a consumer credit report, the
11 prospective tenant provides the landlord with a consumer credit report, from a
12 consumer credit reporting agency that compiles and maintains files on consumers
13 on a nationwide basis, that is less than 30 days old.

14 **(2)** A landlord may require a prospective tenant who is not a resident of this
15 state to pay the landlord's actual cost, up to \$25, to obtain a background check on the
16 prospective tenant. The landlord shall notify the prospective tenant of the charge
17 before requesting the background check and shall provide the prospective tenant
18 with a copy of the report.

19 **SECTION 39.** 704.10 of the statutes is created to read:

20 **704.10 Electronic delivery.** A rental agreement may include a provision that
21 permits the landlord to provide and indicate agreement by electronic means any of
22 the following:

23 **(1)** A copy of the rental agreement and any document related to the rental
24 agreement.

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1 **(2)** A security deposit and any documents related to the accounting and
2 disposition of the security deposit and security deposit refund.

3 **(3)** A promise made before the initial rental agreement to clean, repair, or
4 otherwise improve any portion of the premises.

5 **(4)** Advance notice of entry under s. 704.05 (2).

6 **SECTION 40.** 704.17 (1) of the statutes is renumbered 704.17 (1p).

7 **SECTION 41.** 704.17 (1g) of the statutes is created to read:

8 **704.17 (1g) DEFINITION.** In this section, “rent” includes any rent that is past due
9 and any late fees owed for rent that is past due.

10 **SECTION 42.** 704.17 (4m) of the statutes is created to read:

11 **704.17 (4m) EFFECT OF INCORRECT AMOUNT IN NOTICE.** A notice for failure to pay
12 rent or any other amount due under the rental agreement that includes an incorrect
13 statement of the amount due is valid unless the tenant has paid or tendered payment
14 of the amount the tenant admits is actually due.

15 **SECTION 43.** 758.20 of the statutes is created to read:

16 **758.20 Consolidated court automation programs. (1)** In this section,
17 “Wisconsin Circuit Court Access Internet site” means the Internet site of the
18 consolidated court automation programs, which is the statewide electronic circuit
19 court case management system established under s. 758.19 (4) and maintained by
20 the director of state courts, that provides information regarding the cases heard in
21 the circuit courts.

22 **(2)** The director of state courts may not remove case management information
23 from the Wisconsin Circuit Court Access Internet site for any civil case that is not
24 a closed, confidential, or sealed case for a period of at least 10 years after the date that
25 final judgment was entered in a case.

ASSEMBLY BILL 771**SECTION 44**

1 **SECTION 44.** 799.06 (3) of the statutes is renumbered 799.06 (3) (a).

2 **SECTION 45.** 799.06 (3) (b) of the statutes is created to read:

3 799.06 (3) (b) A court may not require that a person filing a summons or
4 complaint under this chapter have the summons or complaint notarized.

5 **SECTION 46.** 799.206 (3) of the statutes is amended to read:

6 799.206 (3) When all parties appear in person or by their attorneys on the
7 return date in an eviction, garnishment, or replevin action and any party ~~claims that~~
8 raises valid legal grounds for a contest exists, the matter shall be forthwith
9 scheduled for a hearing, to be held as soon as possible before a judge and in the case
10 of an eviction action, not more than 30 days after the return date.

11 **SECTION 47.** 799.40 (1g) of the statutes is created to read:

12 799.40 (1g) NOTICE TERMINATING TENANCY. If a landlord gives a notice
13 terminating tenancy under s. 704.16, 704.17, or 704.19 through certified mail in
14 accordance with s. 704.21 (1) (d), proof of certified mailing from the United States
15 post office shall be sufficient to establish that proper notice has been provided for the
16 purpose of filing a complaint or otherwise demonstrating that proper notice has been
17 given in an eviction action, and an affidavit of service may not be requested to
18 establish that proper notice has been provided.

19 **SECTION 48.** 799.40 (1s) of the statutes is created to read:

20 799.40 (1s) NO WAIVER BY LANDLORD. It shall not be a defense to an action of
21 eviction or a claim for damages that the landlord has previously waived any violation
22 or breach of any of the terms of the rental agreement by the tenant including, but not
23 limited to, the acceptance of rent or that a custom or practice occurred or developed
24 between the parties in connection with the rental agreement so as to waive or lessen

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1 the landlord's right to insist upon strict performance of the terms of the rental
2 agreement.

3 **SECTION 49.** 799.40 (4) (a) of the statutes is amended to read:

4 799.40 (4) (a) The court shall stay the proceedings in a civil action of eviction
5 if the tenant applies for emergency assistance under s. 49.138. ~~The, except that no~~
6 stay may be granted under this paragraph after a writ of restitution has been issued
7 in the proceedings. If a stay is granted, the tenant shall inform the court of the
8 outcome of the determination of eligibility for emergency assistance. The stay
9 remains in effect until the tenant's eligibility for emergency assistance is determined
10 and, if the tenant is determined to be eligible, until the tenant receives the
11 emergency assistance, except that the stay may not remain in effect for more than
12 5 working days, as defined in s. 227.01 (14).

13 **SECTION 50.** 802.05 (2m) of the statutes is amended to read:

14 802.05 (2m) ADDITIONAL REPRESENTATIONS TO COURT AS TO PREPARATION OF
15 PLEADINGS OR OTHER DOCUMENTS. An attorney may draft or assist in drafting a
16 pleading, motion, or document filed by an otherwise self-represented person. The
17 attorney is not required to sign the pleading, motion, or document. Any such
18 document must contain a statement immediately adjacent to the person's signature
19 that "This document was prepared with the assistance of a lawyer.," followed by the
20 name of the attorney and the attorney's state bar number. The attorney providing
21 such drafting assistance may rely on the otherwise self-represented person's
22 representation of facts, unless the attorney has reason to believe that such
23 representations are false, or materially insufficient, in which instance the attorney
24 shall make an independent reasonable inquiry into the facts.

ASSEMBLY BILL 771**SECTION 51**

1 **SECTION 51. Cross-reference changes.** In the sections of the statutes listed
 2 in Column A, the cross-references shown in Column B are changed to the
 3 cross-references shown in column C:

| A Statute Sections | B Old Cross-Reference | C New Cross-Reference |
|------------------------------|---------------------------------|---------------------------------|
| 704.17 (3m) (b) 1. | 704.17 (1) (b) | 704.17 (1p) (b) |
| 710.15 (5r) | 704.17 (1) (a) | 704.17 (1p) (a) |
| 710.15 (5r) | 704.17 (1) (b) | 704.17 (1p) (b) |
| 893.34 | 704.17 (1) (c) | 704.17 (1p) (c) |

4 **SECTION 52. Nonstatutory provisions.**

5 (1) RENTAL UNIT ENERGY EFFICIENCY PROGRAM; ORDERS VOID AND UNENFORCEABLE.
 6 An order or special order issued before the effective date of this subsection by the
 7 department of safety and professional services under its authority under section
 8 101.122 of the statutes, as repealed by 2017 Wisconsin Act 59, is void and
 9 unenforceable.

10 (2) RENTAL UNIT ENERGY EFFICIENCY PROGRAM; ENFORCEMENT RELATED TO PRIOR
 11 VIOLATIONS. The department of safety and professional services may not hold a
 12 hearing, issue a subpoena, issue a special order, or take any other enforcement action
 13 related to a violation of section 101.122 of the statutes, as repealed by 2017 Wisconsin
 14 Act 59, that occurs before the effective date of this subsection.

15 (3) RENTAL UNIT ENERGY EFFICIENCY PROGRAM; STIPULATIONS AND WAIVERS VOID AND
 16 UNENFORCEABLE. A stipulation under section 101.122 (4) (c) of the statutes, as
 17 repealed by 2017 Wisconsin Act 59, or a waiver under section 101.122 (4) (b) of the

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1 statutes, as repealed by 2017 Wisconsin Act 59, entered into before the effective date
2 of this subsection is void and unenforceable.

3 **SECTION 53. Initial applicability.**

4 (1) LANDLORD AND TENANT. The treatment of sections 704.085, 704.10, and
5 704.17 (1), (1g), and (4m) of the statutes first applies to rental agreements entered
6 into or renewed on the effective date of this subsection.

7 **SECTION 54. Effective dates.** This act takes effect on the day after publication,
8 except as follows:

9 (1) RENTAL UNIT ENERGY EFFICIENCY. The treatment of SECTION 52 (1), (2), and
10 (3) of this act takes effect on January 1, 2018.

11 (END)