



1999 SENATE BILL 43

February 16, 1999 – Introduced by Senators MOORE, BURKE, ERPENBACH, PLACHE, CHVALA, RISSER, DARLING, PANZER, ROSENZWEIG, COWLES and ROESSLER, cosponsored by Representatives TURNER, PLALE, CULLEN, RILEY, ZIEGELBAUER, COLON, BLACK, RYBA, BOCK, BOYLE, MORRIS-TATUM, SINICKI, F. LASEE, KELSO, LADWIG, SYKORA, PORTER, URBAN and POWERS. Referred to Committee on Judiciary and Consumer Affairs.

1 **AN ACT to amend** 704.17 (1) (c), 704.17 (2) (c), 704.17 (3) (b) and 893.80 (7) of the
2 statutes; **relating to:** termination of a tenancy if notice given regarding drug
3 or criminal gang activity.

Analysis by the Legislative Reference Bureau

Under current law, if a property owner receives notice from a law enforcement agency of a city, town or village that a rental unit is a nuisance because the unit is being used to facilitate the delivery, distribution or manufacture of a controlled substance or is being used to facilitate the activities of a criminal gang, the property owner may terminate the tenancy by giving the tenant written notice requiring the tenant to vacate on or before a date at least five days after the giving of the notice.

Under current law, the city, town or village, and officers and employes of those municipalities who act in good faith, are immune from liability for acts or omissions related to the provision of a notice that a rental unit is a public nuisance.

This bill expands the law enforcement agencies that may give notice to a property owner that a rental unit is a nuisance to include any law enforcement agency of the state or of a political subdivision of the state and provides immunity to those additional entities and their officers and employes.

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

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

2 704.17 (1) (c) A property owner may terminate the tenancy of a week-to-week
3 or month-to-month tenant if the property owner receives written notice from a law
4 enforcement agency of a city, town or village, as defined in s. 165.83 (1) (b), that a
5 nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant's rental unit or was
6 caused by that tenant on the property owner's property and if the property owner
7 gives the tenant written notice requiring the tenant to vacate on or before a date at
8 least 5 days after the giving of the notice. The notice shall state the basis for its
9 issuance and the right of the tenant to contest the termination of tenancy in an
10 eviction action under ch. 799. If the tenant contests the termination of tenancy, the
11 tenancy may not be terminated without proof by the property owner by the greater
12 preponderance of the credible evidence of the allegation in the notice from the law
13 enforcement agency of a city, town or village that a nuisance under s. 823.113 (1) or
14 (1m) (b) exists in that tenant's rental unit or was caused by that tenant. This
15 paragraph does not require the sheriff of Milwaukee County to provide a property
16 owner with a written notice that a nuisance exists under s. 823.113 (1) or (1m) (b).

17 **SECTION 2.** 704.17 (2) (c) of the statutes is amended to read:

18 704.17 (2) (c) A property owner may terminate the tenancy of a tenant who is
19 under a lease for a term of one year or less or who is a year-to-year tenant if the
20 property owner receives written notice from a law enforcement agency of a city, town
21 or village, as defined in s. 165.83 (1) (b), that a nuisance under s. 823.113 (1) or (1m)
22 (b) exists in that tenant's rental unit or was caused by that tenant on the property
23 owner's property and if the property owner gives the tenant written notice requiring
24 the tenant to vacate on or before a date at least 5 days after the giving of the notice.
25 The notice shall state the basis for its issuance and the right of the tenant to contest

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1 the termination of tenancy in an eviction action under ch. 799. If the tenant contests
2 the termination of tenancy, the tenancy may not be terminated without proof by the
3 property owner by the greater preponderance of the credible evidence of the
4 allegation in the notice from the law enforcement agency of a city, town or village that
5 a nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant's rental unit or was
6 caused by that tenant. This paragraph does not require the sheriff of Milwaukee
7 County to provide a property owner with a written notice that a nuisance exists
8 under s. 823.113 (1) or (1m) (b).

9 **SECTION 3.** 704.17 (3) (b) of the statutes is amended to read:

10 704.17 (3) (b) A property owner may terminate the tenancy of a tenant who is
11 under a lease for a term of more than one year if the property owner receives written
12 notice from a law enforcement agency of a city, town or village, as defined in s. 165.83
13 (1) (b), that a nuisance under s. 823.113 (1) or (1m) (b) exists in that tenant's rental
14 unit or was caused by that tenant on the property owner's property and if the
15 property owner gives the tenant written notice to vacate on or before a date at least
16 5 days after the giving of the notice. The notice shall state the basis for its issuance
17 and the right of the tenant to contest the termination of tenancy in an eviction action
18 under ch. 799. If the tenant contests the termination of tenancy, the tenancy may
19 not be terminated without proof by the property owner by the greater preponderance
20 of the credible evidence of the allegation in the notice from the law enforcement
21 agency of a city, town or village that a nuisance under s. 823.113 (1) or (1m) (b) exists
22 in that tenant's rental unit or was caused by that tenant. This paragraph does not
23 require the sheriff of Milwaukee County to provide a property owner with a written
24 notice that a nuisance exists under s. 823.113 (1) or (1m) (b).

25 **SECTION 4.** 893.80 (7) of the statutes is amended to read:

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1 893.80 (7) No suit may be brought against ~~any city, town or village or~~ the state
2 or any governmental subdivision or agency thereof or against any officer, official,
3 agent or employe of any of those entities who, in good faith, acts or fails to act to
4 provide a notice to a property owner that a public nuisance under s. 823.113 (1) or
5 (1m) (b) exists.

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(END)