

Date of enactment: **December 12, 2013**

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* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

2013 WISCONSIN ACT 76

AN ACT *to repeal* 704.28 (4) (d), 799.45 (3) (am) 1., 799.45 (3) (am) 2., 799.45 (3) (am) 3., 799.45 (3) (am) 4., 799.45 (3) (am) 5., 799.45 (3) (am) 6. and 799.45 (3) (am) 7.; *to renumber and amend* 66.0104 (3), 349.13 (3m), 704.16 (3) (a) and 799.45 (3) (am) (intro.); *to amend* 349.13 (5) (b) 2., 349.13 (5) (c), 704.05 (5) (a) 1., 704.05 (5) (b) 2. (intro.), 704.05 (5) (bf), 704.07 (3) (a), 704.08, 704.16 (3) (b) 1., 704.28 (2), 704.28 (4) (b), 704.28 (4) (c), 704.44 (9), 704.95, 799.05 (3) (b), 799.06 (2), 799.12 (2), 799.12 (3), 799.20 (4), 799.206 (3), 799.40 (1), 799.40 (1m), 799.42, 799.44 (1), 799.44 (2), 799.45 (title), 799.45 (1), 799.45 (2) (b), 799.45 (2) (bg), 799.45 (2) (c), 799.45 (3) (title), 799.45 (3) (a), 799.45 (3) (b), 799.45 (3) (c) and 799.45 (4); and *to create* 66.0104 (2) (c), 66.0104 (2) (d), 66.0104 (3) (b), 349.13 (3m) (a), (c), (d), (dg), (dm), (dr) and (e), 704.14, 704.16 (3) (a) 1., 704.16 (3) (a) 2., 704.16 (3) (a) 3., 704.28 (5), 704.44 (10), 710.15 (5t) and 895.489 of the statutes; **relating to:** miscellaneous provisions related to rental and vehicle towing practices and eviction proceedings, prohibitions on enacting ordinances that place certain limitations or requirements on landlords, terminating the tenancy of an offending tenant in a manufactured or mobile home community, providing an exemption from emergency rule procedures, granting rule-making authority.

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

SECTION 1. 66.0104 (2) (c) of the statutes is created to read:

66.0104 (2) (c) No city, village, town, or county may 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.

SECTION 2. 66.0104 (2) (d) of the statutes is created to read:

66.0104 (2) (d) 1. a. No city, village, town, or county may 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.

b. Subdivision 1. a. does not apply to an ordinance that has a reasonable and clearly defined objective of regulating the manufacture of illegal narcotics.

2. No city, village, town, or county may 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.

SECTION 3. 66.0104 (3) of the statutes is renumbered 66.0104 (3) (a) and amended to read:

66.0104 (3) (a) If a city, village, town, or county has in effect on December 21, 2011, an ordinance that is inconsistent with sub. (2) (a) or (b), the ordinance does not apply and may not be enforced.

SECTION 4. 66.0104 (3) (b) of the statutes is created to read:

66.0104 (3) (b) If a city, village, town, or county has in effect on the effective date of this paragraph [LRB inserts date], an ordinance that is inconsistent with sub. (2) (c) or (d), the ordinance does not apply and may not be enforced.

SECTION 5. 349.13 (3m) of the statutes is renumbered 349.13 (3m) (b) and amended to read:

349.13 (3m) (b) ~~No Subject to par. (dr) 1., if private property is not properly posted and a vehicle involved in trespass parking on a is parked on the private parking lot or facility shall be removed property and is not authorized to be parked there, the vehicle may be removed immediately, at the vehicle owner's expense, without the permission of the vehicle owner, except upon the issuance of a repossession judgment or upon formal complaint and the issuance of a citation for illegal parking issued by a traffic or police officer.~~

SECTION 6. 349.13 (3m) (a), (c), (d), (dg), (dm), (dr) and (e) of the statutes are created to read:

349.13 (3m) (a) In this subsection:

1. "Parking enforcer" has the meaning given in s. 341.65 (1) (ar).
2. "Properly posted" means there is clearly visible notice that an area is private property and that vehicles that are not authorized to park in this area may be immediately removed.

(c) Subject to par. (dr) 1., if private property is properly posted and a vehicle is parked on the private property and is not authorized to be parked there, the vehicle may be removed immediately, at the vehicle owner's expense, without the permission of the vehicle owner, regardless of whether a citation is issued for illegal parking.

(d) 1. Subject to par. (dr), a vehicle may be removed from private property under par. (b) or (c) only by a towing service at the request of the property owner or property owner's agent, a traffic officer, or a parking enforcer.

2. Before any vehicle is removed under par. (b) or (c) by a towing service, the towing service shall notify a local law enforcement agency of the make, model, vehicle identification number, and registration plate number of the vehicle and the location to which the vehicle will be removed.

3. Subject to par. (dr) 2., if a vehicle is removed under par. (b) or (c) by a towing service, the vehicle owner shall pay the reasonable charges for removal and, if applicable, storage of the vehicle, as well as any service fee imposed under par. (dm). Subject to par. (dr) 2., if the vehicle was removed at the request of the property owner or property owner's agent, these reasonable charges shall be paid directly to the towing service, and the towing service may impound the vehicle until these charges are paid. If these charges have not been paid in full within 30 days of the vehicle's removal and the vehicle owner has not entered into a written agreement with the towing service to pay these reasonable charges in installment payments, the vehicle shall be deemed abandoned and may be disposed of as are other abandoned vehicles.

(dg) Every law enforcement agency shall maintain a record of each notice received under par. (d) 2., as well as identification of the towing service removing the vehicle.

(dm) If requested by the municipality in which the removed vehicle was illegally parked, the towing service shall charge the vehicle owner a service fee not exceeding \$35 and shall remit this service fee to the municipality. All service fees collected by a towing service under this paragraph may be aggregated and forwarded together, on a monthly basis, to each applicable municipality.

(dr) 1. A towing service may not remove a vehicle under this subsection if the vehicle has been reported to a law enforcement agency as stolen.

2. A towing service may not collect any charges for the removal or storage of an illegally parked vehicle under this subsection if the towing service has not complied with par. (d) 2. with respect to the vehicle.

(e) The department shall promulgate rules establishing all of the following:

1. Reasonable charges for removal and storage of vehicles under this subsection.

2. The form and manner of display of notice necessary to qualify as "properly posted" under par. (a) 2.

3. Guidelines for towing services to notify law enforcement under par. (d) upon removal of a vehicle.

SECTION 7. 349.13 (5) (b) 2. of the statutes is amended to read:

349.13 (5) (b) 2. A person who has custody of a vehicle removed or stored under subs. (3) to (4) or otherwise at the request of a law enforcement officer, traffic officer, parking enforcer, property owner, or property owner's agent shall release the personal property within the vehicle to the owner of the vehicle during regular office hours upon presentation by the owner of proper identification.

SECTION 8. 349.13 (5) (c) of the statutes is amended to read:

349.13 (5) (c) A traffic or police officer or parking enforcer who requests removal of a vehicle under subs. (3) to (4) by a towing service shall, within 24 hours of requesting the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle if the vehicle is to be removed to any location other than a public highway within one mile from the location from which the vehicle is to be removed and if the officer or parking enforcer is not employed by a municipality or county that has entered into a towing services agreement which requires the municipality or county to provide notice to such owner and lienholders of the towing.

SECTION 9. 704.05 (5) (a) 1. of the statutes is amended to read:

704.05 (5) (a) 1. If a tenant removes from or is evicted from the premises and leaves personal property, the landlord may presume, in the absence of a written agreement between the landlord and the tenant to the contrary, that the tenant has abandoned the personal property and may, subject to par. (am) and s. 799.45 (3m), dispose of the abandoned personal property in any manner that the landlord, in its sole discretion, determines is appropriate.

SECTION 10. 704.05 (5) (b) 2. (intro.) of the statutes is amended to read:

704.05 (5) (b) 2. (intro.) If the ~~abandoned~~ tenant removes from or is evicted from the premises and leaves behind personal property ~~that~~ is a manufactured home, mobile home, or titled vehicle, before disposing of the abandoned property the landlord shall give notice of the landlord's intent to dispose of the property by sale or other appropriate means to all of the following:

SECTION 11. 704.05 (5) (bf) of the statutes is amended to read:

704.05 (5) (bf) *Notice that landlord will not store property.* If the landlord does not intend to store personal property left behind by a tenant, except as provided in par. (am), the landlord shall provide written notice to a tenant, when the tenant enters into, ~~and when the tenant or~~ renews, a rental agreement, that the landlord will not store any items of personal property that the tenant leaves behind when the tenant removes from, or if the tenant is evicted from, the premises, except as provided in par. (am). Notwithstanding pars. (a), (am), and (b), if the landlord ~~does not provide~~ has not provided to a tenant the notice

required under this paragraph, the landlord shall comply with s. 704.05, 2009 stats., with respect to any personal property left behind by the tenant when the tenant removes from the premises, or if the tenant is evicted from the premises and the landlord notifies the sheriff under s. 799.45 (3m).

SECTION 12. 704.07 (3) (a) of the statutes is amended to read:

704.07 (3) (a) If the premises are damaged ~~by the negligence or improper use of the premises by, including by an infestation of insects or other pests, due to the acts or inaction of the tenant,~~ the landlord may elect to allow the tenant must to remediate or repair the damage and restore the appearance of the premises by redecorating. However, the landlord may elect to undertake the remediation, repair, or redecoration, and in such case the tenant must reimburse the landlord for the reasonable cost thereof; the cost to the landlord is presumed reasonable unless proved otherwise by the tenant.

SECTION 13. 704.08 of the statutes is amended to read:

704.08 Information check-in Check-in sheet. A landlord shall provide to a new residential tenant when the tenant commences his or her occupancy of the premises a ~~standardized information check-in sheet that contains an itemized description of the tenant~~ may use to make comments, if any, about the condition of the premises at the time of check-in. The tenant shall be given 7 days from the date the tenant commences his or her occupancy to complete the check-in sheet and return it to the landlord. The landlord is not required to provide the ~~information~~ check-in sheet to a tenant upon renewal of a rental agreement. This section does not apply to the rental of a plot of ground on which a manufactured home, as defined in s. 704.05 (5) (b) 1. a., or a mobile home, as defined in s. 704.05 (5) (b) 1. b., may be located.

SECTION 14. 704.14 of the statutes is created to read:

704.14 Notice of domestic abuse protections. A residential rental agreement shall include the following notice in the agreement or in an addendum to the agreement:

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.

SECTION 15. 704.16 (3) (a) of the statutes is renumbered 704.16 (3) (a) (intro.) and amended to read:

704.16 (3) (a) (intro.) In this subsection, ~~"offending:~~

4. "Offending tenant" is a tenant whose tenancy is being terminated under this subsection.

SECTION 16. 704.16 (3) (a) 1. of the statutes is created to read:

704.16 (3) (a) 1. "Community" has the meaning given in s. 710.15 (1) (ad).

SECTION 17. 704.16 (3) (a) 2. of the statutes is created to read:

704.16 (3) (a) 2. "Manufactured home" has the meaning given in s. 101.91 (2).

SECTION 18. 704.16 (3) (a) 3. of the statutes is created to read:

704.16 (3) (a) 3. "Mobile home" has the meaning given in s. 710.15 (1) (b).

SECTION 19. 704.16 (3) (b) 1. of the statutes is amended to read:

704.16 (3) (b) 1. The offending tenant commits one or more acts, including verbal threats, that cause another tenant, or a child of that other tenant, who occupies a dwelling unit in the same single-family rental unit, multiunit dwelling, or apartment complex, or a manufactured home or mobile home in the same community, as the offending tenant to face an imminent threat of serious physical harm from the offending tenant if the offending tenant remains on the premises.

SECTION 20. 704.28 (2) of the statutes is amended to read:

704.28 (2) NONSTANDARD RENTAL PROVISIONS. Except as provided in sub. (3), a rental agreement may include one or more nonstandard rental provisions that authorize the landlord to withhold amounts from the tenant's security deposit for reasons not specified in sub. (1) (a) to (e). Any such nonstandard rental provisions shall be provided to the tenant in a separate written document entitled "NONSTANDARD RENTAL PROVISIONS." The landlord shall specifically identify ~~and discuss~~ each nonstandard rental provision with the tenant before the tenant enters into a rental agreement with the landlord. If the tenant signs his or her name, or writes his or her initials, by a nonstandard rental provision, it is rebuttably presumed that the landlord has specifically identified ~~and discussed~~ the nonstandard rental provision with the tenant and that the tenant has agreed to it.

SECTION 21. 704.28 (4) (b) of the statutes is amended to read:

704.28 (4) (b) If the tenant vacates the premises or is evicted before the termination date of the rental agreement, the date on which the tenant's rental agreement terminates or, if the landlord rerents the premises before the tenant's rental agreement terminates, the date on which the new tenant's tenancy begins.

SECTION 22. 704.28 (4) (c) of the statutes is amended to read:

704.28 (4) (c) If the tenant vacates the premises or is evicted after the termination date of the rental agreement, the date on which the landlord learns that the tenant has vacated the premises or has been removed from the premises under s. 799.45 (2).

SECTION 23. 704.28 (4) (d) of the statutes is repealed.

SECTION 24. 704.28 (5) of the statutes is created to read:

704.28 (5) APPLICATION TO RESIDENTIAL TENANCIES. This section applies to residential tenancies only.

SECTION 25. 704.44 (9) of the statutes is amended to read:

704.44 (9) Allows the landlord to terminate the tenancy of a tenant ~~if a crime is committed based solely on the commission of a crime in or on the rental property, even if the tenant could not reasonably have prevented the~~ if the tenant, or someone who lawfully resides with the tenant, is the victim, as defined in s. 950.02 (4), of that crime.

SECTION 26. 704.44 (10) of the statutes is created to read:

704.44 (10) Allows 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 s. 704.14.

SECTION 27. 704.95 of the statutes is amended to read:

704.95 Practices regulated by the department of agriculture, trade and consumer protection. Practices in violation of ~~this chapter~~ s. 704.28 or 704.44 may also constitute unfair methods of competition or unfair trade practices under s. 100.20. However, the department of agriculture, trade and consumer protection may not issue an order or promulgate a rule under s. 100.20 that changes any right or duty arising under this chapter.

SECTION 28. 710.15 (5t) of the statutes is created to read:

710.15 **(5t)** TERMINATION OF TENANCY FOR THREAT OF SERIOUS HARM.
Notwithstanding sub. (5m), nothing in this section prevents termination of a tenancy because of an imminent threat of serious physical harm, as provided in s. 704.16.