



SCOTT KRUG

STATE REPRESENTATIVE • 72ND ASSEMBLY DISTRICT

(608) 237-9172

FAX: (608) 282-3672

District: (715) 459-2267

Toll-Free: (888) 529-0072

P.O. Box 8952

Madison, WI 53708-8952

Rep.Krug@legis.wi.gov

TO: Assembly Committee on Housing & Real Estate

FROM: Rep. Scott Krug

RE: 2025 Assembly Bill 202, voidable provisions in residential rental agreements and the application of the Wisconsin Consumer Act to leases

DATE: May 15, 2025

Thank you, Chairman Brooks and members of the Assembly Committee on Housing and Real Estate for hearing this bill.

A recent Wisconsin Court of Appeals decision in *Koble Investments v. Marquardt* has established a new precedent when it comes to residential rental agreements voided as a result of any lease containing one of the “10 Deadly Sins” of leases per statute. This decision threatens the stability of Wisconsin’s rental housing market and oversteps the original intent of Wisconsin statute.

If a lease includes any of the ten provisions mentioned in statute, that lease is deemed void and unenforceable. However, Chapter 704, Wisconsin’s landlord-tenant statute, does not include any reference to tenant relief if a lease is voided.

In the *Koble* decision, the Court of Appeals awarded relief to the tenant not under landlord tenant law, but under Chapter 100.20, which allows the recovery of double damages, and then used the Wisconsin Consumer Act to establish that the tenant’s loss was her total amount of rent paid plus attorney’s fees.

This was an unprecedented decision that has now been subject to copycat around the state. There have been reports of class action suits against landlords, and pending that litigation, there is significant concern amongst housing industry stakeholders about the broad-reaching effects of this change.

No one in support of this bill has any desire to excuse illegal or sloppy lease terms or weaken legitimate tenant protection in statute. If a legislative change is not made, and class action lawsuits against landlords continue, it could lead to landlords pulling rental units from the market, raising rents to cover legal exposure, or leaving the industry entirely — especially small-scale landlords who don’t have in-house legal teams. That’s bad for tenants, bad for housing supply, and bad for Wisconsin communities.

AB 202 seeks to confirm protections for tenants and define specific remedies in the landlord tenant statute while also maintaining clear legal boundaries for landlords, preventing unfair lease terms, and ensuring compliance with existing consumer protection laws.

This bill is not anti-tenant. AB 202 protects tenants, but also stops opportunistic lawsuits. It is pro-fairness, pro-housing stability, and pro-legislative intent. It ensures that people who do the right thing — who provide safe housing in good faith — are not wiped out by legal interpretations that were never meant to apply.

I am grateful that a number of interest groups have voiced their support of this legislation, they are listed below:

- Wisconsin REALTORS® Association
- Apartment Owners and Managers Association of Wisconsin
- Apartment Association of Northeast Wisconsin
- Fox Valley Apartment Association
- Kenosha Landlord Association
- Institute for Real Estate Management – Milwaukee Chapter #13
- Institute for Real Estate Management – Madison Chapter #82
- Rental Property Association of Wisconsin
- Wisconsin Housing Alliance
- Apartment Association of South Central Wisconsin (AASCW)
- NAIOP

I respectfully urge your support for Assembly Bill 202 and welcome any questions.

Thank you.



DAN FEYEN

STATE SENATOR

20th Senate District
(608) 266-5300, (888) 736-8720
Sen.Feyen@legis.wi.gov

PO Box 7882, Madison, WI 53707-7882
www.SenatorFeyen.com

To: The Assembly Committee on Housing and Real Estate
From: Sen. Dan Feyen
Re: Assembly Bill 202

Hello members of the committee, thank you for taking the time to hear testimony on AB 202.

The Court of Appeals decision in *Koble Investments v. Marquardt* will have negative impacts on both landlords and tenants alike.

First, I'd like to provide some background on the court case. The landlord in this case had included one of the "10 Deadly Sins" in the rental agreement. The tenant asked the court to void the lease and monetary relief. In the decision, the court awarded relief to the tenant under both laws that enforce fair methods of competition and the Wisconsin Consumer Protection Act. This was the first time the Wisconsin Consumer Protection Act had been used in a landlord/tenant case. The decision allowed the tenant to collect double the payments made under the lease from the landlord.

AB 202 is seeking to clarify boundaries for landlords, prevent unfair lease terms, and make sure leases are conforming with consumer protection laws.

AB 202, clarifies that a tenant has the right to do either of the following:

- 1). void a lease that contains one of the 10 deadly sins and have the lease converted to periodic tenancy, such as month-to-month, or;
- 2). have voidable provisions removed from the lease and continue with current terms.

Next, this bill confirms the Wisconsin Consumer Protection Act does not apply to residential leases or mobile home leases. This brings Wisconsin law back to the previous understanding and removes the WCPA from consideration. In conjunction with this, the bill allows tenants to sue, under Chapter 704 and ATPC 134, for damages up to twice the amount of the financial loss directly caused by the violation, plus attorney fees and costs.

Without these changes, we could see an increase in landlord/tenant disputes in our already overburdened court system. We could also potentially see lower rental housing availability and stability.

Lastly, I want to mention that the Wisconsin Supreme Court has agreed to take this case, but that does not lessen the need for a legislative change. Ambiguity within state statute is why the issue made it into the court system in the first place, so providing clarity to the statute is still very much necessary.

Thank you again for holding a hearing on this bill.



JERRY L. O'CONNOR

STATE REPRESENTATIVE • 60th ASSEMBLY DISTRICT

(608) 237-9160
Toll-Free: (888) 534-0060

Rep.O'Connor@legis.wi.gov
P.O. Box 8953
Madison, WI 53708-8953

To: The Assembly Committee on Housing and Real Estate

From: Rep. Jerry L. O'Connor

Re: Assembly Bill 202

Good morning, Chairman Brooks and members of the committee. Thank you for taking the time to consider my testimony on Assembly Bill 202.

I am providing testimony as a Legislator, a former real estate broker, and a bank President who has financed hundreds of residential rental properties over time.

This bill is being introduced due to a Wisconsin Court of Appeals ruling that will create disastrous consequences for the residential rental property industry and lenders on those properties.

In April 2024, the Wisconsin Court of Appeals published a decision, Koble Invs. v Marquardt, 2024 WI App 26, regarding certain landlord and tenant matters.

Ruling: *Among the holdings in Koble, the court of appeals determined that a particular landlord was acting as a "debt collector" and that the landlord's tenant was a "customer" as those terms are defined under the Wisconsin Consumer Act. The court of appeals also held that because the landlord violated a provision of the Wisconsin Consumer Act, the tenant's attorney was entitled to recover reasonable attorney fees and court costs.*

Solution: Under this bill, the Wisconsin Consumer Act (WCA) will not be applied to residential or mobile home leases. Before this decision, the WCA had never been used in landlord-tenant disputes. Rights and obligations have been delineated in real estate contract law and should remain there.

Ruling: *In the same Koble case, the court of appeals held that the tenant's lease was void and unenforceable under landlord-tenant law and that, under another law enforcing fair methods of competition, the tenant could recover twice the amount of the tenant's pecuniary loss, together with reasonable attorney fees and court costs.*

The court awarded relief to the tenant both under a law enforcing fair methods of competition, and under the Wisconsin Consumer Act, resulting in the tenant being entitled to recover from the landlord twice the amount of payments made under the lease, and the tenant's attorney being able to recover reasonable attorney fees and costs.

Solution: The bill provides that under landlord and tenant law, a person injured by a voidable provision can recover twice the amount of the pecuniary loss, together with reasonable attorney fees and court costs, and provides that such pecuniary loss does not include any rent paid by the tenant. The bill also limits the remedies a person may seek when a rental agreement includes a voidable provision to only those remedies provided in the bill. This language ensures that the tenant remains entitled to reasonable damages as outlined in the bill.

My concerns with the Appeals Court decision: From a lender's perspective, the financial consequences for a borrower or landlord under the penalties assigned by the Appeals Court could make extending a loan unnecessarily risky and could contribute to destabilizing the residential real estate market.

From a lender's perspective and risk analysis, the Appeals Court ruling creates a "contingent liability" for the borrower. To answer this question, every lender must monetize contingent liabilities as part of their risk analysis. What if the contingent obligations were to be triggered? Would the borrower have the resources needed to satisfy the cost of the liabilities? The financial damages a landlord could potentially incur could literally make the borrower unbankable.

The damages include the tenant being entitled to recover from the landlord twice the payments made under the lease agreement. How far back could a tenant make claims? That could be a significant liability that must be accounted for and could reach a level where lenders would choose not to lend money to the residential rental market.

The solutions outlined in this bill would remove lenders' new and excessive risks outlined under the Koble ruling, while still preserving remedies.

Therefore, I wholeheartedly support AB202.

Thank you very much for the opportunity to testify on this bill.

Representative Jerry O'Connor
60th Assembly District

LEGAL ACTION OF WISCONSIN

Providing free legal services to low-income Wisconsin clients since 1968 • Proporcionando servicios legales gratuitos a clientes de bajos ingresos en Wisconsin desde 1968

TO: Assembly Committee on Housing & Real Estate
FROM: Abby Bar-Lev Wiley, Legislative Director, Legal Action of Wisconsin
Heidi Wegleitner, Attorney, Legal Action of Wisconsin
DATE: 05/15/2025
RE: AB 202's Impact on Legal Action of Wisconsin's Clients

Thank you for the opportunity to provide feedback on AB 202/SB 206. Legal Action of Wisconsin is the state's largest nonprofit law firm, providing free, high-quality civil legal aid to low-income Wisconsinites. AB 202/SB 206 would impact many of our low-income clients, and we are grateful to be able to share our concerns with the Committee. Our concerns are centered around what we see as the bill's unintended consequences for our low-income clients as well as for the bad actors that the law was designed to discourage.

What AB 202/SB 206 Would Change If It Were to Pass

AB 202/SB 206 proposes two sweeping changes. First, it seeks to exclude all residential rental agreements from all provisions of the Wisconsin Consumer Act (WCA). Second, it seeks to limit tenants' remedies under Wis. Stat. secs. 704.44 and 100.20(5). When courts find that a rental agreement contains a prohibited provision, it would exclude rent paid under the voided lease from compensation, leaving little for a tenant to recover in response to an illegal action. The bill would allow the tenant to choose between voiding the lease, which would leave them in a periodic tenancy, or severing the voidable provision and leaving the lease intact. It would limit the compensation a tenant could seek after proving a violation of the law by excluding rent paid under the void lease. These changes would have profound effects on low-income tenants and consumers, who are almost all renters, leaving them vulnerable to illegal practices with little recourse.

Removing Rental Agreements from the WCA Would have a Chilling Effect on Renter's Rights as Consumers and Incentivize Bad Actors

While the vast majority of landlords follow the law and contribute positively to the community by maintaining safe and habitable homes for their tenants, AB 202/SB 206 would create protections for bad actors, particularly actors seeking to collect on eviction related debt, while depriving many tenants of protections that are available to consumers in almost every other context. One purpose behind including rental lease agreements within the WCA is to ensure that the rental relationship is regulated before and after termination to effectively deter bad actors and encourage compliance with the law.

No Remedy for Wrongs Committed Outside of Lease Provisions

By removing rental agreements from the WCA, AB 202/SB 206 would leave tenants with zero state-level remedies if a landlord or debt collector were to illegally harass or otherwise attempt to collect an alleged amount of rent in a way that violates the WCA.

The WCA defines a “consumer transaction” as “a transaction involving the sale, lease, or rental of goods or services primarily for personal, family, or household purposes.” Wis. Stat. § 427.01(1). By its plain language, the statute contemplates a broad category of transactions, including not only sales of goods, but also leases and rentals of goods or services for personal use. A lease for residential property is fundamentally a contract in which an individual (tenant) rents a dwelling for personal use, such as living with their family. This fits squarely within the definition of a “consumer transaction,” as the purpose of the lease is primarily personal, family, or household use.

Further, monthly rent payments under a residential lease constitute deferred payments under Wis. Stat. § 427.01(3). Rent is typically paid monthly. Each payment is due in the future (e.g., the first of each month) and not in a lump sum at the beginning of the lease, even though the tenant receives immediate possession and use of the rental property, and the right to continued occupancy throughout the term of the lease. If the tenant vacates prior to the end of the lease, the tenant remains liable for the rent for the full term, subject to the landlord’s duty to mitigate loss by attempting to re-rent the premises. The payments therefore fall within the meaning of “deferred payments” under Wis. Stat. § 427.01(3). And because monthly rent payments are deferred payments under the WCA, landlords engaged in debt collection are subject to the WCA debt collection regulations of Wis. Stat. § 427.04.

By classifying residential lease payments as deferred payments, the WCA ensures that tenants have the same protections from abusive debt collection practices as consumers with other types of installment-based agreements (e.g., credit purchases, personal loans). This is important because, while the Wisconsin landlord-tenant laws (Wis. Stat. ch. 704 and Wis. Adm. Code ch. ATCP 134) regulate many aspects of the landlord-tenant relationship, they do *not* establish rights and responsibilities relating to debt collection practices by landlords (aside from proper termination notices, void contracts and some misrepresentations) or, perhaps more importantly, assignees of their debt, such as debt buyers and bill collectors.

AB 202/SB 206 would exempt rental agreements from the WCA entirely and would not ensure even modest remedies are available for tenants facing illegal debt collection practices. The bill would increase the likelihood that low-income clients could be unlawfully harassed and sued by unscrupulous debt collectors, clogging state courts, and increasing the credit woes of Wisconsin’s most vulnerable consumers. Passage of AB 202/SB 206 would incentivize bad actors to flaunt

the law, making the landscape for all the good, law-abiding landlords in Wisconsin harder to navigate.

Limiting Remedies for Prohibited Rental Provisions will have a Chilling Effect on Compliance with the Law

As the Wisconsin Supreme Court acknowledged in its 2001 case *Baierl v. McTaggart*, 2001 WI 107, 245 Wis.2d 632, 629 N.W.2d 277, leases that include the prohibited provisions in 704.44 are dangerous not because they directly harm each individual client, but because these prohibited provisions harm everyone by undermining important public policy choices made by the legislature. For example, a clause that would illegally authorize eviction for unlawful activity on the premises (without describing protections from eviction for victims of domestic violence) chills victims of domestic violence from reporting crimes for fear that doing so will subject them to eviction. Given individual victims' need for housing, and the power of unscrupulous landlords, the best way to enforce the prohibition against dangerous lease provisions is through the existence of remedies strong enough to disincentivize bad behavior.

Under the law as decided in *Koble Invs. v Marquardt*, 2024 WI App 26, the above eviction clause would not only void the lease, but it would also allow the tenant to recover twice the amount of the tenant's pecuniary loss—which includes rent paid under the voided lease— together with reasonable attorney fees and court costs. As the Court of Appeals in *Koble* stated, a reasonably prudent landlord is “expected to review and follow the relevant law,” which most do. For the bad actors who would seek to take advantage of a tenant's lack of legal knowledge, however, the WCA remedies help steer that landlord towards following the law. AB 202/SB 206 would limit a tenant's remedy to suing for damages and twice the amount of pecuniary loss, together with costs and including reasonable attorney's fees. But the bill excludes rental payments from the meaning of pecuniary loss. For a tenant subject to an illegal clause in a rental agreement, it is difficult to prove a “direct” pecuniary loss besides rental payments made under a lease that never should have been enforceable. The bill would thus eviscerate disincentives facing unscrupulous landlords who would rather shirk legal responsibilities if it were good for business.

AB 202/SB 206 Does Not Balance Interests of Landlords & Tenants, May Open More Litigation, Without Benefitting the Majority of Landlords who Strive to Follow the Law

On its face AB 202/SB 206 may appear to have the modest effect of “streamlining” the law by ensuring that disputes arising from rental agreements are only governed by one body of substantive law: landlord-tenant law. But the inclusion of rental agreements in both landlord-tenant law and the WCA serves different purposes. Landlord-tenant law creates prohibited rental provisions and authorizes remedies for violating those statutory provisions to protect individuals and society from leases that chill enforcement of legal rights. The WCA governs rental relationships because renters are consumers who need protections, and it provides remedies for

tenants that are significant enough to deter many bad actors from using practices to either illegally chill enforcement or to illegally collect on a tenant or former tenant. Ultimately, the impact of AB 202/SB 206 will not be to equitably “rebalance” the interests of landlords and tenants. Nor does it benefit the majority of landlords who take reasonable efforts to follow the law. Those landlords have already updated their leases to remove unlawful language and add required notices, to protect crime victims for example.

Passage of this will would instead likely leave wronged tenants with few or no meaningful remedies for being subject either to illegal lease provisions *or* illegal debt collection practices—while providing fodder for the few bad actors who use illegal collection methods or leases in violation of important public policies. It will also create confusion among landlords and tenants, and possibly encourage recourse to federal courts for consumer protections.

Thank you for the opportunity to provide feedback.

To: Assembly Committee on Housing and Real Estate

From: Attorney Heiner Giese, Milwaukee (hgiese@ameritech.net)

Date: May 15, 2025

Re: AB 202/SB 206 Relating to: voidable provisions in residential rental agreements and the application of the Wisconsin Consumer Act to leases.

This position paper is submitted by Atty Heiner Giese, an attorney for the Rental Property Association of Wisconsin, Inc. (RPA). It also represents the viewpoint of numerous other rental property owner associations throughout Wisconsin who have participated with the RPA in discussions seeking legal and legislative relief for the drastically harmful effects of the court decision in *Koble v. Marquardt*, 2024 WI App 26.

The specific issue addressed is whether the legislative remedies being sought by AB 202/SB 206 are really necessary because the *Koble* case is being appealed via a Petition for Review before the Wisconsin Supreme Court and that court may reverse the *Koble* decision and grant landlords the relief being sought. This is not a valid objection to consideration of the Bill because (1) the Wisconsin Supreme Court has often worked extremely slowly and (2) the high court might dismiss the appeal on other grounds without addressing the key issues, such as whether the Wisconsin Consumer Act applies to the landlord/tenant relationship.

I. It could take a year or more for the Wisconsin Supreme Court to decide *Koble*.

- The RPA was involved as a party in Supreme Court Rule Petition 22-03 which concerned the redaction of eviction cases from the CCAP online system. That petition was filed on 3/29/2022 and was not finally resolved *until more than two years later* on 7/31/2024.
- The Court's table of pending cases shows *Halter v. Wisconsin Interscholastic Athletic Association*, 2021AP1525, accepted for review on 8/2/2022 and just recently decided on 4/8/2025.
- The case *Wisconsin Manufacturers and Commerce v. Wisconsin DNR*, 2022AP718 was accepted on 9/11/2022 with oral argument on 1/14/2025 but no decision yet.

Professor Alan Ball of Marquette University has commented: *The Wisconsin Supreme Court's Plummeting Productivity*, STATE COURT REPORT (May 8, 2024). <https://statecourtreport.org/our-work/analysis-opinion/wisconsin-supreme-courts-plummeting-productivity>. The Court's work product has been down substantially from previous years.

II. The Wisconsin Supreme Court could dismiss or reverse the *Koble* decision without getting to the merits of the case.

One of the issues on appeal is whether the attorney for the tenant was even permitted to pursue his claim for attorney fees by appealing to the Court of Appeals after his client had dropped out of the case as a party. The Supreme Court could dismiss the appeal on that basis and thereby rule in the landlord's favor without addressing the important Consumer Act or pecuniary loss issues.

As other testimony before this Committee will show, the economic uncertainty and huge financial risks faced by rental property owners as a result of *Koble* cannot wait for a year or more to be resolved (or maybe not!) by a slow judicial process.

RENTAL PROPERTY ASSOCIATION OF WISCONSIN, INC.

Representing 744 Wisconsin Landlords

Impacts of *Koble v. Marquardt* on Wisconsin Landlords

Discussion in Support of AB 202 / SB 206

Submitted by Kirsten Fagerland Pezewski, Lobbyist and Attorney for RPA of Wisconsin, Inc.

Background:

In *Koble Investments v. Marquardt*, 2022AP182, the Wisconsin Court of Appeals, for the first time, applied the Wisconsin Consumer Act (“WCA”) to residential leases governed by Chapter 704 and ATCP 134. As a result, a landlord using an older, once-legal lease that lacked a now-required disclosure was ordered to refund all rent paid under the WCA and then pay double those damages under the landlord-tenant laws.

This extension of the WCA to residential leases conflicts directly with existing Wisconsin law. Under §§ 704.44(3m) and ATCP 134.08(3), landlords are prohibited from accelerating rent, i.e., demanding all rent before it is due. Moreover, under ATCP 134.06(3) and § 704.28(1)(b), landlords are required to mitigate damages and are not entitled to future rents after move-out unless they have made mitigation efforts. ATCP 134.02(11) also defines rent payments in excess of one month’s rent as “security deposits” — money that legally remains the tenant’s property until lawfully claimed.

The decision in *Koble* also conflicts with the Wisconsin Administrative Code governing the WCA.

DFI-WCA 1.05, General Definitions; Consumer Credit Transactions. Acquisition of a leasehold interest in real property by a customer from a merchant is not a consumer lease within the meaning of s. 421.301 (11), Stats. For laws governing the leasing of real estate see ch. 704, Stats.

Problem Created by *Koble*:

Koble undermines the carefully crafted Wisconsin landlord-tenant statutes and regulations. It imposes the WCA’s full refund under a contract penalty on residential leases, even though Wisconsin’s landlord-tenant laws already provide double damages and attorney fees as remedies for tenants harmed by landlord misconduct under § 100.20(5).

Why AB 202 / SB 206 Is Needed:

- **Clarifies Existing Law:** AB 202 reaffirms that residential leases are governed by Chapter 704 and ATCP 134 — not the Wisconsin Consumer Act.
- **Protects Tenant Rights:** It preserves tenants’ current remedies, including double damages and attorney fees, without importing inconsistent and duplicative WCA standards.
- **Provides Tenant Choice:** AB 202 creates tenants’ rights to either sever an illegal lease provision and enforce the rest of the agreement or terminate the lease — expanding upon tenants’ rights to enforce the lease that were historically recognized under Wisconsin law but had become uncertain.
- **Establishes a Clear Remedy:** The bill creates a statutory process for tenants when a lease is voidable, as confirmed by the Wisconsin Legislative Council’s March 28, 2025 memorandum.
- **Brings Certainty for Both Landlords and Tenants:** Drafters, including public housing authorities, experienced repeated failures to create “safe” leases under the current unstable framework. AB 202 addresses this systemic problem by providing a stable legal structure.

Bottom Line:

AB 202 / SB 206 does not weaken tenant protections. Instead, it clarifies and preserves tenant remedies under Wisconsin’s longstanding landlord-tenant laws and prevents the misapplication of the Wisconsin Consumer Act to residential leases — ensuring a fair and predictable rental market for both landlords and tenants.



To: Assembly Committee on Housing and Real Estate
From: Cori Lamont, Vice President of Legal and Public Affairs
Date: May 15, 2025
RE: AB 202/SB 206 – *Koble v. Marquardt* Legislative Solution

The Wisconsin REALTORS® Association (WRA) supports AB 202/SB 206 addressing a dangerous precedent set by the Wisconsin Court of Appeals in *Koble Investments v. Marquardt*, 2022AP182, voiding a lease and awarding tenant relief under both Wisconsin Consumer Act and fair business practices.

Background

In *Koble* the court held that a residential lease containing any of the prohibited provisions—known as the "10 Deadly Sins" under Wis. Stat. § 704.44—renders the lease void and unenforceable. Specifically, the landlord's lease included a clause allowing termination for criminal activity without the required "Notice of Domestic Abuse Protections," violating Wis. Stat. § 704.44(10) and Wis. Admin. Code § ATCP 134.08(10). As a result, the **court ordered the landlord to return all rent paid by the tenant during the tenancy and awarded double damages and attorney fees** under Wis. Stat. § 100.20(5), even though the tenant did not suffer a direct financial loss. More unexpectedly, the court applied the Wisconsin Consumer Act.

The Problem

The court's remedy in *Koble* is unconscionable, as it has already led to several lawsuits against landlords, will encourage even more class-action suits, potentially bankrupt numerous landlords, and may decrease the value of rental property in Wisconsin. The opinion in *Koble* has been published and is now legal precedent, so all Wisconsin circuit courts must follow this as law.

Consequences of the Koble Decision

- **Severe Financial Risk for Landlords:** Landlords face returning all rent, paying double damages, and attorney fees if their lease violates Wis. Stat. § 704.44. Many unknowingly risk severe losses that could force them out of the rental market.
- **Increase in Litigation:** Incentivizes tenants to challenge leases, causing more lawsuits against landlords. This strains courts, increases legal costs, and discourages investment in rental housing.
- **Fewer Rental Homes Available:** Financial and legal risks may push small and mid-sized landlords out of business, shrinking Wisconsin's rental housing supply and driving up costs for tenants.
- **Decline in Property Values:** Financial losses and bankruptcies may force landlords to sell properties at a loss, convert them to non-rental uses, or face foreclosure, leading to lower property values and reduced local tax revenue.
- **Threat to Housing Stability:** Landlord exits due to financial strain could cause sudden tenant displacement and worsen Wisconsin's housing shortage, making affordable rentals harder to find.

Key Provisions of AB 202/SB 206

Aims to enhance tenant protections while setting clear legal limits for landlords to prevent unfair lease terms and ensure compliance with consumer protection laws through four key provisions:

- 1. Voidable Residential Rental Agreements:** Amends Wis. Stat. § 704.44 to clarify residential rental agreements containing any of the listed prohibited “10 deadly sin” provisions—such as penalizing tenants for calling emergency services or waiving landlord responsibilities—are voidable at the tenant’s discretion.
- 2. Tenant Remedies for Violations:** Creates new section, Wis. Stat. § 704.445, allowing tenants to either remove unenforceable provisions while keeping the rest of the lease or void the entire rental agreement, converting the relationship to a periodic tenancy (e.g., month-to-month) with the same payment terms.
- 3. Limited Damages for Prohibited Provisions:** If a lease is found to contain an illegal provision, the tenant remedies under the Wisconsin Landlord-Tenant Code and Wisconsin’s consumer protection laws (Wis. Stats. § 100.20(5), § 704.95, and Wis. Admin. Code Ch. ATCP 134). This can include suing for damages up to twice the amount of the financial loss directly caused by the violation, plus costs and a reasonable attorney’s fee.
- 4. Clarification of Landlord-Tenant Laws:** Creates a new subsection in Wis. Stat. § 421.103 to explicitly state that Wisconsin’s Consumer Code (Chapters 421-427) does not apply to landlord-tenant relationships, ensuring landlord-tenant matters remain governed by Chapter 704 and related regulations.

Koble Decision Impact

The Housing Authority of the City of Milwaukee (HACM) is both a part owner and the managing member of Merrill Park LLC. In *Merrill Park LLC v. Party Sealed by Judge Morales-42* (2024AP2465), the landlord evicted the tenant for non-payment of rent.

However, the court relied on the *Koble* decision to void the lease based on an abandonment clause—even though that clause was neither at issue in this case nor one of statutory “10 Deadly Sins.” This ruling threatens to unsettle Wisconsin landlord-tenant law by undermining widely used lease provisions and wrongly shifting the burden of proving financial harm from tenants to landlords, resulting in an absurd and unsound outcome for landlord-tenant relationships across the state.

If a federally regulated sophisticated government agency like HACM with a capable legal team cannot protect itself, how can smaller, less experienced landlords be expected to do so?

Waiting on the Wisconsin Supreme Court is Not the Answer

The Wisconsin Supreme Court has accepted the case. However, even if the Wisconsin Supreme Court rules in favor of the landlord, existing laws remain unclear and are open to differing interpretations. Legislative action is necessary to clarify the rules, ensure consistent protections, and minimize future legal disputes for both landlords and tenants.

We respectfully request your support for AB 202/SB 206.

Testimony in Support of AB 202
Assembly Committee on Housing and Real Estate

Chairman Brooks and Committee Members,

My name is Victoria LaBrosse and I am the Executive Director of the Apartment Association of South Central Wisconsin. Thank you for the opportunity to testify today in strong support of AB 202, which addresses critical concerns for Wisconsin landlords, while preserving fair and reasonable protections for tenants.

Our association's members strive to maintain safe and habitable housing, treat tenants fairly, and comply with all local and state regulations. The current legal landscape—particularly in light of the *Koble Investments v. Marquardt* decision—is creating deep uncertainty and exposing landlords to disproportionate legal and financial risk, even in cases involving no bad faith or actual harm.

The *Koble* decision opens the door to retroactive liability reaching back six years, allowing tenants and former tenants to seek twice the amount of rent paid if a lease includes a provision deemed void under existing law. This is deeply problematic for landlords, many of whom use standard form leases or templates they believed were lawful, and who never enforced any problematic terms. There is no justification for a tenant to receive a refund of rent they paid during a time when they lived in and benefited from the rental unit. This bill wisely closes the door on retroactive payments, establishing forward-looking and fair remedies.

This bill would restore legal clarity and predictability. It provides clear and appropriate remedies for tenants harmed by truly unlawful lease terms: namely, recovery of twice the actual pecuniary loss, plus reasonable attorney fees and court costs. This maintains strong deterrents against abusive practices while preventing excessive liability for landlords who acted in good faith.

Finally, the bill allows tenants to make reasonable decisions when a lease contains a voidable provision: they can either sever the offending clause and continue with the lease, or convert the tenancy into a periodic one. This protects tenants while allowing landlords to maintain rental relationships where appropriate, avoiding unnecessary disruptions to housing.

In sum, this legislation is not about weakening tenant protections—it's about restoring balance, fairness, and common sense to landlord-tenant laws in our state. It ensures that landlords are not punished retroactively for technical issues, prevents abusive litigation tactics, and keeps housing providers focused on what matters most: providing safe, stable homes for Wisconsin families.

I respectfully urge this committee to support this bill. Thank you for your time.

Victoria LaBrosse
Executive Director
Apartment Association of South Central Wisconsin



**OUR MISSION: TO BE AN ADVOCATE FOR MEMBERS,
FACILITATING RELATIONSHIPS WHICH EDUCATE,
SUPPORT AND PROMOTE THE INDUSTRY**

May 15, 2025

To: Assembly Committee on Housing and Real Estate Members

RE: Assembly Bill 202

Wisconsin Housing Alliance represents the factory-built housing industry in Wisconsin which provides affordable housing to over 53,800 households in manufactured home communities throughout Wisconsin. Many Wisconsin manufactured home communities are owned by individuals, and the business has been owned by multiple generations of the same family.

The published opinion in *Koble v Marquardt* 2022AP 182, has significant consequences for Wisconsin landlords. Many residents who live in manufactured home communities own their own home but rent the land that their home sits on and have lived in their community for many years. The ruling from *Koble v Marquardt* indicated a tenant could receive a refund of ALL rent paid under a technically defective lease could be financially devastating for an owner of a manufactured community, ultimately causing the community to close and residents scrambling to find funds to move their home to a different community.

We do not believe that the Wisconsin Legislature intended for the Wisconsin Consumer Act to apply to landlord/tenant relationship or require landlords to pay back all rent a tenant had ever paid them. This is why we need legislation to correct the consequences of this ruling.

The proposed legislation in AB202 addresses this by clarifying which statutes govern Landlord-Tenant law and adds an additional tenant remedy when a lease has a voidable provision.

Thank you for holding a hearing on this extremely important legislation. Wisconsin Housing Alliance members have communities across the entire state, and they are asking for your support for AB202.

Sincerely,

Amy Bliss
Executive Director
amy@housingalliance.us

Angie Diedrich
Deputy Director
angie@housingalliance.us



TO: Assembly Committee on Housing and Real Estate

FROM: Christopher Ruditys, Executive Director, AOMA-WI

DATE: May 15, 2025

RE: AB 202/SB 206 Relating to voidable provisions in residential rental agreements

Thank you for the opportunity to provide feedback on the importance of passing AB 202/SB206. The Apartment Owners and Managers Association of Wisconsin (AOMA-WI) represents 1,100 members with approximately 135,000 apartment homes throughout the state of Wisconsin. AOMA-WI is part of the federation with the National Apartment Association that has over 95,000 members and more than 12.5 million apartment homes globally.

This legislation will simply clarify language to protect both owners and tenants alike due to the harmful effects of the Koble Case. In addition, we don't want to go back to the real estate debacle of 2008 where many owners will lose their properties due to the economic impact of Koble. Furthermore, not passing this legislation will influence affordable housing measures statewide at a time of uncertainty.

Lastly, the Wisconsin Supreme Court decision on Koble could take a year or more due to the slow judicial process. Owners and tenants deserve better, and we encourage the legislature to positively advocate for healthy and vibrant apartment communities in Wisconsin.

Time is of the essence to be proactive and pass legislation that will clarify and will protect both owners and tenants in legal proceedings.

Thank you for the opportunity to provide our feedback regarding this important legislation.

AOMA of Wisconsin

11801 W. Silver Spring Dr., Suite 200, Milwaukee, WI 53225 ■ Phone: 414-278-7557 ■ Fax: 414-464-0850 ■ www.boma-wi.org

Schaefer, Christopher

From: Rose Bogosian <rose@gonneringrealty.com>
Sent: Thursday, May 15, 2025 9:09 AM
To: Schaefer, Christopher
Cc: Rep.Cruz
Subject: AB 202 Written testimony

Dear Mr. Schaefer,

I am not able to attend the public hearing today, however I would like to provide my testimony to the importance of this matter.

I am writing to you as a concerned rental property owner, property manager, and small business owner that provides goods and services to the rental housing industry. As a constituent, I am requesting your support for Senate Bill 206 / **Assembly Bill 202**.

I am a REALTOR®, I have been involved in this industry for over 30 years and a small landlord for the past 15 years.

Koble is indirectly impacting all rental property owners, and the residents of these properties.

Senate Bill 206 / Assembly Bill 202 does not remove, or in any way diminish, the rights tenants have for claims against landlords that have historically been governed under Wis. Chapter 704 Landlord–Tenant Law and Wis. Stat. §100.20 Methods of Competition and Trade Practices. Rather, this bill seeks to clarify the law for tenants and gives them a choice to either cancel a lease deemed voidable or sever the provisions that render the lease voidable and continue to enforce the remainder of the lease against the landlord.

Our industry has described Koble as the most consequential judicial decision targeted at the rental housing industry of our lifetime - I couldn't agree more.

If Senate Bill 206 / Assembly Bill 202 is not passed soon, the following consequences of the Koble ruling will continue to devastate rental property residents, owners, small businesses serving the industry, and ultimately all neighborhoods and communities in Wisconsin:

- a. Housing providers will be forced out of the market through bankruptcy, property sales, or shifting to less accessible housing sectors, shrinking housing availability for rental residents across Wisconsin.
- b. Rents, deposits, and screening standards will increase, as property owners try to manage legal exposure and cost, putting further pressure on rental residents.
- c. Deferred maintenance will rise due to litigation costs, harming housing quality and rental residents, while exacerbating inventory shortages in an already tight market.
- d. Neighborhoods and Communities will decline as housing stock deteriorates, property values drop, tax bases shrink, and vulnerable areas face increased crime and instability.

These aren't distant consequences - they're already happening. Without timely legislative action, this will continue to get exponentially worse for all residents, neighborhoods, and communities across our state.

Please stand with its residents by supporting Senate Bill 206 /Assembly Bill 202.

Thank you for your time and public service.

Respectfully,

Rose Bogosian

2410 N. Wisconsin St

Racine, WI 53402

Phone: 262-488-0769

Email: Rose@GonneringRealty.com

Schaefer, Christopher

From: Mary Holoubek <mary@holoubekholdings.com>
Sent: Thursday, May 15, 2025 8:52 AM
To: Schaefer, Christopher; Rep.Cruz
Cc: Jon Frickensmith - SWLA President
Subject: Public Hearing on AB 202

Dear Rep. Cruz and Mr. Schaefer,

I am writing to you as a concerned owner/property manager and a constituent regarding AB 202.

I am involved in the rental market in Racine as a property owner and manager of my husband's and my residential rentals, and am alarmed at the Koble outcome and the copycat cases that have followed. Real Estate is my business, my livelihood, and I believe the Koble case and the precedent it sets is going to cause grave damage to not only property owners/managers, but to our residents, our communities, and beyond.

AB 202 does not remove, or in any way diminish, the rights tenants have for claims against landlords that have historically been governed under Wis. Chapter 704 Landlord–Tenant Law and Wis. Stat. §100.20 Methods of Competition and Trade Practices. Rather, this bill seeks to clarify the law for tenants and gives them a choice to either cancel a lease deemed voidable or sever the provisions that render the lease voidable and continue to enforce the remainder of the lease against the landlord.

You have received a lot of information about the recent Wisconsin Court of Appeals decision regarding Koble Investments v. Marquardt, (Koble), in the Co-Sponsorship Memorandum, dated March 24th, from the sponsors of the proposed legislation, Senator Dan Feyen and Representative Scott Krug, as well as a folder from the Wisconsin Rental Housing Coalition (RHC), that was left in your office on March 18th, and reviewed during the RHC Capitol Day on March 19th. Both pieces of communication discuss in detail the history of how we got to this point with Koble, so there is no need to review that here.

Within our industry, Koble has been described as the most consequential judicial decision targeted at the rental housing industry of our lifetime. I could not agree more, if Koble is not fixed legislatively as soon as possible. At a minimum, the following consequences will continue to be felt by all rental property residents, owners, and ultimately all neighborhoods, communities, and every resident in the state of Wisconsin:

- Housing stability will only worsen as more and more of these cases will force owners into bankruptcy, sell their properties, or migrate to a different level within the rental housing marketplace, where the risks of operating under such bad case law may have fewer consequences. (Our residents become collateral damage.)
- All of our residents will bear the burden of Koble, as owners will have little choice other than to raise rents to offset some of these costs, increase screening standards, and increase security deposits. (Our residents become collateral damage.)
- Owners will be forced to allocate more and more funds to fight these frivolous lawsuits, thereby increasing deferred maintenance, not by choice, but necessity, or they will exit the market altogether, causing an even greater imbalance of housing inventory stock, in an already tight rental market. (Our residents become collateral damage.)

Schaefer, Christopher

From: Landlord Association President Jon <presidentofswla@gmail.com>
Sent: Thursday, May 15, 2025 8:36 AM
To: Schaefer, Christopher
Cc: Rep.Cruz
Subject: Public Comment AB 202/SB 206.

Thank you for the opportunity to provide feedback on AB 202/SB 206.

On behalf of the Southern Wisconsin Landlords Association (Racine), we want to extend our support for AB 202 / SB 206.

While there are claims this would limit tenants rights to recover damages, one needs to understand that these 'rights' never existed until a recent bad court case. The appellate court ruling even said and implied that had the landlord made even a basic argument, their ruling would be different!. The tenants right to double damages exists after this bill, just as it does now. How can there be a chilling effect to a right that never existed (or more specifically, has never been used or known to exist before)?

Thank you for listening.

Jon Frickensmith
President of SWLA
2520 Wexford Rd, Mt Pleasant, WI 53405

WHO OWNS RENTALS?

Total Purchases by Size of Investor

U.S. National Investor Purchases Through Q4 2023

