



## 1995 ASSEMBLY BILL 1038

March 18, 1996 - Introduced by Representatives GROTHMAN, ALBERS, DUFF, GOETSCH, LADWIG, F. LASEE, LAZICH, OLSEN, SCHNEIDERS, VRAKAS, WALKER, WARD, WASSERMAN, ZIEGELBAUER and ZUKOWSKI, cosponsored by Senators ROSENZWEIG and PETAK. Referred to Committee on Housing.

1     **AN ACT** *to renumber* chapter 704; *to amend* 100.20 (5), 100.20 (6), 100.26 (3),  
2           100.26 (6), 704.05 (5) (a) (intro.), 757.69 (1) (d), 799.05 (3) (b), 799.206 (3), 799.44  
3           (4), 799.45 (1), 799.45 (2) (b), 799.45 (2) (c), 799.45 (3) (a) and 799.45 (3) (b); *to*  
4           **repeal and recreate** 100.26 (6); and *to create* subchapter I (title) of chapter  
5           704 [precedes 704.01], subchapter II of chapter 704 [precedes 704.91], 799.45  
6           (2) (bg) and 799.45 (3) (am) of the statutes; **relating to:** residential rental  
7           practices, powers of court commissioners and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law addresses some issues related to the rental of residential property, such as certain lease requirements and how to terminate a tenancy. The Wisconsin administrative code provides regulations related to other rental practices. This bill establishes those residential rental practices regulations in the statutes. With some specified exceptions, the provisions in the bill apply to the rental of all dwelling units in the state.

The bill requires a landlord, before accepting any earnest money or security deposit, to disclose to a prospective tenant any uncorrected building or housing code violations and any other conditions that affect the habitability of the premises. A landlord must also disclose whether charges for utilities are included in the rent and, if not, the basis for allocating the charges among the tenants. The bill requires a landlord to provide a tenant with a receipt for any earnest money or security deposit received from a tenant and prohibits a landlord from retaining any amount of an earnest money deposit if the landlord rejects the rental application, except for actual expenses, up to \$25, incurred to verify the application if the rejection was based on omissions or false statements in the application.

If a landlord requires a security deposit, a tenant must be given at least 7 days after the beginning of the tenancy to inspect the premises and notify the landlord of any damages or defects existing at the beginning of the tenancy. In addition, a tenant may in writing request the landlord to furnish a written itemized description of all damages or defects for which deductions were made from the previous tenant's security deposit. The landlord must return a security deposit within 21 days after the last day for which a tenant is legally liable for rent. If, however, a tenant vacates the premises before the end of the lease term, the landlord must return the security deposit within 21 days after the tenant vacates the premises, the landlord receives written notice from the tenant of his or her intention to vacate before the end of the lease term or the landlord receives all rents and other charges for which the tenant is legally liable under the lease, whichever is latest. If the landlord retains any portion of the security deposit, the landlord must provide a written accounting to the tenant within that same time period. The bill specifies the reasons for which a landlord may retain any of the security deposit, including such reasons as damage to the premises and nonpayment of rent or utility charges for which the tenant is responsible. A landlord may not retain any portion of a security deposit for normal wear and tear to the premises. Any damage to a dwelling unit during a tenancy is rebuttably presumed to have been caused by the tenant.

The bill addresses promises made by a landlord to repair a premises and requires a landlord to specify the anticipated date of completion. The bill specifies provisions that may not be included in a rental agreement, such as a provision that relieves the landlord from liability for property damage or personal injury caused by negligent acts or omissions of the landlord. The bill also prohibits a landlord from taking certain actions. For example, except under specified circumstances, a landlord may not enter a dwelling unit except at reasonable times upon 12 hours' advance notice for the purpose of inspecting, repairing or showing the premises. Another prohibited action is terminating a tenancy or constructively evicting a tenant by reducing heat, water or electricity to the dwelling unit in retaliation against the tenant for reporting a code violation or joining or organizing a tenant's union or organization. The bill provides that the penalties that apply to a violation of the rental practices set out in the administrative code, such as double damages and reasonable attorney fees, also apply to a violation of the rental practices regulations provided for in the bill.

Current law requires the return date on the summons in an eviction action regarding a Wisconsin resident to be not less than 5 nor more than 30 days after the date of issuance of the summons. This bill limits the maximum return date period to 15 days after the date of issuance of the summons and requires a hearing within 5 working days after the return date when the eviction is contested. Under current law, a court commissioner, if delegated by a judge and with the approval of the chief judge, may perform numerous tasks, including issuing arrest and search warrants, conducting initial appearances in traffic and county ordinance cases, hearing petitions for commitment and conducting initial return appearance and conciliation conferences in small claims actions. This bill allows a court commissioner, if

delegated by a judge and with the approval of the chief judge, to conduct eviction action trials, except jury trials, in small claims actions.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 100.20 (5) of the statutes is amended to read:

2           100.20 (5) Any person suffering pecuniary loss because of a violation by any  
3 other person of any provision of subch. II of ch. 704 or of any order issued under this  
4 section may sue for damages therefor in any court of competent jurisdiction and shall  
5 recover twice the amount of such pecuniary loss, together with costs, including a  
6 reasonable attorney's fee.

7           **SECTION 2.** 100.20 (6) of the statutes is amended to read:

8           100.20 (6) The department may commence an action in circuit court in the  
9 name of the state to restrain by temporary or permanent injunction ~~the~~ a violation  
10 of any provision of subch. II of ch. 704 or of any order issued under this section. The  
11 court may in its discretion, prior to entry of final judgment make such orders or  
12 judgments as may be necessary to restore to any person any pecuniary loss suffered  
13 because of the acts or practices involved in the action, provided proof thereof is  
14 submitted to the satisfaction of the court. The department may use its authority in  
15 ss. 93.14 and 93.15 to investigate violations of subch. II of ch. 704 or of any order  
16 issued under this section.

17           **SECTION 3.** 100.26 (3) of the statutes is amended to read:

18           100.26 (3) Any person who violates s. 100.15 or 100.19 or any provision of  
19 subch. II of ch. 704, or who intentionally refuses, neglects or fails to obey any  
20 regulation or order made or issued under s. 100.19 or 100.20, shall, for each offense,

1 be fined not less than \$25 nor more than \$5,000, or imprisoned in the county jail for  
2 not more than one year or both, except that a landlord, as defined in s. 704.915 (5),  
3 may not be imprisoned for a violation of any provision of subch. II of ch. 704 or of any  
4 regulation or order that is made or issued under s. 100.20 and that is related to  
5 residential rental practices.

6 **SECTION 4.** 100.26 (6) of the statutes is amended to read:

7 100.26 (6) The department of justice or any district attorney may commence an  
8 action in the name of the state to recover a civil forfeiture to the state of not less than  
9 \$100 nor more than \$10,000 for each violation of subch. II of ch. 704 or of an  
10 injunction issued under s. 100.18, 100.182 or 100.20 (6) or an order issued under s.  
11 100.20.

12 **SECTION 5.** 100.26 (6) of the statutes, as affected by 1995 Wisconsin Acts 27 and  
13 .... (this act), is repealed and recreated to read:

14 100.26 (6) The department, the department of justice, after consulting with the  
15 department, or any district attorney may commence an action in the name of the  
16 state to recover a civil forfeiture to the state of not less than \$100 nor more than  
17 \$10,000 for each violation of an injunction issued under s. 100.18, 100.182 or 100.20  
18 (6). The department of agriculture, trade and consumer protection or any district  
19 attorney may commence an action in the name of the state to recover a civil forfeiture  
20 to the state of not less than \$100 nor more than \$10,000 for each violation of subch.  
21 II of ch. 704 or of an order issued under s. 100.20.

22 **SECTION 6.** Chapter 704 of the statutes, as affected by 1995 Wisconsin Acts 27  
23 and 56, is renumbered subchapter I of chapter 704 [precedes 704.01].

24 **SECTION 7.** Subchapter I (title) of chapter 704 [precedes 704.01] of the statutes  
25 is created to read:

1                                   **CHAPTER 704**2                                   **SUBCHAPTER I**3                                   **GENERAL PROVISIONS**4               **SECTION 8.** 704.05 (5) (a) (intro.) of the statutes is amended to read:5               704.05 (5) (a) *Procedure.* (intro.) If a tenant removes from the premises and  
6 leaves personal property, or if the landlord elects to have the landlord or his or her  
7 agent remove and store the property under s. 799.45 (3) (am), the landlord may do  
8 all of the following:9               **SECTION 9.** Subchapter II of chapter 704 [precedes 704.91] of the statutes is  
10 created to read:11                                   **CHAPTER 704**12                                   **SUBCHAPTER II**13                                   **RESIDENTIAL RENTAL PRACTICES**14               **704.91 Scope of application.** This subchapter applies to the rental of any  
15 dwelling unit located in this state, except that it does not apply to the rental or  
16 occupancy of a dwelling unit that is any of the following:17               **(1)** Operated by a public or private institution if the rental or occupancy is  
18 incidental to detention or the provision of medical, geriatric, educational, counseling,  
19 religious or similar services.20               **(2)** Operated by a fraternal or social organization for the benefit of its members  
21 only.22               **(3)** Subject to a contract of sale if the occupant is the purchaser or a person who  
23 succeeds to the purchaser's interest.24               **(4)** Located in a hotel, motel, boarding house, lodging house or other similar  
25 premises and the rental or occupancy is on a transient basis.

1           (5) Furnished free of charge, or free of charge to an employe even though  
2           conditioned upon employment in and about the premises.

3           (6) Subject to a rental agreement covering premises used by the occupant  
4           primarily for agricultural purposes.

5           **704.915 Definitions.** In this subchapter:

6           (1) “Building or housing code” means laws, ordinances or governmental  
7           regulations concerning the construction, maintenance, habitability, operation,  
8           occupancy, use or appearance of any premises or dwelling unit.

9           (2) “Dwelling unit” means a physical structure or that part of a physical  
10          structure that is primarily used as a home, residence or place of abode. The term  
11          includes a mobile home or mobile home site.

12          (3) “Earnest money deposit” means the total of any payments or deposits,  
13          however denominated or described, given by a prospective tenant to a landlord in  
14          return for the option of entering into a rental agreement in the future, or for  
15          consideration by the landlord of a rental application.

16          (4) “Form provision” means a written rule, regulation or rental or contract  
17          provision that has not been specifically and separately negotiated and agreed to by  
18          the tenant in writing. Any provision appearing as part of a preprinted form is  
19          rebuttably presumed to be a form provision unless it is handwritten, or unless it is  
20          preprinted in type that is not smaller than 12-point type size and signed by the  
21          tenant.

22          (5) “Landlord” means the owner or lessor of a dwelling unit that is subject to  
23          a rental agreement, or any agent acting on the owner’s or lessor’s behalf. The term  
24          includes a sublessor other than a person who subleases an individual unit that the  
25          person occupies.

1           **(6)** “Mobile home” means a unit designed to be towed or transported and used  
2 as a residential dwelling. The term does not include a unit used primarily for  
3 camping, touring or recreational purposes.

4           **(7)** “Mobile home site” means a plot of land that is rented or offered for rental  
5 to accommodate a mobile home. The term does not include a plot of land that is  
6 rented to accommodate a mobile home that is any of the following:

7           (a) Occupied on a strictly seasonal basis.

8           (b) Owned and occupied by a mobile home park operator.

9           **(8)** “Owner” means one or more persons vested with all or part of the legal title  
10 to a premises or all or part of the beneficial ownership and right to present use and  
11 enjoyment of a premises. The term includes a mortgagee in possession.

12           **(9)** “Person” means an individual, partnership, corporation, association,  
13 estate, trust or any other legal or business entity.

14           **(10)** “Premises” means a dwelling unit, the physical structure of which it is a  
15 part and all appurtenances, grounds, areas, furnishings and facilities held out for the  
16 use or enjoyment of the tenant or tenants generally.

17           **(11)** “Rental agreement” means any agreement, whether oral or written, for the  
18 rental or lease of a dwelling unit or premises. The term includes contracts, rules and  
19 regulations that are incidental to, or adopted under, a rental agreement.

20           **(12)** “Security deposit” means the total of all payments and deposits given by  
21 a tenant to the landlord as security for the performance of the tenant’s obligations.  
22 The term does not include rent payments made in advance if such prepaid rent does  
23 not exceed the sum of 4 rent payments.

24           **(13)** “Tenancy” means occupancy, or a right to present occupancy under a rental  
25 agreement. The term includes periodic tenancies and tenancies at will but does not

1 include the occupancy of a dwelling unit without consent of the landlord after the  
2 expiration of a lease or the termination of a tenancy.

3 (14) "Tenant" means a person occupying, or entitled to present or future  
4 occupancy of, a dwelling unit under a rental agreement. The term includes persons  
5 occupying dwelling units under periodic tenancies and tenancies at will, persons  
6 holding over after termination of tenancy until removed from the dwelling unit by  
7 sheriff's execution of a judicial writ of restitution issued under s. 799.44 and persons  
8 entitled to the return of a security deposit or an accounting for the security deposit.

9 **704.92 Rental documents; deposit receipts. (1) COPY OF RENTAL**  
10 **AGREEMENT RULES.** A rental agreement and any rules or regulations established by  
11 the landlord, if in writing, shall be furnished to a prospective tenant for inspection  
12 before the rental agreement is entered into and before any earnest money or security  
13 deposit is accepted from the prospective tenant. Copies shall be given to the tenant  
14 when the rental agreement is entered into.

15 (2) **RECEIPT FOR TENANT DEPOSITS.** Immediately upon accepting any earnest  
16 money or security deposit, the landlord shall provide the tenant or prospective  
17 tenant with a written receipt for the deposit that states the nature of the deposit and  
18 its amount. Unless requested by the tenant, a receipt is not required if payment is  
19 made by a check bearing a notation describing the purpose for which it was given.

20 **704.925 Disclosure requirements. (1) IDENTIFICATION OF LANDLORD OR**  
21 **AUTHORIZED AGENTS.** (a) Except as provided under par. (c), the landlord shall disclose  
22 to the tenant in writing, at or before the time a rental agreement is entered into, the  
23 name and address of all of the following:

24 1. Any person who is authorized to collect or receive rent or manage and  
25 maintain the premises, and who can readily be contacted by the tenant.



1           2. The owner of the premises or other person authorized to accept service of  
2           legal process and other notices and demands on behalf of the owner. The address  
3           disclosed under this subdivision shall be an address within the state at which service  
4           of process can be made in person.

5           (b) The landlord and any successor of the landlord shall keep tenants informed  
6           of any changes in the information required under par. (a).

7           (c) This subsection does not apply to an owner-occupied structure containing  
8           no more than 4 dwelling units.

9           **(2) CODE VIOLATIONS AND CONDITIONS AFFECTING HABITABILITY.** Before entering  
10          into a rental agreement with or accepting any earnest money or security deposit from  
11          a prospective tenant, a landlord shall disclose to a prospective tenant:

12          (a) All uncorrected building or housing code violations of which the landlord  
13          has received notice from code enforcement authorities, which affect the individual  
14          dwelling unit or common areas of the premises and which materially affect the safety  
15          or habitability of the dwelling unit. Written disclosure shall be given to the  
16          prospective tenant concerning those portions of the building or housing code notices  
17          or orders which have not been fully complied with. Code violations shall not be  
18          considered corrected until their correction has been reported to code enforcement  
19          authorities.

20          (b) Any of the following conditions affecting habitability, if the landlord knows  
21          or could know on the basis of a reasonable inspection of the condition's existence,  
22          whether or not notice has been received from code enforcement authorities:

23                1. That the dwelling unit lacks hot and cold running water, plumbing or sewage  
24                disposal facilities in proper operating condition.

1           2. That heating facilities serving the dwelling unit are not in safe operating  
2 condition, or are not capable of maintaining a temperature in the dwelling unit of at  
3 least 67 degrees Fahrenheit at a height of 3 feet above floor level in the center of a  
4 room when the air temperature outdoors is above minus 10 degrees Fahrenheit.

5           3. That the electrical wiring, outlets, fixtures or other components of the  
6 electrical system are not in safe operating condition. If the dwelling units are  
7 metered separately and electrical service to the dwelling unit has been disconnected  
8 due to nonpayment by, or at the request of, the previous occupant, the landlord must  
9 disclose that condition under this subdivision only if the landlord has actual  
10 knowledge of the condition's existence.

11           4. Any structural or other conditions in the dwelling unit or premises which  
12 constitute a substantial hazard to the health or safety of the tenant or create an  
13 unreasonable risk of personal injury as a result of any reasonably foreseeable use of  
14 the premises other than negligent use or abuse of the premises by the tenant.

15           **(3) UTILITY CHARGES.** A landlord shall disclose to a prospective tenant whether  
16 charges for water, heat or electricity are included in the rent before entering into a  
17 rental agreement with or accepting any earnest money or security deposit from the  
18 prospective tenant. If individual dwelling units and common areas are not  
19 separately metered and the charges are not included in the rent, the landlord shall  
20 disclose the basis on which charges for utility services will be allocated among  
21 individual dwelling units.

22           **704.93 Earnest money deposits. (1) REFUND OR CREDIT OF EARNEST MONEY**  
23 **DEPOSIT.** (a) If a rental application is rejected by a landlord, the entire amount of any  
24 earnest money deposit shall be refunded to the prospective tenant, less any actual  
25 costs, not exceeding \$25, incurred for verification of the application or for a credit

1 check if the application contained omissions or falsifications that contributed wholly  
2 or in part to the rejection.

3 (b) If a rental agreement is entered into, the entire amount of any earnest  
4 money deposit shall be applied toward the payment of rent or a security deposit or  
5 returned to the tenant.

6 **(2) LIMITATIONS ON EARNEST MONEY WITHHOLDING.** (a) No portion of an earnest  
7 money deposit may be permanently withheld by a landlord in excess of actual costs  
8 and damages incurred because of the failure of a prospective tenant to enter into a  
9 rental agreement. An earnest money deposit may not be permanently withheld as  
10 compensation for lost rents unless the landlord has made reasonable efforts to  
11 mitigate the rental loss in the manner provided in s. 704.29.

12 (b) Upon a written request by any person giving an earnest money deposit, the  
13 landlord shall provide that person with a written statement accounting for all  
14 amounts permanently withheld from the deposit.

15 **704.935 Security deposits. (1) CHECK-IN PROCEDURES; PREEXISTING DAMAGES.**  
16 Whenever a security deposit is required, the landlord shall do all of the following:

17 (a) Upon accepting a deposit, inform the tenant that he or she may inspect the  
18 dwelling unit and notify the landlord of any damages or defects existing at the  
19 beginning of the tenancy. The tenant shall be given at least 7 days after the  
20 beginning of the tenancy for the inspection and notification.

21 (b) Upon the written request of a tenant, furnish the tenant with a written  
22 itemized description of any physical damages or defects for which deductions from  
23 the previous tenant's security deposit were made. The landlord may note, in  
24 connection with the damage description, whether the damage or defect has been  
25 repaired by the landlord. The landlord is not required to disclose the previous

1 tenant's identity or the amounts withheld from the previous tenant's security  
2 deposit.

3 **(2) RETURN OF SECURITY DEPOSITS.** (a) Except as provided in par. (b), a landlord  
4 shall return all security deposits to the tenant, less any amounts withheld by the  
5 landlord, within 21 days after the last day for which the tenant is legally liable for  
6 rent.

7 (b) If a tenant vacates the premises before the end of the lease term, provides  
8 the landlord with written notice of his or her intention to vacate the premises before  
9 the end of the lease term and pays all rents and other charges for which the tenant  
10 is legally liable under the lease, the landlord shall return all security deposits to the  
11 tenant, less any amounts withheld by the landlord, within 21 days after the latest  
12 of the following:

13 1. The day on which the landlord receives the notice from the tenant of his or  
14 her intention to vacate the premises before the end of the lease term.

15 2. The day on which the landlord receives all rents and other charges for which  
16 the tenant is liable under the lease.

17 3. The day on which the tenant vacates the premises.

18 (c) All security deposits returned to a tenant shall be returned by the landlord  
19 in person or by mail to the last-known address of the tenant.

20 **(3) LIMITATIONS ON SECURITY DEPOSIT WITHHOLDING; REBUTTABLE PRESUMPTION.** (a)  
21 Except for other reasons clearly agreed upon in writing at the time that the rental  
22 agreement is entered into, other than in a form provision, security deposits may be  
23 withheld only for tenant damage, waste or neglect of the premises or for nonpayment  
24 of any of the following:

1           1. Rent or other charges for which the tenant is legally responsible, subject to  
2 s. 704.29.

3           2. Actual amounts owed for utility service provided by the landlord under terms  
4 of the rental agreement and not included in the rent.

5           3. Actual amounts owed by the tenant for direct utility service provided by a  
6 government-owned utility, to the extent that the landlord becomes liable for the  
7 tenant's nonpayment.

8           4. Mobile home parking fees assessed against the tenant by a local unit of  
9 government under s. 66.058 (3), to the extent that the landlord becomes liable for the  
10 tenant's nonpayment.

11           (b) Nothing in this subsection shall be construed as authorizing any  
12 withholding for normal wear and tear or other damages or losses for which the tenant  
13 is not otherwise responsible under applicable law.

14           (c) Damage to a dwelling unit that occurs during a tenancy is rebuttably  
15 presumed to have been caused by the tenant's action or by the tenant's negligent  
16 failure to protect the dwelling unit.

17           **(4) SECURITY DEPOSIT WITHHOLDING; STATEMENT OF CLAIMS.** (a) If any portion of  
18 a security deposit is withheld by a landlord, the landlord shall, within the time period  
19 and in the manner specified under sub. (2), deliver or mail to the tenant a written  
20 statement accounting for all amounts withheld. The statement shall describe each  
21 item of physical damage or other claim made against the security deposit and the  
22 amount withheld as reasonable compensation for each item or claim.

23           (b) No landlord may intentionally misrepresent or falsify any claim against a  
24 security deposit, including the cost of repairs, or withhold any portion of a security  
25 deposit on the basis of an intentionally falsified claim.

1 (c) A landlord is not in violation of this subsection for returning an erroneously  
2 withheld amount to the tenant after the time specified in sub. (2) if the landlord had  
3 a reasonable basis for withholding the amount and the amount is returned to the  
4 tenant with reasonable promptness after the error is discovered. The burden of proof  
5 is on the landlord to show that the basis for withholding the amount and the time  
6 within which the amount was returned were reasonable.

7 **(5) TENANT FAILURE TO LEAVE FORWARDING ADDRESS.** A landlord who has  
8 otherwise complied with this section is not in violation solely because the postal  
9 service has been unable to complete mail delivery to the person addressed. This  
10 subsection does not affect any other rights that a tenant may have under law to the  
11 return of a security deposit.

12 **704.94 Promises to repair. (1) DATE OF COMPLETION.** Every written promise  
13 made by a landlord to a tenant or prospective tenant to the effect that the dwelling  
14 unit or any other portion of the premises, including furnishings or facilities, will be  
15 cleaned, repaired or otherwise improved by the landlord shall specify the date on or  
16 time period within which the cleaning, repairs or improvements are anticipated to  
17 be completed.

18 **(2) INITIAL PROMISES IN WRITING.** All promises made before the initial rental  
19 agreement shall be in writing with a copy furnished to the tenant.

20 **(3) PERFORMANCE; UNAVOIDABLE DELAYS.** A landlord shall make a reasonable  
21 attempt to complete the promised cleaning, repairs or improvements on the date or  
22 within the time period represented under sub. (1), unless the delay is for reason of  
23 war, acts of God, government regulation or decree, strikes, shortage of labor or  
24 materials, unseasonable weather conditions or other causes beyond the landlord's  
25 control. The landlord shall give timely notice to the tenant of reasons beyond the

1 landlord's control for any delay in performance and shall state when the cleaning,  
2 repairs or improvements are anticipated to be completed.

3 **704.945 Prohibited rental agreement provisions.** No rental agreement  
4 may do any of the following:

5 (1) Authorize the eviction or exclusion of a tenant from the premises other than  
6 by judicial eviction procedures under ch. 799.

7 (2) Provide for an acceleration of rent payments in the event of tenant default  
8 or breach of obligations under the rental agreement or otherwise purport to waive  
9 the landlord's obligation to mitigate damages in the manner provided under s.  
10 704.29.

11 (3) Authorize the landlord or any agent of the landlord to confess judgment  
12 against the tenant in any action arising under the rental agreement.

13 (4) Relieve, or purport to relieve, the landlord from liability for property  
14 damage or personal injury caused by negligent acts or omissions of the landlord. This  
15 subsection does not affect ordinary maintenance obligations for which the tenant is  
16 responsible under the rental agreement or under s.704.07.

17 (5) Impose, or purport to impose, liability on a tenant for any of the following:

18 (a) Personal injury arising from causes clearly beyond the tenant's control.

19 (b) Property damage caused by natural disasters or by persons other than the  
20 tenant or the tenant's guests or invitees. This paragraph does not affect ordinary  
21 maintenance obligations for which the tenant is responsible under the rental  
22 agreement or under s. 704.07.

23 (6) Provide for the waiver of any statutory or other legal obligation on the part  
24 of the landlord to deliver the premises in a fit or habitable condition or to maintain  
25 the premises during tenancy.

1           (7) Require payment by a tenant of attorney fees or costs incurred by the  
2 landlord in any legal action or dispute arising under the rental agreement. This  
3 subsection does not prohibit the recovery by a landlord or tenant of attorney fees or  
4 costs that are ordered by a court under ch. 799 or 814.

5           **704.95 Prohibited practices. (1) ADVERTISING OR RENTAL OF CONDEMNED**  
6 PREMISES. No landlord may rent or advertise for rent any premises that have been  
7 placarded and condemned for human habitation or any premises regarding which a  
8 notice of intent to placard and condemn or an order to raze or to rehabilitate or raze  
9 or any similar order has been received under state or local laws or ordinances, unless  
10 all repairs required to bring the property into compliance with the laws or ordinances  
11 have been completed.

12           (2) UNAUTHORIZED ENTRY. No landlord may enter a dwelling unit during tenancy  
13 except to inspect the premises, make repairs or show the premises to prospective  
14 tenants or purchasers, as authorized under s. 704.05 (2). Entry may not be made  
15 except at reasonable times and upon at least 12 hours' advance notice unless the  
16 tenant, upon being notified of the proposed entry, consents to a shorter time period.  
17 This subsection does not apply to situations in which the tenant requests or consents  
18 to a proposed entry at a specified time; the tenant requests specified repairs and the  
19 repairs are made during normal working hours within 2 weeks after the tenant's  
20 request for the repair; a health or safety emergency exists, the tenant is absent and  
21 the landlord reasonably believes that entry is necessary to protect the premises from  
22 damage; or entry is otherwise authorized in writing other than in a form provision.

23           (3) AUTOMATIC LEASE RENEWAL WITHOUT NOTICE. No landlord shall enforce, or  
24 attempt to enforce, an automatic renewal or extension provision in any lease unless,  
25 as provided under s. 704.15, the tenant was given separate written notice of the



1 pending automatic renewal or extension at least 15 days but not more than 30 days  
2 before the effective date of the automatic renewal or extension.

3 (4) CONFISCATION OF PERSONAL PROPERTY. No landlord may seize or hold a  
4 tenant's personal property or otherwise prevent the tenant from having access to or  
5 removing his or her personal property, except as authorized under s. 704.05 (5) or  
6 799.45 (3) (am), or under a lien agreement entered into in writing other than in a form  
7 provision.

8 (5) RETALIATORY EVICTION. A landlord may not terminate a tenancy or give  
9 notice preventing the automatic renewal of a lease or constructively evict a tenant  
10 by any means including the termination or substantial reduction of heat, water or  
11 electricity to the dwelling unit solely in retaliation against a tenant because the  
12 tenant has done any of the following:

13 (a) Reported a violation of this chapter or a building or housing code to any  
14 governmental authority or filed suit alleging such a violation.

15 (b) Joined or attempted to organize a tenant's union or association.

16 (c) Asserted, or attempted to assert, any right specifically accorded to tenants  
17 under state or local law.

18 (6) FAILURE TO DELIVER POSSESSION. A landlord shall deliver possession of the  
19 dwelling unit to the tenant at the time agreed upon in the rental agreement, unless  
20 the landlord is unable to deliver possession because of circumstances beyond the  
21 landlord's control.

22 **704.955 Effect of rules on local ordinances.** (1) This subchapter does not  
23 prohibit or nullify any local government ordinance that is not in direct conflict with  
24 this subchapter.

1           **(2)** In the event of any direct conflict between this subchapter and any local  
2 government ordinance such that complying with one results in violating the other,  
3 this subchapter is controlling.

4           **SECTION 10.** 757.69 (1) (d) of the statutes is amended to read:

5           757.69 (1) (d) In small claims actions, conduct initial return appearance and  
6 conciliation conferences and all proceedings related to eviction actions, except trials  
7 to a jury.

8           **SECTION 11.** 799.05 (3) (b) of the statutes is amended to read:

9           799.05 (3) (b) Except in eviction actions, the return date for a summons served  
10 upon a resident of this state shall be not less than 8 days nor more than 30 days from  
11 the issue date, and service shall be made not less than 8 days prior to the return date.  
12 In eviction actions, the return date for a summons served upon a resident of this state  
13 shall be not less than 5 days nor more than ~~30~~ 15 days from the issue date, and service  
14 shall be made not less than 5 days prior to the return date.

15           **SECTION 12.** 799.206 (3) of the statutes is amended to read:

16           799.206 (3) When all parties appear in person or by their attorneys on the  
17 return date in ~~an eviction,~~ a garnishment or replevin action and any party claims  
18 that a contest exists, the matter shall be forthwith scheduled for a hearing, to be held  
19 as soon as possible before a judge. When all parties appear in person or by their  
20 attorneys on the return date in an eviction action and any party claims that a contest  
21 exists, the matter shall be forthwith scheduled for a hearing, to be held before a judge  
22 or court commissioner within 5 working days.

23           **SECTION 13.** 799.44 (4) of the statutes is amended to read:

24           799.44 (4) WRIT OF RESTITUTION; FORM AND CONTENTS. The writ of restitution  
25 shall be in the name of the court, sealed with its seal, signed by its clerk, directed to

1 the sheriff of the county in which the real property is located, and in substantially  
2 the following form:

3 (Venue and caption)

4 THE STATE OF WISCONSIN To the Sheriff of .... County:

5 The plaintiff, ....., of .... recovered a judgment against the defendant, ....., of .....,  
6 in an eviction action in the Circuit Court of .... County, on the .... day of ....., 19.., to  
7 have restitution of the following described premises:

8 .... (description as in complaint), located in .... County, Wisconsin.

9 YOU ARE HEREBY COMMANDED To immediately remove the defendant, .....,  
10 from the said premises and to restore the plaintiff, ....., to the possession thereof. You  
11 are further commanded to remove from said premises all personal property not the  
12 property of the plaintiff, and to store and dispose of the same according to law, and  
13 to make due return of this writ within ten days.

14 Witness the Honorable ....., Court Commissioner or Judge of the said Circuit Court,  
15 this .... day of ....., 19..

16 ..... Clerk

17 **SECTION 14.** 799.45 (1) of the statutes is amended to read:

18 799.45 (1) WHEN EXECUTED. Upon delivery of a writ of restitution to the sheriff,  
19 and after payment to the sheriff of the fee required by s. 814.70 (8), the sheriff shall  
20 execute the writ. The If the plaintiff, or the plaintiff's attorney or agent, does not  
21 notify the sheriff under sub. (3) (am) that the plaintiff or his or her agent will remove  
22 and store the property, the sheriff may require that prior to the execution of any writ  
23 of restitution the plaintiff deposit a reasonable sum representing the probable cost  
24 of removing the defendant's property chargeable to the plaintiff under s. 814.70 (8)  
25 and (10) and of the services of deputies under s. 814.70 (8). In case of dispute as to

1 the amount of such the required deposit, the amount thereof of that deposit shall be  
2 determined by the court under s. 814.70 (10).

3 **SECTION 15.** 799.45 (2) (b) of the statutes is amended to read:

4 799.45 (2) (b) ~~Remove~~ Unless the plaintiff or his or her agent removes and  
5 stores the property under sub. (3) (am), remove from the premises described in the  
6 writ, using such reasonable force as may be necessary, all personal property found  
7 therein not the property of the plaintiff.

8 **SECTION 16.** 799.45 (2) (bg) of the statutes is created to read:

9 799.45 (2) (bg) Assist the plaintiff or his or her agent in the removal, under sub.  
10 (3) (am), of all personal property found in the premises described in the writ, not the  
11 property of the plaintiff, using such reasonable force as may be necessary.

12 **SECTION 17.** 799.45 (2) (c) of the statutes is amended to read:

13 799.45 (2) (c) Exercise ordinary care in the removal of all persons and property  
14 from the premises and, unless the plaintiff or his or her agent removes and stores the  
15 property under sub. (3) (am), in the handling and storage of all property removed  
16 ~~therefrom~~ from the premises.

17 **SECTION 18.** 799.45 (3) (a) of the statutes is amended to read:

18 799.45 (3) (a) In Except as provided under par. (am), in accomplishing the  
19 removal of property from the premises described in the writ, the sheriff is authorized  
20 to engage the services of a mover or trucker.

21 **SECTION 19.** 799.45 (3) (am) of the statutes is created to read:

22 799.45 (3) (am) When delivering a writ of restitution to the sheriff, the plaintiff  
23 or his or her attorney or agent may notify the sheriff that the plaintiff or the  
24 plaintiff's agent shall be the mover or trucker of the property that is found in the  
25 premises described in the writ and that does not belong to the plaintiff. If the sheriff

1 is notified that the plaintiff or the plaintiff's agent shall be the mover or trucker of  
2 the property, the sheriff shall, in executing the writ of restitution, allow the plaintiff  
3 or the plaintiff's agent to act as the mover or trucker. If the sheriff is notified that  
4 the plaintiff or the plaintiff's agent shall be the mover or trucker of the property, the  
5 plaintiff or the plaintiff's agent shall remove and store the property, following the  
6 procedures under s. 704.05 (5).

7 **SECTION 20.** 799.45 (3) (b) of the statutes is amended to read:

8 799.45 (3) (b) Except as provided in ~~par.~~ pars. (am) and (c), the property  
9 removed from such premises shall be taken to some place of safekeeping within the  
10 county selected by the sheriff. Within 3 days of the removal of the goods, the sheriff  
11 shall mail a notice to the defendant as specified in sub. (4) stating the place where  
12 the goods are kept and shall deliver to the defendant any receipt or other document  
13 required to obtain possession of the goods. Warehouse or other similar receipts  
14 issued with respect to goods stored by the sheriff under this subsection shall be taken  
15 in the name of the defendant. All expenses incurred for storage and other like  
16 charges after delivery by the sheriff to a place of safekeeping shall be the  
17 responsibility of the defendant, and any person accepting goods from the sheriff for  
18 storage under this subsection shall have all of the rights and remedies accorded by  
19 law against the defendant personally and against the property stored for the  
20 collection of such charges, including the lien of a warehouse keeper under s. 407.209.  
21 Risk of damages to or loss of such property shall be borne by the defendant after  
22 delivery by the sheriff to the place of safekeeping.

23 **SECTION 21. Initial applicability.**

24 (1) The treatment of sections 757.69 (1) (d) and 799.206 (3) of the statutes first  
25 applies to eviction actions commenced on the effective date of this subsection.

