



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.** Limits 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.** Requires 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.** Requires 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](#)
NOTE: 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 may be 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 the tenant wishes 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 is 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 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 regarding the 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 either:

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 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 a 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 tenants’ rights under [Wis. Stat. 704.17](#) (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. This will work in reality will vary from county to county.

20. **Landlords cannot 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 unjustified bad references. Practically speaking, this changes very little.

Complicated changes and effective dates. How these law changes affect a 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.

www.tenantresourcecenter.org

1202 Williamson Street, Suite 102, Madison, WI 53703 | Monday-Friday, 9 AM-6 PM | Walk in, no appointment necessary

Campus: 333 East Campus Mall, Student Activity Center, Room 3156. See website for current hours.

Housing Counseling Dane County: 608-257-0006 | Outside Dane County: 877-238-RENT (7368)

Español: 608-257-0006 x1 | Hmong: 608-257-0006 x2 | Campus: 608-216-2321

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