



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2013 Wisconsin Act 76
[2013 Senate Bill 179]

Evictions, Towing Practices, and Prohibitions on Certain Ordinances Regarding Landlords

2013 Wisconsin Act 76 makes changes to the regulation of landlords and tenants, including in the areas of evictions and towing practices, and creates prohibitions on the enactment of ordinances placing certain limitations or requirements on landlords.

Restrictions on Local Ordinances

Act 76 prohibits a city, village, town, or county (municipality) from enacting or enforcing an ordinance that does any of the following:

- Limits a tenant's responsibility or a 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.
- Limits a tenant's responsibility or a landlord's right to recover for any other costs, expenses, fees, payments, or damages for which the tenant is responsible under the rental agreement or applicable law.
- Requires a landlord to communicate to tenants any information that is not required to be communicated to tenants under federal or state law, unless the ordinance has a reasonable and clearly defined objective of regulating the manufacture of illegal narcotics.
- Requires a landlord to communicate to the municipality any information concerning the landlord or a tenant, unless the information: (i) is required under federal or state law; (ii) is required of all residential real property owners; or (iii) is solely information that will enable a person to contact the owner or, at the option of the owner, an agent of the owner.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

These requirements are in addition to other limitations under current law regarding the enactment or enforcement of ordinances relating to landlords and tenants.

Commission of Crimes on Rental Property

Act 76 provides that a lease is void and unenforceable if it contains a provision that allows the landlord to terminate a 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 under the statute. This replaces a provision under prior law that allowed the landlord to terminate the tenancy of a tenant if a crime is committed in or on the rental property, even if the tenant could not reasonably have prevented the crime.

In addition, Act 76 requires a lease to include a specified notice, in the lease agreement or an addendum to the lease agreement, of certain domestic abuse protections available under the statutes. The Act provides that a lease is void and unenforceable if it allows the landlord to terminate the tenancy of a tenant for criminal activity in relation to the property and does not include the required notice.

The above changes regarding the prohibited provisions of rental agreements first apply to a rental agreement entered into or renewed on March 1, 2014.

Termination of Tenancy for Threat of Serious Harm

Act 76 authorizes a landlord to terminate the tenancy of a tenant of a mobile or manufactured home community if the tenant commits one or more acts, including verbal threats, that cause another tenant, or a child of that other tenant, to face an imminent threat of serious physical harm from the offending tenant if the offending tenant remains on the premises. This is in addition to other provisions in current law allowing termination of a tenancy in other types of rental units or dwellings.

The changes pertaining to eviction of the tenant of a mobile or manufactured home community first apply to acts committed by the tenant on March 1, 2014.

Eviction Procedures

Act 76 makes several changes to the procedural requirements in an eviction action. These include a provision allowing a court, by rule, to authorize the summons to be served by certified mail. Act 76 also includes provisions affecting the timing of appearances and the trial or hearing date in an eviction action, as well as the timing of the return of a security deposit after an eviction has occurred.

Disposition of Property Left on Rental Premises After Eviction

Under Act 76, if a tenant is evicted and leaves property on the rental premises, the landlord is not required to store the property unless the landlord and tenant have entered into a written agreement providing otherwise. If the landlord does not intend to store personal property left behind by a tenant, the landlord must provide written notice either when the tenant enters into or renews the rental agreement. If this notice is provided, the landlord may

dispose of property left behind, other than prescription medicine or medical equipment, in any manner that the landlord determines is appropriate. These procedures pertaining to disposition of property under Act 76 replace a provision in prior law that had required the property to be removed and stored.

Appearances in Small Claims Actions

Act 76 modifies a provision in prior law stating that, in any small claims action, a person may commence and prosecute or defend an action or proceeding himself or herself, or by an attorney or a full-time authorized employee of the person. Under Act 76, this provision is expanded to allow actions to be handled by, in addition to those authorized under prior law, an agent of the person as well as certain other representatives, including:

- Any authorized employee, instead of just a full-time employee.
- If the “person” is a limited-liability company (LLC), any member of the LLC.

Towing of Vehicles

Act 76 creates an exception to a provision under prior law relating to the towing of vehicles parked on a private property without permission. Under prior law, vehicles generally could not be removed without the permission of the vehicle owner unless a traffic or police officer issued a citation for illegal parking. The exception created by Act 76 applies when a notice has been “properly posted” stating that unauthorized vehicles may be removed from the property. When the exception applies, an unauthorized vehicle may be towed immediately, regardless of whether a parking citation has been issued, at the request of the property owner or certain other parties specified in the Act, subject to certain procedural requirements specified in the Act. If requested by the municipality, the towing service must charge the vehicle owner a fee not to exceed \$35, which it must remit to the municipality.

The Act requires the Department of Transportation to promulgate rules establishing reasonable charges for removal and storage of vehicles; the form, and manner of display, of the notice necessary to qualify as “properly posted” under the provisions described above; and guidelines for towing services to notify law enforcement of the removal of a vehicle.

Unfair Trade Practices

Act 76 also modifies a provision in prior law stating that practices in violation of ch. 704, Stats., relating to landlords and tenants, may also constitute unfair methods of competition or trade practices regulated by the Department of Agriculture, Trade and Consumer Protection. The modification under Act 76 replaces the reference to ch. 704, as a whole, with a reference to two sections within the chapter, pertaining to security deposits and to certain prohibited provisions in a rental agreement.

Duty of Tenant to Repair Damage

Act 76 modifies a provision in prior law stating that if the rental premises are damaged under certain circumstances, the tenant must repair the damage and restore the appearance of

the premises by redecorating, or the landlord may elect to undertake the repair or redecoration and obtain reimbursement from the tenant. Act 76 changes the provision as follows:

- Clarifies that the tenant may repair the damage himself or herself only if the landlord elects to allow the tenant to do so.
- States that the provision applies if the premises are damaged due to the acts or inaction of the tenant. Under prior law, the provision applied when the premises were damaged by the negligence or improper use of the premises by the tenant.
- Specifies that the type of damage subject to the provision includes damage caused by an infestation of insects or other pests due to the acts or inaction of the tenant.

Effective date: March 1, 2014.

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