



TENANT RESOURCE CENTER



Wisconsin Law Changes - 3/1/14 2013 Wis. Act 76 (SB179)



1. **Additional local pre-emptions.** The law prevents local governments from passing laws that do any of the following:
 - a. **Fees.** Limit a residential tenant's responsibility or a landlord's right to recover for damages, waste to or neglect of the premises, or for any other costs, expenses, fees, payments, or damages for which the tenant is responsible under the lease or state laws. Wis. Stat. 66.0104(2)(c), 2013 Wis. Act 76, Secs. 1 & 4
 - b. **Communications to tenants.** Require a landlord to communicate to tenants any information that is not required to be communicated to tenants under federal or state laws. There is an exception for ordinances that have a "reasonable and defined objective of regulating the manufacturing of illegal narcotics." Wis. Stat. 66.0104(2)(d)1.a., 2013 Wis. Act 76, Secs. 2 & 4
 - c. **Communications to local government.** Require a landlord to communicate any information to the local municipality about the tenant or landlord, unless it is required by federal or state law and is required of all residential real estate property owners, or if the information is only to contact the owner or agent. Wis. Stat. 6.0104(2)(d)2., 2013 Wis. Act 76, Secs. 2 & 4

These laws appear to be targeting landlord registration, landlord disclosures of information, and fees that are currently not allowed. *Please see additional list of City of Madison, City of Fitchburg, and Dane County ordinances that may be affected.*

2. **New rights of landlord to have vehicles towed on private property.**
 - a. If the property *is not* properly posted, the landlord can have unauthorized vehicles ticketed by local law enforcement or parking enforcement and then have them towed at the owner's expense. Wis. Stat. 349.13(3m)(b), 2013 Wis. Act 76, Sec. 5
 - b. If the property *is* properly posted, the landlord can have unauthorized vehicles towed at the owner's expense without having the vehicle ticketed. Wis. Stat. 349.13(3m)(c), 2013 Wis. Act 76, Sec. 6

A towing company must notify a local law enforcement agency of the make, model, VIN number, and license plate number prior to removing it, otherwise they may not collect any fees for the service. If the vehicle was stolen, the towing company may not remove it. The towing company can impound the car until the fees are paid. If requested by a property owner or agent, or a law enforcement or traffic/parking official, the towing company must release the personal property in the vehicle during regular business hours upon presentation of proper identification. If the fees are not paid or a written agreement entered into within 30 days, the vehicle can be considered abandoned and disposed of. Municipal administrative fees are limited to \$35. The department shall create rules about reasonable charges for removal and storage of vehicles, the notices that must be posted, and guidelines about notifying law enforcement agencies. This change goes into effect 7/1/14 so the department of transportation can adopt additional rules. Wis. Stat. 349.13, 2013 Wis. Act 76, Secs. 6, 7, 8 & 59

3. **New rights of landlord to dispose of property left behind, including property left behind in an eviction.** Law changes from 2011 Wis. Act 143 now apply to evictions as well. Unless there's a different agreement in writing, if a tenant is evicted the landlord may notify the sheriff that they wish to oversee the removal and disposal of any property left behind. The landlord, not the sheriff, will now determine if the property is trash. This option does not require the landlord to move and store the property or notify the tenant. Landlords may notify the tenant in writing (either when they sign the lease or at renewal) that they will not move and store the property.

This goes into effect for leases *renewed* after 3/1/14. Wis. Stats. 799.45 & 704.05(5), 2013 Wis. Act 76, Secs. 9, 10 & 11

NOTE: This law goes into effect for leases “renewed” after 3/1/14. It is silent on what happens to leases “entered into” after 3/1/14.

4. **Landlord no longer has to show negligence or improper use before charging tenant for damages?** Before 3/1/14 the statutes said that tenants were responsible for damages caused by their “negligence or improper use of the premises” and the landlord could charge tenants for repair costs or require them to fix it themselves. Now the statutes only say that the tenants can be responsible for damage. However, the courts will likely consider other legal principles and laws when they determine if a tenant has to pay for repairs. Wis. Stat. 704.07(3)(a), 2013 Wis. Act 76, Sec. 12
5. **Tenant to pay for bed bug/cockroach/ants and other pest infestations by default?** Under the new language about tenant damage (see #4), such damage now specifically includes “an infestation of insects or other pests, due to the acts or inaction of the tenant.” This does not mean tenants are automatically responsible. In multi-unit buildings, it is often hard to know where the pests came from and when, and thus who should pay for the cost of the repair. It will remain difficult for landlords to prove that the infestation is due to acts or inaction of the tenant. However, if a tenant fails to assist in the treatment, regardless of where the infestation came from, they may be required to pay. Tenants should make sure that they are not paying the entire bill, but only the portion of the bill attributed to their unit. This provision goes into effect for tenancies in effect on 3/1/14. Wis. Stat. 704.07(3)(a), 2013 Wis. Act 76, Sec. 12
6. **Check-in sheets.** Landlords no longer have to fill in the check-in sheets with an itemized description of the rental property. Landlords must only give tenants a check-in sheet to fill in themselves, and the tenant only has 7 days to complete it and turn it in. Regardless of whether the tenant follows through, it remains the landlord’s duty to prove damages were done during the tenancy if they go to small claims court over a security deposit withholding. Wis. Stat. 704.08, 2013 Wis. Act 76, Sec. 13
7. **Notice of Domestic Abuse Protections.** The following language must be provided in every lease or in an addendum to the lease entered into or renewed after 3/1/14:

NOTICE OF DOMESTIC ABUSE PROTECTIONS

(1) As provided in section 106.50 (5m)(dm) of the Wisconsin statutes, a tenant has a defense to an eviction action ~~if the tenant can prove that the landlord knew, or should have known, the tenant is a victim~~ of domestic abuse, sexual assault, or stalking and that the eviction action is based on conduct related to domestic abuse, sexual assault, or stalking committed by either of the following:

 - (a) A person who was not the tenant's invited guest.
 - (b) A person who was the tenant's invited guest, but the tenant has done either of the following:
 1. Sought an injunction barring the person from the premises.
 2. Provided a written statement to the landlord stating that the person will no longer be an invited guest of the tenant and the tenant has not subsequently invited the person to be the tenant's guest.

(2) A tenant who is a victim of domestic abuse, sexual assault, or stalking may have the right to terminate the rental agreement in certain limited situations, as provided in section 704.16 of the Wisconsin statutes. If the tenant has safety concerns, the tenant should contact a local victim service provider or law enforcement agency.

(3) A tenant is advised that this notice is only a summary of the tenant's rights and the specific language of the statutes governs in all instances.

Wis. Stat. 704.14, 2013 Wis. Act 76, Sec. 14
8. ~~**The Safe Housing Act is amended to include the entire mobile home park.** Multiple definitions and one clarification were also added to the law. Wis. Stats. 704.16 (3)(a) & (b), 710.15(5t), 2013 Wis. Act 76, Secs. 15, 16, 17, 18, 19 & 28~~

9. **Making it easier for a landlord to charge extra fees and fines in a NONSTANDARD RENTAL PROVISION.** When a landlord wants the tenant to waive their rights and allow the landlord to take extra fees and charges out of a security deposit, the landlord no longer has to separately discuss these rights with the tenant. They must still list these on a separate piece of paper titled NONSTANDARD RENTAL PROVISIONS and have the tenant sign or initial each one. Wis. Stat. 704.28(2), 2013 Wis. Act 76, Sec. 20
NOTE: Landlords still have to follow all other laws regarding fees, including liquidated damages. This means that they have to charge the actual cost of damages, not random blanket fees, for things such as having a keg party or losing your keys.
NOTE: Landlords still have to “discuss” NONSTANDARD RENTAL PROVISIONS for liens on tenant property and landlord entry. ATCP 134.09(4) & 134.09(2)(c)
10. **Landlord has more time to return security deposit after eviction.** After an eviction, the landlord can now keep a security deposit for up to 21 days after they re-rent the apartment or after the lease ends (whichever is sooner), not 21 days after the writ of restitution is executed or the landlord learns that the tenant has vacated. This provision goes into effect for eviction actions started after 3/1/14. Wis. Stats. 704.28(4)(b) & (c), 2013 Wis. Act 76, Secs. 21, 22 & 23
11. **Commercial leases don’t have to follow rules about returning a security deposit.** This removes a change that was part of 2011 Wis. Act 143. It applies to tenancies in effect on 3/1/14. Wis. Stat. 704.28(5), 2013 Wis. Act 76, Sec. 24
12. **Leases are void if they contain certain clauses about criminal activity.** A lease would be void and unenforceable if it included language that “[a]llows the landlord to terminate the tenancy of a tenant based solely on the commission of a crime in or on the rental property, if the tenant, or someone who lawfully resides with the tenant, is the victim of that crime, as defined in Wis. Stat. 950.02(4).” Wis. Stat. 704.44(9), 2013 Wis. Act 76, Sec. 25
- It also contains language that says a lease would be void and unenforceable if it contains a clause that “[a]llows the landlord to terminate the tenancy of a tenant for a crime committed in relation to the rental property and the rental agreement does not include the notice required under Wis. Stat. 704.14” (see #7 – Notice of Domestic Abuse Protections). These laws go into effect for rental agreements entered into or renewed on or after 3/1/14. Wis. Stat. 704.44(10), 2013 Wis. Act 76, Sec. 26
13. **Double damages in Wis. Stats. 704 are only for security deposit issues (Wis. Stat. 704.28) or illegal lease clauses (Wis. Stat. 704.44).** From 3/31/12 – 3/1/14, any violation of Chapter 704 was an unfair trade practice under Wis. Stats. 100.20 and could be entitled to double damages, court costs and reasonable attorney’s fees. This goes into effect for violations that occur on or after 3/1/14. Wis. Stat. 704.95, 2013 Wis. Act 76, Sec. 27
14. **Faster return date for eviction actions.** In eviction actions, the return date (initial court date) was 5 to 30 days. This law changes the return date for eviction actions to 5 to 25 days. Applies to evictions filed after 3/1/14. Wis. Stat. 799.05(3)(b), 2013 Wis. Act 76, Sec. 29
15. **Agents of the landlord no longer practicing law without a license.** Employees, agents of the member (agents should be authorized in writing), and employees of landlord companies can now start an eviction action and represent the landlord legally in eviction actions and in small claims court. Applies to evictions filed after 3/1/14. Wis. Stats. 799.06(2), 799.40(1), 2013 Wis. Act 76, Secs. 30 & 35
16. **Counties can remove requirement for personal service of summons and complaint in eviction actions.** Courts in each county can decide to allow service of the summons by mail. This service must be by certified mail that goes to *each* defendant. The service is considered complete upon mailing unless it is returned to the court unopened prior to the return date. Applies to evictions filed after 3/1/14. Wis. Stats. 799.12(2) & (3), 2013 Wis. Act 76, Secs. 31 & 32
17. **Speeding up the hearing date, order, and issuance of the writ in eviction actions.** If the residential eviction will be contested, the courts must *schedule, hold, and complete* the eviction court or jury trial on the issue of possession of the property (not the rent and damages hearing) within 30 days of the first court date (return date or

initial appearance) unless it is dismissed or both parties agree to take longer. Previously, this was “as soon as possible.” The order for judgment and writ must then be “immediately” issued. Applies to evictions filed after 3/1/14. Wis. Stats. 799.20(4), 799.206(3), 799.44(1) & (2), 2013 Wis. Act 76, Secs. 33, 34, 35, 38 & 39

NOTE: While this was intended to speed up the court process, it also puts pressure on the parties to collect evidence and subpoena witnesses which could result in cases being lost due to lack of time to prepare. Additionally, courts can only move so fast and administrative clerks may not be able to do things “immediately” as required by law. Finally, the sheriff is still required to remove the person from the unit and this will take additional time.

18. **Changes to acceptance of rent or other payments in an eviction action.** After serving a notice of default or filing for eviction in court, a landlord can still pursue eviction even if they accept rent *or any payment* from the tenant. Prior to 3/31/12, the law just applied to acceptance of rent. It is unclear what the law considers a “notice of default” but tenants can still argue that an eviction notice with a right to cure must allow them to avoid eviction if they pay rent before it expires. Applies to evictions filed after 3/1/14. Wis. Stat. 799.40(1m), 2013 Wis. Act 76, Sec. 36

NOTE: This directly conflicts with rights of tenants under Wis. Stat. 704.17, specifically the 5- and 30-day notices with a right to cure.

19. **Sheriff is no longer required to be involved in the eviction action regarding removal of property if the landlord notifies the sheriff that they do not need their assistance.** Landlords have no checks and balances from the sheriff in removing property illegally if they opt out of the process. If they do not opt out of the process, all of the rules in 799.45(3) apply. Applies to evictions filed after 3/1/14. Wis. Stat. 799.45, 2013 Wis. Act 76, Secs. 40 - 57

NOTE: The sheriff is still required to remove the person from the unit. How this will work in reality will vary from county to county.

20. **Landlords can't be held liable for references they give about previous tenants.** This new law states that landlords are assumed to be acting in good faith when giving references and will not be liable, unless tenant can prove otherwise by clear and convincing evidence. Applies to references given on or after 3/1/14. Wis. Stat. 895.489, 2013 Wis. Act 76, Sec. 58

NOTE: Prior to this there was little tenants could do about bad references they felt were unjustified. Practically speaking, this changes very little.

Complicated changes and effective dates. How these law changes affect your specific situation will depend on many overlapping factors, including what the lease says (or doesn't say), when the events took place, where the tenant lives, and the details of the dispute. This act may make additional minor changes which are not listed in this summary. Please contact Tenant Resource Center with specific questions.

Tenant Resource Center

www.tenantresourcecenter.org

Walk-in, no appointment necessary: 1202 Williamson Street, Suite 102, Madison, Mon.- Fri., 9:00am- 6:00pm.

Campus: 333 East Campus Mall, Student Activity Center, 3rd floor, Cubby #1. See website for current hours.

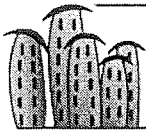
Housing Help Desk: 1819 Aberg Ave. Room #2, Mon. - Fri. 10am - 2pm.

Phone (in Dane County): (608) 257-0006 **En Español:** (608) 237-8913 **Hmoob:** (608) 257-0143

Campus: (608) 561-3727 **Housing Help Desk:** (608) 242-7406

Toll-free (from anywhere outside of Dane County): 1-877-238-RENT (7368)

E-mail: asktrc@tenantresourcecenter.org or uw@tenantresourcecenter.org



TENANT RESOURCE CENTER



Wisconsin Law Changes - 3/1/14

2013 Wis. Act 76 (SB179)

Madison (**MAD**) and Dane County (**DANE**)



2013 Wis. Act 76 pre-empts local governments from passing the laws that do any of the following:

1. Enact an ordinance that limits a residential tenant's responsibility, or a residential landlord's right to recover, for any damage or waste to, or neglect of, the premises that occurs during the tenant's occupancy of the premises, or for any other costs, expenses, fees, payments, or damages for which the tenant is responsible under the rental agreement or applicable law. Wis. Stat. 66.0104(2)(c), 2013 Wis. Act 76, Sec. 1
2. Enact an ordinance that requires a landlord to communicate to tenants any information that is not required to be communicated to tenants under federal or state law.
 - a. This does not apply to an ordinance that has a reasonable and clearly defined objective of regulating the manufacture of illegal narcotics. Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
3. Enact an ordinance that requires a landlord to communicate to the city, village, town, or county any information concerning the landlord or a tenant, unless any of the following applies:
 - a. The information is required under federal or state law.
 - b. The information is required of all residential real property owners.
 - c. The information is solely information that will enable a person to contact the owner or, at the option of the owner, an agent of the owner. Wis. Stat. 66.0104(2)(d)2., 2013 Wis. Act 76, Sec. 2

The State Law impacts Madison (**MAD**), Fitchburg (**FB**)
and Dane County (**DANE**) in the following ways:

In Madison (MAD**) and all of Dane County (**DANE**):**

1. Landlords no longer need to tell applicants why they were denied housing. MGO 32.08(5), DCO 31.24, Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
2. Landlords no longer need to tell tenants why their lease were non-renewed. MGO 32.08(5), DCO 31.24, Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2

In Madison (MAD**) and Fitchburg (**FB**):**

3. Landlord entry may be reduced from a 24 hour notice to a 12 hour notice for repairs and inspections. MGO 32.05(1)(d), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
4. Landlords won't have to tell new tenants that they have the right to abate rent due to a previous tenant calling the building inspector. MGO 32.08(2)(c), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2

In Madison (MAD**) only:**

5. Landlords will no longer have to have a written guest policy, but will still have to do whatever is written in their current lease. MGO 32.05(1)(g), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
6. Landlords will no longer have to give out the "Tenants' Rights and Responsibilities" brochure. MGO 32.06(2), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
7. Landlords will no longer have to educate tenants about fire safety (MGO 34.907(1)(d)) and no longer use the form notifying the tenant that they are in violation of the ordinance if they tamper with a smoke alarm. MGO 32.06(4), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
8. Landlords will no longer have to give out voter registration information. MGO 32.06(5), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2

9. Landlords can charge anything they want for a late fee, instead of being limited to 5% of the monthly rent. Landlords can also charge more than 5% if the tenant doesn't agree to prepay the rent at a discounted rate. MGO 32.12(10), MGO 32.07(2)(e), Wis. Stat. 66.0104(2)(c), 2013 Wis. Act 76, Sec. 1
 10. Landlords will no longer be required to provide a phone number for the tenants to call. MGO 32.08(1), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
 11. Landlords won't have to notify tenants of the occupancy limits in the apartment. MGO 32.08(2)(d), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
 12. Leases for 3 units or more are no longer required to tell tenants there is no smoking in common areas in the lease. MGO 23.05(p), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
 13. Lodging houses will no longer be required to have two people to contact for emergency work. MGO 27.07(2)(g), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
 14. Landlords won't have to tell tenants if their building does not qualify for the on-street parking permits. MGO 32.08(2)(d), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
 15. Landlords won't have to disclose what kind of minimum income standards they are applying or what information an applicant would need to provide to demonstrate how they can comply with the rules. MGO 32.12(7), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
 16. Landlords no longer have to provide receipts and estimates to the tenant as part of itemized list of deductions from the security deposit. MGO 32.07(7)(b), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
 17. Landlords would no longer be required to list the hours worked or amount paid per hour when deducting from security deposits. MGO 32.07(7)(b), Wis. Stat. 66.0104(2)(d)1., 2013 Wis. Act 76, Sec. 2
- NOTE:** For items #17 and 18, while this information is not required to be disclosed to the tenant, judges and court commissioners will still want to see the evidence in court.

Madison (MAD) only, these are laws which may not be affected by this law change:

18. Landlord registration. MGO 9.25, Wis. Stat. 66.0104(2)(d)2., 2013 Wis. Act 76, Sec. 2
19. Chronic Nuisance Ordinance. MGO 25.09, Wis. Stat. 66.0104(2)(d)2., 2013 Wis. Act 76, Sec. 2
20. Presumption that landlords have to perform pest control regardless of who caused the problem. 2013 Wis. Act 76, Sec. 12
21. Self-help repair ordinance. MGO 32.17, Wis. Stat. 66.0104(2)(d)2., 2013 Wis. Act 76, Sec. 2

Many laws remain in Dane County, Madison and Fitchburg ordinances. Looking at the city and county ordinances may be very confusing because most of the pre-empted laws are still on the books and local officials have been unwilling to remove pre-empted provisions. **Only the Madison Equal Opportunities Ordinance has been updated.** The City of Madison has specifically refused to remove some of its laws (required disclosures about smoke detectors under 2013 Wis. Act 76 in particular, by a unanimous vote) and indicated they may prosecute landlords and fight any legal challenges to local control. The City of Madison is also pursuing charter ordinances to override the statewide pre-emption.

Complicated changes. How these law changes affect your specific situation will depend on many factors, most importantly in the City of Madison, it will be what the city chooses to challenge and what they choose not to challenge. Other factors include what the lease says (or doesn't say), where the tenant lives, and the details of the dispute. Some of the laws that were pre-empted are essentially still in effect, either because the courts expect certain practices, or because other laws with the same or similar protections are still in effect. Landlords should be careful when considering their practices. This act may make additional minor changes which are not listed in this summary. Please contact Tenant Resource Center with specific questions.

www.tenantresourcecenter.org

Walk-in, no appointment necessary: 1202 Williamson Street, Suite 102, Madison, Mon. - Fri., 9:00am - 6:00pm.

Campus: 333 East Campus Mall, Student Activity Center, 3rd floor, Cubby #1. See website for current hours.

Housing Help Desk: 1819 Aberg Ave. Room #2, Mon. - Fri. 10am - 2pm.

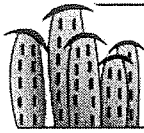
Phone (in Dane County): (608) 257-0006 **En Español:** (608) 237-8913 **Hmoob:** (608) 257-0143

Campus: (608) 561-3727 **Housing Help Desk:** (608) 242-7406

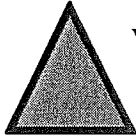
Toll-free (from anywhere outside of Dane County): 1-877-238-RENT (7368)

E-mail: asktrc@tenantresourcecenter.org or uw@tenantresourcecenter.org

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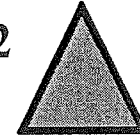


TENANT RESOURCE CENTER



Wisconsin Law Changes - 3/31/12

2011 Wis. Act 143 (SB466)



1. **Local Municipalities are prohibited from passing Eviction Moratorium Ordinances** to address foreclosures or other issues. Wis. Stat. 66.1010, 2011 Wis. Act 143, Sec. 1

2. **Severability.** The law clarifies that if one portion of the lease is found to be illegal, only that provision is invalid, not the entire lease. There are exceptions to the severability law in Wis. Stat. 704.44 (sec #9) which lists clauses that make your lease void and unenforceable, and in the Safe Housing Act which voids any lease that threatens retaliation against tenants who call emergency services to protect their safety. This new provision of the law goes into effect for leases entered into or renewed after 3/31/12. Wis. Stat. 704.02, 2011 Wis. Act 143, Sec. 3

3. **"In writing" clarification?** The bill clarifies that for leases *longer than a year*, when it requires something to be done "in writing" that also includes fax and email or electronic communication. What it does not address is 99% of the leases in Wisconsin that are *not* for longer than a year. We encourage tenants and landlords to send physical letters, or print and physically send email, especially if you don't get a response. Text messages continue to be problematic unless you can save and print them as evidence. Wis. Stat. 704.03, 2011 Wis. Act 143, Sec. 4

4. **Property left behind.**
 - For leases entered into or renewed after 3/31/12, if there is no language in the lease about what the landlord will do with abandoned property, then the landlord must follow the old law by moving and storing the property for 30 days, giving notice within 10 days of when they move it, etc.
 - For leases entered into or renewed after 3/31/12, if the landlord notified the tenant in the lease that they would not move and store the tenant's property, they can declare the property abandoned at the end of the lease or if the tenant has left in the middle of the lease. They can then dispose of the property "in any manner that the landlord, in its sole discretion, determines is appropriate." There are several exceptions:
 - a. This does not change the process for property left behind in eviction. The eviction process remains the same.
NOTE: This changed with 2013 Wis. Act 76 Secs. 9 – 11 on 3/1/14.
 - b. Prescriptions and medical equipment have to be kept for 7 days and returned upon request.
 - c. Before the landlord sells a mobile or manufactured home, the landlord must notify the tenant and anyone the landlord is aware of who has a secured interest in the property.
 - d. Active duty servicemembers are exempt while they are active and for an additional 90 days after. Wis. Stat. 321.62(15)(a)
 - e. This law does not apply to property left behind in self-storage units. These landlords must follow the rules in Wis. Stat. 704.90.

NOTE: As of 3/1/14, this law changed again with 2013 Wis. Act 76. Wis. Stat. 704.05, 2011 Wis. Act 143, Secs. 5 - 15

5. **Landlord disclosure of building code problems.** Landlords are not required to disclose building code or housing code violations unless:
 - a. they have actual knowledge of the code violation, *AND*
 - b. it applies to that tenant's specific unit or the property they are renting, *AND*
 - c. it presents a significant threat to the tenant's health or safety, *AND*
 - d. the violation has not been corrected.

This law was modified and moved from ATCP 134 and now also applies to commercial leases. Wis. Stat. 704.07(2)(bm), 2011 Wis. Act 143, Secs. 16 & 17

6. **Check-in sheet.** Landlords are required to use a standard itemized check-in sheet where they document the condition of the premises. The tenant then has *only* 7 days from the day they move-in to also fill out the check in form. Previously, landlords didn't have to fill out the sheets and tenants had to be given *at least* 7 days. Mobile homes are exempted for the rental of the plot of land. This provision now also applies to commercial leases. Wis. Stat. 704.08, 2011 Wis. Act 143, Sec. 18

7. **Holding Over (staying after lease ends) – Landlords** (instead of the courts) can now determine if the tenant will be charged a minimum of double the daily rent for holding over after the lease has ended or the lease has been terminated by an eviction

or nonrenewal notice. This law first applies to actions for damages (suing for money), including eviction actions, that occur after 3/31/12. Wis. Stat. 704.27, 2011 Wis. Act 143, Sec. 21

- 8. Security Deposit Return.** If the tenant moves out early, the landlord has to return the security deposit within 21 days after the end of the lease or the date a new lease begins for that same unit, whichever is earlier.

NOTE: This also applies to commercial leases until revoked by 2013 Wis. Act 76 on 3/1/14. This law went into effect for anyone vacating their leases early as of 3/31/12. If a lease has a provision that is contrary to this law, the law first goes into effect when that lease is renewed. Wis. Stat. 704.28, 2011 Wis. Act 143, Sec. 22

- 9. Lease provisions that make the entire lease invalid.** For the first time, tenants can break their leases without consequences and move out early if the lease contains any of the following illegal provisions:

- a. Allowing eviction in any other way besides what is required by state law. Wis. Stat. 704.44(2m), 2011 Wis. Act 143, Sec. 26
- b. Speeding up rent payments for breaking the lease. Wis. Stat. 704.44(3m), 2011 Wis. Act 143, Sec. 28
- c. Waives the landlord's duty to mitigate damages under Wis. Stat. 704.29 if the tenant vacates early. Wis. Stat. 704.44(3m), 2011 Wis. Act 143, Sec. 28
- d. Requiring the tenant to pay the landlord's attorney's fees or costs for defending their tenant rights, unless the court awards them. Wis. Stat. 704.44(4m), 2011 Wis. Act 143, Sec. 30
- e. Allowing the landlord to "confess judgment" for the tenant (speak for them in court) for any action in the rental agreement. Wis. Stat. 704.44(5m), 2011 Wis. Act 143, Sec. 32
- f. Excusing the landlord for liability for property damage or personal injury due to negligent acts or omissions by the landlord. Wis. Stat. 704.44(6), 2011 Wis. Act 143, Sec. 33
- g. Imposes liability on the tenant for personal injury arising from causes beyond their control or property damage caused by natural disasters or by persons other than the tenant or their guests. Wis. Stat. 704.44(7), 2011 Wis. Act 143, Sec. 34
- h. Waives responsibility for the landlord to provide premises in habitable condition or to maintain the property. Wis. Stat. 704.44(8), 2011 Wis. Act 143, Sec. 35
- i. Allows the landlord to terminate the tenancy if a crime is committed in or on the rental property, even if the tenant could not have reasonably prevented the crime, for leases entered into or renewed after 3/31/12. Items a – g apply to any lease in effect as of 3/31/12.

NOTE: This language is changed again by 2013 Wis. Act 76 on 3/1/14. Wis. Stat. 704.44(9), 2011 Wis. Act 143, Sec. 35m Previously, having these provisions (a – g) in the lease only entitled the tenant to double damages, court costs, and reasonable attorney's fees. ATCP remedies are still available to tenants, as well as breaking the lease without consequences. **NOTE:** The provisions in Wis. Stat. 704.44 seem to conflict with provisions in Wis. Stat. 704.02 about severability (see #2). However, both statute changes were made in 2011 Wis. Act 143 so the legislative intent seemed to be to exempt these provisions from the severability language in Wis. Stat. 704.02.

- 10. Any violation of chapter 704 may entitle the tenant to double damages, court costs, and reasonable attorney's fees.**

Previously only violations of ATCP 134 were entitled to double damages, court costs, and reasonable attorney's fees.

NOTE: This changed with 2013 Wis. Act 76 effective 3/1/14, after which time it will only apply to certain provisions. Also, note it says "may" not "shall." Wis. Stat. 704.95, 2011 Wis. Act 143, Sec. 36

- 11. Limits Department of Agriculture Trade and Consumer Protection powers.** The law specifically says that "the department of agriculture, trade and consumer protection may not issue an order or promulgate a rule under 100.20 that changes any right or duty arising under this chapter." Wis. Stat. 704.95, 2011 Wis. Act 143, Sec. 36

- 12. Landlord's acceptance of rent in an eviction action won't stop eviction action.** If a landlord files for eviction for non-payment of rent and then accepts rent from a tenant, that payment cannot be the sole reason the eviction is dismissed. Wis. Stat. 799.40(1m), 2011 Wis. Act 143, Sec. 37

NOTE: The tenants still has the right to cure (fix) a 5- or 30-day notice as allowed in Wis. Stat. 704.17.

Complicated changes and effective dates. How these law changes affect your specific situation will depend on many overlapping factors, including what the lease says (or doesn't say), when the events took place, where the tenant lives, and the details of the dispute. This act may make additional minor changes which are not listed in this summary. Please contact Tenant Resource Center with specific questions.

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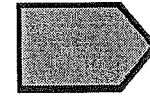
E-mail: asktrc@tenantresourcecenter.org or uw@tenantresourcecenter.org 4/2/14



TENANT RESOURCE CENTER



Wisconsin Law Changes - 12/21/11 2011 Wis. Act 108 (SB107)



2011 Wisconsin Act 108 pre-empts local governments from passing laws that do any of the following:

1. Prohibit landlords from, or place limitations on landlords using, or attempting to use or obtain, any of the following information:
 - a. Monthly household income. Wis. Stat. 66.0104(2)(a)1.a.
 - b. Occupation. Wis. Stat. 66.0104(2)(a)1.b.
 - c. Rental history. Wis. Stat. 66.0104(2)(a)1.c.
 - d. Credit information. Wis. Stat. 66.0104(2)(a)1.d.
 - e. Court records, including arrest and conviction records. Wis. Stat. 66.0104(2)(a)1.e.
 - f. Social security numbers. Wis. Stat. 66.0104(2)(a)1.f.
2. Limit how far back in time a landlord can check a potential tenant's credit, conviction record, or housing background. Wis. Stat. 66.0104(2)(a)2.
3. Prohibit a landlord from entering into a rental agreement while another tenant has a lease on the property. Wis. Stat. 66.0104(2)(a)3.
4. Prohibit a landlord from showing a property to a potential tenant during the tenancy of another tenant. Wis. Stat. 66.0104(2)(a)4.
5. Place additional requirements beyond ATCP 134 on a landlord regarding earnest money, security deposits, or pre- or post-tenancy inspections. Wis. Stat. 66.0104(2)(a)4.

The State Law impacts Madison (**MAD**), Fitchburg (**FB**) and Dane County (**DANE**) in the following ways:

In Madison (**MAD**) and all of Dane County (**DANE**):

1. Landlords are no longer prevented from denying housing based on arrest or conviction record, even if the conviction or arrest has nothing to do with housing. Landlords can check a prospective tenant's history 10, 15, 20 or more years ago. If landlords check one person's conviction records, they should still check all prospective tenants to prevent being accused of discrimination based on other protected classes, primarily race. DCO 31.11(1)(e), former MGO 39.03(4)(d), Wis. Stat. 66.0104(2)(a)1.e.
2. Landlords can reject an application if a tenant refuses to provide a social security number. Citizenship status (**MAD** only), and race and ethnicity (**MAD** and **DANE**) are still protected classes. DCO 31.15, MGO 32.12(7)(b), former MGO 39.03(4)(d), Wis. Stat. 66.0104(2)(a)1.f.

NOTE: None of these laws pre-empt the local Section 8 ordinances. Landlords in Dane County and Madison can't deny a tenant just because they have a Section 8 voucher.

In Madison (**MAD**) and Fitchburg (**FB**):

3. Landlords are no longer limited to collecting security deposits equal to one month's rent. The security deposit can be any amount the landlord requests. MGO 32.07(2)(b), Wis. Stat. 66.0104(2)(b)
4. Landlords no longer need to provide interest on security deposits after 12/21/11. Interest stops accruing, unless it is written into the lease. MGO 32.07(3), Wis. Stat. 66.0104(2)(b)
5. Landlords don't need to use check-out forms. MGO 32.07(5)(a), Wis. Stat. 66.0104(2)(b)

6. Landlords are no longer required to provide receipts with the itemized security deposit withholding list. MGO 32.07(7)(b), Wis. Stat. 66.0104(2)(b)
NOTE: If a security deposit case goes to court, judges will still want to see evidence of damage at the time of check-out and an itemized list of actual costs, even though a landlord doesn't need to do it by law. Tenants can and should gather their own documentation (pictures, witnesses, etc.) at check-out.
7. Security deposits can now be increased during a tenancy (if a tenant agrees) or at renewal. MGO 32.07(2)(b), Wis. Stat. 66.0104(2)(b)
8. Landlords are no longer prohibited from holding a security deposit from two different tenants (sublessee and sublessor), but still must return security deposits as required by Wis. Stat. 704.29. MGO 32.07(2)(d), Wis. Stat. 66.0104(2)(b)
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10. Landlords can show the apartment with only a 12 hour notice. A 24 hour notice is still required to enter to make repairs or inspect. (Changed again with 2013 Wis. Act 76.) MGO 32.05(1)(e), Wis. Stat. 66.0104(2)(a)4.

In Madison (MAD) only:

11. Landlords are no longer prevented from using blanket minimum income standards that don't take into account past history of ability to pay rent. MGO 32.12(7), Wis. Stat. 66.0104(2)(a)1.a.
12. Landlords no longer need to take photos of items for which they deduct from a security deposit. MGO 32.07(7)(a), Wis. Stat. 66.0104(2)(b)
13. Landlords can show the apartment for the next year the day after the tenant starts renting. MGO 32.12(8) & (9), Wis. Stat. 66.0104(2)(a)4.
14. Landlords can collect credit check fees which were previously prohibited in the City of Madison. MGO 32.02(2)(c) & 32.10(3), Wis. Stat. 66.0104(2)(b)
15. Landlords are no longer limited to 3 days and 3 hours per day when giving notice to enter an apartment. MGO 32.05(1)(e), Wis. Stat. 66.0104(2)(a)4.
16. Landlords are no longer required to give an itemized list of earnest money deductions if requested. MGO 32.10(3)(b), Wis. Stat. 66.0104(2)(b)

Many laws remain in Dane County, Madison and Fitchburg ordinances. Looking at the city and county ordinances may be very confusing because most of the pre-empted laws are still on the books and local officials have been unwilling to remove pre-empted provisions. **Only the Madison Equal Opportunities Ordinance has been updated.** The City of Madison has specifically refused to remove some of its laws (required disclosures about smoke detectors under 2013 Wis. Act 76 in particular, by a unanimous vote) and indicated they may prosecute landlords and fight any legal challenges to local control. The City of Madison is also pursuing a charter ordinance to override the statewide pre-emption.

Complicated changes. How these law changes affect your specific situation will depend on many factors, including what the lease says (or doesn't say), where the tenant lives, and the details of the dispute. Some of the laws that were pre-empted are essentially still in effect, either because the courts expect certain practices, or because other laws with the same or similar protections are still in effect. Landlords should be careful when considering their practices. This act may make additional minor changes which are not listed in this summary. Please contact Tenant Resource Center with specific questions.

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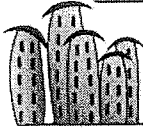
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4/2/14



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