



2009 ASSEMBLY BILL 543

November 3, 2009 – Introduced by Representative BLACK. Referred to Committee on Housing.

1 **AN ACT** *to create* 704.43 and 859.025 of the statutes; **relating to:** barring
2 landlords from requiring certain payments and from making certain claims
3 against estates.

Analysis by the Legislative Reference Bureau

Under current law, if a tenant unjustifiably removes from the premises before the termination of his or her tenancy and defaults in the payment of rent, the landlord may recover rent owed for the remainder of the term of the tenancy, but must attempt to mitigate the damages by trying to rerent the premises.

This bill provides that, if a residential tenant dies during the term of his or her tenancy and was the only adult tenant occupying the premises at the time of his or her death, the landlord may not make a claim against the deceased tenant's estate for rent that is due on the residential property for a payment period that begins after all the deceased tenant's property is removed from the premises and the keys are returned. If the tenant was not the only adult tenant occupying the rental premises at the time of his or her death, the landlord may not make a claim against the deceased tenant's estate for any rent that is due.

The bill also provides that no landlord may require payments and no rental agreement may contain provisions that are inconsistent with or in violation of or that

ASSEMBLY BILL 543

attempt to circumvent the prohibition against making such a claim against the tenant's estate.

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

1 **SECTION 1.** 704.43 of the statutes is created to read:

2 **704.43 Prohibited rent payment requirements.** Notwithstanding s.
3 704.29, no landlord may require, and no rental agreement may provide for, the
4 payment of rent, in the event of the tenant's death during the term of the rental
5 agreement, in a manner that is inconsistent with or that violates or attempts to
6 circumvent s. 859.025.

7 **SECTION 2.** 859.025 of the statutes is created to read:

8 **859.025 Certain claims of landlords barred.** Notwithstanding s. 704.29,
9 if a decedent was a tenant of residential rental property at the time of his or her
10 death, the decedent's landlord may not make a claim against the decedent's estate
11 for any of the following:

12 (1) If the decedent was the only adult occupant of the property at the time of
13 his or her death, any rent on the property that becomes due after the payment period
14 during which all of the decedent's property is removed from the premises and the
15 keys to the premises are returned to the landlord or to the landlord's agent.

16 (2) If the decedent was not the only adult occupant of the property at the time
17 of his or her death, any rent that is due on the property.

18 **SECTION 3. Initial applicability.**

19 (1) **PROHIBITED PAYMENT REQUIREMENTS.** The treatment of section 704.43 of the
20 statutes first applies to tenancies and rental agreements that are entered into on the
21 effective date of this subsection.

