1981 Assembly Bill 266   Date published: **April 30, 1982**

CHAPTER 286 , Laws of 1981

AN ACT to amend 704.07 (1), (2) (a) 4, (3) (b) and (4) and 704.17 (1) (b) and (2)
(b); and to create 704.07 (2) (a) 5 and (3) (c) and 704.45 of the statutes, relating to
duties of and remedies for maintenance of residential premises and retaliatory conduct
in residential tenancies.

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

SECTION 1. 704.07 (1) and (2) (a) 4 of the statutes are amended to read:

704.07 (1) APPLICATION OF SECTION. This section applies to any nonresidential tenancy if there is no contrary provision in writing signed by both parties and to all residential tenancies. An agreement to waive the requirements of this section in a residential tenancy is void. Nothing in this section is intended to affect rights and duties arising under other provisions of the statutes.

(2) (a) 4. ~~Repair~~ Except for residential premises subject to a local housing code, repair or replace any plumbing, electrical wiring, machinery or equipment furnished with the premises and no longer in reasonable working condition, except as provided in sub. (3) (b).

SECTION 2. 704.07 (2) (a) 5 of the statutes is created to read:

704.07 (2) (a) 5. For a residential tenancy, comply with a local housing code applicable to the premises.

SECTION 3. 704.07 (3) (b) of the statutes is amended to read:

704.07 (3) (b) ~~The~~ Except for residential premises subject to a local housing code, the tenant is also under a duty to keep plumbing, electrical wiring, machinery and equipment furnished with the premises in reasonable working order if repair can be made at cost which is minor in relation to the rent.

SECTION 4. 704.07 (3) (c) of the statutes is created to read:

704.07 (3) (c) A tenant in a residential tenancy shall comply with a local housing code applicable to the premises.

SECTION 5. 704.07 (4) of the statutes is amended to read:

704.07 (4) (title) UNTENANTABILITY. If the premise becomes untenantable because of damage by fire, water or other casualty or because of any condition hazardous to health, or if there is a substantial violation of sub. (2) materially affecting the health or safety of the tenant, the tenant may remove from the premises unless the landlord proceeds promptly to repair or rebuild or eliminate the health hazard or the substantial violation of sub. (2) materially affecting the health or safety of the tenant; or the tenant may remove if the inconvenience to the tenant by reason of the nature and period of repair, rebuilding or elimination would impose undue hardship on him. If ~~the landlord proceeds to repair or rebuild the premises or eliminate the hazard to health, and~~ the tenant remains in possession, rent abates to the extent the tenant is deprived of the full normal use of the premises. This section does not authorize rent to be withheld in full, if the tenant remains in possession. If the tenant justifiably moves out under this subsection, the tenant is not liable for rent after the premises become untenantable and the landlord must repay any rent paid in advance apportioned to the period after the premises become untenantable. This subsection is inapplicable if the damage or condition is caused by negligence or improper use by the tenant.

SECTION 6. 704.17 (1) (b) and (2) (b) of the statutes are amended to read:

704.17 (1) (b) If a month-to-month tenant commits waste or a material violation of s. 704.07 (3) or breaches any covenant or condition of his agreement (other than for payment of rent), the tenancy can be terminated if the landlord gives the tenant notice requiring him to vacate on or before a date at least 14 days after the giving of the notice.

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

SECTION 7. 704.45 of the statutes is created to read:

704.45 Retaliatory conduct in residential tenancies prohibited. (1) Except as provided in sub. (2), a landlord in a residential tenancy may not increase rent, decrease services, bring an action for possession of the premises, refuse to renew a lease or threaten any of the foregoing, if there is a preponderance of evidence that the action or inaction would not occur but for the landlord's retaliation against the tenant for doing any of the following:

(a) Making a good faith complaint about a defect in the premises to an elected public official or a local housing code enforcement agency.

(b) Complaining to the landlord about a violation of s. 704.07 or a local housing code applicable to the premises.

(c) Exercising a legal right relating to residential tenancies.

(2) Notwithstanding sub. (1), a landlord may bring an action for possession of the premises if the tenant has not paid rent other than a rent increase prohibited by sub. (1).

(3) This section does not apply to complaints made about defects in the premises caused by the negligence or improper use of the tenant who is affected by the action or inaction.