Frank Lasee

WISCONSIN STATE SENATOR

FIRST SENATE DISTRICT

Senator Lasee's Testimony

Senate Bill 639

Affordable Rental Housing Package

Everyone agrees that seeking ways to incentivize more opportunities for affordable housing is important. This package seeks to remove hurdles to the creation of more affordable housing options for everyone.

SB 639 tackles problems that increase costs for landlords then forcing landlords to increase rent for their tenants.

For example, government mandated inspection programs add hundreds of dollars in extra fees for every unit owned by a landlord. These fees are then passed on to tenants, some of whom are already struggling to pay rent every month. Under our proposed legislation inspectors can use existing code enforcement powers to cite and fine housing units that are in obvious disrepair.

SB 639 examines other costly problems that were discouraging property owners from the risks associated with providing affordable rental housing. The bill amends state statutes to prevent tenants with animal allergies from being displaced by fraudulent emotional support animals in a way that is consistent with Federal Housing law.

The legislation creates provisions that will help landlords recover unpaid rent and utility costs so the other tenants don't end up paying for those who aren't paying their bills.

These reforms are needed because affordable housing is in demand and more property owners are needed to participate in providing the affordable housing that Wisconsin renters need.

Please support this thoughtful legislation.

Post Office Box 7882
Madison, Wisconsin 53707-7882
(608) 266-3512

Chair: Committee on Insurance and Housing
Sen.Lasee@legis.wi.gov

830 Spring Hills Court
DePere, WI 54115
(920) 327-0585

ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

Senate Committee on Insurance, Housing and Trade
Public Hearing, December 13, 2017
Senate Bill 639
10:00 A.M.
Room 411 South
Senate Bill 639: "The Affordable Renting Housing Act of 2017"

Senator Lasee and members of Insurance, Housing and Trade Committee, thank you for affording me with the opportunity to testify on behalf of Senate Bill 639, "The Affordable Rental Housing Act of 2017."

Senate Bill 639 is designed to make it easier for landlords to provide Wisconsinites with quality, clean, safe, and affordable housing. Senate Bill 639 affords owners of historic properties with greater autonomy by allowing them to use materials, during the repair and replacement process, that are substantially similar to the original. Original materials are often very costly, do not have the same warranties, and are difficult to obtain.

In an effort to create greater statewide uniformity, as it relates to rental housing inspections, Senate Bill 639 maintains that municipalities are authorized to conduct inspections upon a complaint. What is more, if a complaint is made, a record related to said inspection must be completed.

Municipalities are prohibited, under this bill, from using aesthetics as a consideration for rental housing inspections. Some municipalities throughout the state have conducted rental housing inspections because they disliked the color of paint used on interior walls. Tenants have every right to personalize their living space, unfettered from government interference.

Senate Bill 639 establishes distinctions between assistance and emotional support animals, making Wisconsin the first state to do so, statutorily. In essence, assistance animals are trained to perform a task on behalf of their owner. This legislation preserves HUD and fair housing guidelines for service animals, as eliminating these regulations

Capitol Office: Post Office Box 8952 • Madison, WI 53708-8952 • (608) 267-2369 • Toll-Free: (888) 534-0060 • Fax: (608) 282-3660
Rep.Rob.Brooks@legis.wi.gov

ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

would be a violation of federal law. Conversely, Senate Bill 639 stipulates that those seeking to keep an "emotional support" animal show documentation from a state-licensed health professional, acting within his or her scope of practice, of their disability and disability-related need for the animal. This bill seeks to streamline the process by ensuring that individuals who need animal companionship are afforded that right, not discriminated against, and have a legitimate need for one of these animals.

Lastly, "The Affordable Rental Housing Act of 2017," expedites the process of eliminating the rental weatherization program. Act 59 eliminated this program effective January 1, 2018. Senate Bill 639 provides that, on program elimination date, orders related to the program issued by DSPS are void and unenforceable. This program is outmoded and ineffectual. In fact, DSPS advocated for its removal in the 2017-19 biennial budget.

To date, we have had numerous meetings with stakeholders on both sides of many of the issues that will be discussed today. I want to thank the League of Municipalities specifically for coordinating a number of those meetings with local officials from across the state. We have received extremely good feedback from them and now seek additional feedback from the both the public and committee members today. I assure you this bill is still fluid; amendments will be authored to address outstanding issues and concerns. I will work with committee members and stakeholders to further enhance this legislation.

I would, at this time, be more than willing to answer any questions members of the committee might have. Thank you for your time and consideration.

Capitol Office: Post Office Box 8952 • Madison, WI 53708-8952 • (608) 267-2369 • Toll-Free: (888) 534-0060 • Fax: (608) 282-3660
Rep.Rob.Brooks@legis.wi.gov

Honorable Senator Frank Lasee,
Chair Senate Committee on Insurance, Housing and Trade and Committee Members

12-12-17

I own two buildings in downtown Stevens Point, WI. The first property I purchased was extensively remodeled, including replacement all of the windows. When I first met with the historic district committee and the city zoning department I was instructed that the windows on the façade would need to be made of wood or they had to be aluminum clad. I could use vinyl windows on the rear of the building that had an overlay on them so that they looked the same as the other two options. I argued but was not allowed to use the vinyl clad windows on the façade. At the time the city had a matching funds program for improvements to facades in the historic district which helped to offset the cost. The aluminum clad windows were three times the cost of the vinyl windows and you cannot tell a difference from 10' away much less the 30' they are from the street.

My second building is sitting without any windows having been replaced. It simply has more windows along the façade than our first building did and the city's matching funds program is no more. Because I cannot use like kind materials we are stuck not replacing the windows and improving the façade. If I were allowed to use a vinyl window that is a third the cost and a better overall product that work would have been completed already.

I understand and completely support the need for the historic districts and maintaining the look of the historic buildings. Stevens Point's downtown has a great feel and that needs to be maintained. But to not allow like kind materials to be used in these historic districts significantly hurts the redevelopment and improvement of these buildings.

The cost of the windows is not my only concern. Improvements in materials have allowed for better materials to be used. They are low maintenance and have better thermal properties and longer useful lives. Being forced to spend three times more on a product that will require more maintenance, be less energy efficient and last half as long does not make any sense to me.

It is also a concern that any municipality can unilaterally place a property in a historic district without the owner's consent. It is important to me that an owner would need to consent to being placed in a historic district. Often times because of the restrictions of those districts property values have seen declines after being lumped into a designated historic district. We have several properties that are in a proposed historic district that, while near some historic homes, have little historic significance themselves. The burden of being in the historic district would limit the repairs we would take on at those properties and they would in all likelihood not be maintained to the level they would had they not been placed in a historic district given the cost of repairs to meet the historic district standards.

Thank you for your time

Noah Eschenbauch

Owner/Manager of multiple properties in Stevens Point WI

WISCONSIN HOUSING ALLIANCE
THE VOICE OF FACTORY-BUILT HOUSING

OUR MISSION: **TO BE AN ADVOCATE FOR MEMBERS, FACILITATING RELATIONSHIPS WHICH EDUCATE, SUPPORT AND PROMOTE THE INDUSTRY**

December 13, 2017

Dear Senate Committee on Insurance, Housing and Trade:

Thank you for allowing public testimony on SB639.

Wisconsin's manufactured housing industry provides an important source of unsubsidized housing in Wisconsin. There are currently 1066 manufactured home communities in the state occupied by nearly 54,000 proud homeowners and their families.

The industry is in strong support of SB639 in its entirety, however, to keep my comments brief, I would like to simply comment on a few of the provisions.

The Wisconsin Housing Alliance fields questions multiple time per week regarding the significant increase in several tenants needing an emotional support animal. There are families that have requested one pit bull for each member of the family and the doctor was willing to state in writing that this was necessary. In another situation, a child needed an alligator for ADHD. One medical professional's note was written by a California marriage counselor to a man in Fond du Lac, Wisconsin. I believe being able to state that Wisconsin Statutes provide a penalty for falsifying the need by an individual or a medical professional would assist in differentiating a true need vs. someone who just wants a dangerous breed dog. Rental communities must maintain safety, cleanliness and peace for all residents and the emotional support/comfort animal scenario has gotten completely out of control.

The State of Wisconsin has been making strides to keep property taxes reasonable. Unfortunately, this has led to the proliferation of fees for almost everything. These fees are often unreasonable. The provisions in this bill will require rental unit inspection fees to be uniform and those fees may not exceed actual and direct costs for performing the inspection. This is very important so that inspection fees do not become supplemental revenue in lieu of increased property taxes.

This bill is comprehensive and necessary to keep affordable housing in Wisconsin. The manufactured housing industry supports SB639 and I urge all of you to as well. Thank you!

Sincerely,

Amy Bliss

Amy Bliss
Executive Director
Amy@housingalliance.us

258 Corporate Drive
Suite 200C
Madison, WI 53714

phone (608) 255-3131
fax (608) 255-5595
www.housingalliance.us

WAUKESHA PRESERVATION ALLIANCE

P.O. Box 1862
Waukesha, WI 53187-1862
www.waukeshapreservation.org
262-278-6658

To: Senate Committee on Insurance, Housing, and Trade

December 13, 2017

Re: SB639

I am writing to voice my concerns about the historic preservation portion of this bill. The language is very vague and this will lead to inconsistency from community to community and also within the same community.

National Register is honorific only and the federal government relies on the local governments to protect their historic properties. This protection comes from local landmark ordinances. The majority of landmarks commissions in the state utilize the Secretary of the Interior's Standards for historic properties to bring consistency to their decisions. These standards do allow for substitute materials and carefully define what characteristics to consider when choosing a substitute material. According to the standards, some of the aesthetic characteristics to consider for substitute material are texture, reflectivity, color, and original finish. Not only are the aesthetic characteristics important to look at when choosing a substitute material, the physical properties are also important. Examples of the physical properties that should be examined when choosing a substitute material are the thermal expansion and contraction, the chemical composition, and the permeability to moisture of the substitute material. These physical properties, if not carefully considered, can actually cause damage to the remaining historic materials and the building. SB639 does not define what characteristics to consider when deciding if the appearance is similar nor does it define who decides on whether it is similar. Is the ordinary observer the owner or the commission? This vagueness will open up municipalities and commissions to lawsuits.

An unintended consequence of this bill may be that some properties will no longer be eligible for future historic tax credits by current owners or future owners. When considering whether a building is eligible for the historic tax credits, the property needs to be historically significant to qualify. Alterations such as replacing original historic materials with substitute material can diminish the historical significance of a property resulting in the subsequent loss of eligibility for the historic tax credit. If this happens, does this open up municipalities and commissions to lawsuits because of the loss of the historic tax credit?

In addition, because Wisconsin already requires that all preservation ordinances have an appeal process to elected officials, I feel that the historic preservation portion of this bill is unnecessary. Because of this and the vagueness of the language, I am asking you to remove the historic preservation portion of SB639.

Thank you,

Mary Emery
President

LEAGUE OF WISCONSIN MUNICIPALITIES

131 W. Wilson St., Suite 505
Madison, Wisconsin 53703
phone (608) 267-2380; (800) 991-5502
fax: (608) 267-0645
league@lwm-info.org; www.lwm-info.org

To: Senate Committee on Insurance, Housing, and Trade
From: Curt Witynski, J.D., Deputy Executive Director, League of Wisconsin Municipalities
Date: December 13, 2017
Re: SB 639, Limiting authority of local governments to regulate and inspect rental properties.

The League of Wisconsin Municipalities strongly opposes SB 639 as introduced. While we appreciate the authors' willingness to meet with us to discuss and negotiate possible changes to earlier versions of this bill, we are disappointed that the bill as introduced does not include some of the key modifications we sought.

Our top five concerns about the bill are:

1. Section 8 – **Limiting Rental Inspections to Complaint Basis Only**. Our biggest concern about this bill is that it deletes compromise language inserted into last session's landlord legislation clearly allowing communities to establish and implement systematic rental unit inspection programs to ensure health and safety of tenants and neighbors. It is imperative that municipalities have the flexibility to enact and enforce a system of regularly scheduled rental unit inspection programs not based exclusively on complaints. This change in the law protects irresponsible landlords while jeopardizing the health and safety of students, families, and other vulnerable individuals living in potentially dangerous conditions who decline to file complaints to avoid being evicted.
2. Section 10 – **Prohibiting Landlord Registration Fees outside of Milwaukee**. While the bill allows Milwaukee to charge a fee covering the reasonable and direct costs of implementing a landlord registration requirement, no other local government in the state may recover its landlord registration program costs. This doesn't make any sense. We urge that the same fee enabling language apply statewide. If necessary, consider placing a cap on registration fees, but allow communities to cover their expenses.
3. Section 17 – **Requiring notice by first class mail to landlords prior to imposing a charge for enforcing ordinances related to noxious weeds, electronic waste, or other building or property maintenance standards**. Municipalities could live with this provision if it simply required communities to email or text property owners if they sign-up with the municipality to receive such notification. Such an opt-in approach would save postage and time, but still ensure notice for those requesting it. Also we asked that the following exception be included in any such notice requirement: "This section does not apply to the clearing of snow and ice from sidewalks, or to violations that create an imminent danger to public health, safety or welfare."
4. Section 23 – **Definition of "aesthetic considerations" is open ended**. This provision prohibits municipalities from regulating the aesthetics of the interiors of homes. We are concerned that the definition of "aesthetic considerations" is too broad. We recommend that it be specific and limited in scope, as follows: ""aesthetic considerations" are considerations relating to color, and texture and design that are unrelated to health or safety."

5. Section 14 – **Deleting the Levy Limit Reduction exception for garbage collection by a political subdivision owning a Landfill in 2013**. This exception was put into place at the request of the City of Superior several years ago and its elimination would have significant negative impacts on that city, which has come to rely on it.

Before closing, I should acknowledge that there is one provision in the bill that we support. Section 15 limits the negative adjustment for fee revenues on covered services under the levy limit law. Notwithstanding this positive provision, League urges you to vote against recommending passage of SB 639. Thanks for considering our comments.

WRA
WISCONSIN **REALTORS®** ASSOCIATION

TO: Committee on Insurance, Housing and Trade

FROM: Joe Murray, Director of Political and Government Affairs
Wisconsin REALTORS® Association

DATE: Wednesday, December 13, 2017

RE: SB 639 – Affordable Rental Housing Legislation

The Wisconsin REALTORS® Association (WRA) supports SB 639, legislation that modifies numerous provisions to landlord-tenant law in Wisconsin. While this legislation covers a variety of landlord-tenant issues, the WRA strongly supports this legislation and these provisions:

- **Section 34-35: Landlord work provision** – Under current law, a landlord may allow a tenant to repair any damage the tenant is responsible for or the landlord may elect to repair or remediate and charge the tenant. SB 639 specifies that a landlord can recover the costs of their own labor and time when repairing tenant damage. This provision is needed because some courts or court commissioners have not allowed landlords to charge for their own time and labor.

- **Section 17: Local fees and charges** – Landlords do not always receive a timely and direct notice when/if their rental property is in violation of an ordinance as it relates to weeds, electronic waste, or building and property maintenance standards. Violations often include a fine when the municipality steps in to correct the violation. SB 639 requires municipalities to notify the property owner of an ordinance violation by first class mail or email. This way the person responsible for the problem, the landlord, can remedy the situation before the fine is imposed.

- **Section 39: Electronic delivery of notices** – SB 639 would allow landlords and tenants to communicate and reach agreement through electronic delivery, including rental agreements and security deposits. This will make it quicker and easier to resolve issues between both parties.

- **Section 24-28: Emotional Support animals** – SB 639 provides that a tenant who is seeking to keep an emotional support animal in the unit may be required to provide documentation from a state-licensed professional, acting within their scope of practice, on his/her disability and disability-related need for the animal. Emotional support animals are defined as animals that provide emotional support, well-being, comfort, or companionship, but are not trained to perform specific tasks for the benefit of a person with a disability. Wisconsin needs to address the issue of those who fraudulently claim the need for emotional support animal status. This is a growing problem for landlords across the state.

- **Section 22: Refund of fees** – In cases where a municipal determination against a landlord is overturned or withdrawn, the landlord does not always receive a refund of his/her filing fees. SB 639 requires the fees to be returned if the determination is overturned or withdrawn. This provision is a matter of fairness. A filing fee should be reimbursed to a prevailing party, just as it is in civil actions.

4801 Forest Run Road, Suite 201
Madison, WI 53704-7337
www.wra.org

Phone: 608.241.2047
Toll Free: 800.279.1972
Fax: 608.241.5168

REALTOR®

- **Section 41: Defining late fees as rent** – SB 639 modifies the definition of "rent" to include any rent that is past due and any late fees owed for rent that is past due. Too often, a justifiable eviction can be easily dismissed if the landlord adds late fees to a 5-day notice for unpaid rent.

- **Section 42: Incorrect amount stated on notice** – This provision would eliminate an unfair technical defense for tenants in eviction actions. Tenants have been successful in challenging an eviction even though they owe back rent because the amount claimed in the 5-day notice may be wrong, even when the tenant made no effort to pay the amount the tenant believed was actually due.

- **Section 48: Waiver defense to eviction** – A catch-all defense sometimes raised in an eviction is that the landlord let the tenant slide previously, did not aggressively pursue overdue rent and thus should be held to have waived the right to now evict for overdue rent. This waiver says if the landlord showed good faith by not penalizing a tenant for a breach the first time, the landlord can't enforce the lease provision for future breaches. This is a technical loophole for tenants who have a pattern of nonpayment for rent or unacceptable behavior.

- **Section 52: Rental weatherization** – The 2017-19 state budget bill eliminated the DSPS rental weatherization program. Under SB 639, all remaining rental unit stipulations and waivers would be void and unenforceable, consistent with the elimination of the Renal Unit Energy Efficiency program in the state budget. This program was outdated and no longer being enforced by the DSPS.

- **Section 37: Local regulation of rent abatement** – This provision would prohibit any local municipality from enacting their own rent abatement ordinance which would be inconsistent with state law under s.704.07(4). Current state law provides a fair, understandable and single standard for rent abatement when tenants are unable to fully enjoy the use of their unit.

- **Sections 8-13: Municipal inspections** – SB 639 provides that if a municipality has an ordinance that authorizes an inspection of rental property upon a complaint from a inspector, municipal employee, or elected official of that municipality, the municipality must keep records of the name of the inspector, employee, or elected official that made the complaint and a statement of the reasons for the complaint. And, any fee charged for the complaint may not exceed the actual and direct costs of providing the inspection. This bill allows for complaint based inspections only.

We ask for your support of SB 639.

Good afternoon Chairman Lasee and members of the Committee.

Thank you for the opportunity to address you about SB 639, which undermines the ability of cities like Oshkosh to follow the will of its residents to enact a common sense health and safety inspection program for our problem rental housing areas.

I am Steve Cummings, Mayor of Oshkosh, and I want to share with you first hand why this legislation will reverse progress made by Oshkosh and other local governments in our state.

SB 639 will eliminate the ability of cities and villages in Wisconsin to administer a rental inspection program that residents of Oshkosh want. In 2016, the legislature adopted a law that limited the ability of local governments to operate a rental inspection program. While we disagreed with many of the provisions in that law, the city had no choice but to administer it as written.

For example, the law effectively required that we administer the program on a citywide basis. Proponents of the 2016 legislation acknowledge that this was done to discourage cities from creating any sort of rental inspection program (period). However, my constituents demanded that we address the problem rental housing areas within our city. SB 639 is now requiring that we only administer this program on a complaint basis. Let me provide you with some facts why this approach will not work, either.

Since our rental inspection program was implemented earlier this year, we have conducted 35 interior inspections and found a total of 225 violations. That is an average of 6.4 life and safety violations per rental unit. These inspections were done with advance notice, with a copy of our inspection list which has been widely distributed throughout the community. Our program also provided for exterior inspections if we were not granted access for an interior inspection. Out of 257 exterior only inspections 231 properties had life/safety violations.

I have our checklist for your review; these are not about aesthetics. Every one of these items are health and safety code issues that are should be addressed before any landlord rents a property. These properties clearly are not being monitored and require inspections by our staff in order to ensure safe and healthy housing for our residents and their children.

As you know, Oshkosh is home to the University of Wisconsin – Oshkosh. Like many other cities that have a large student population we have the additional responsibility to ensure the health and safety of our students. Many of whom are renting for the first time. Even though they are legally adults, these students are largely unaware of the rules and regulations regarding housing, and are also unaware of their rights and responsibilities as tenants.

Because of this additional responsibility, the City of Oshkosh needs to have a rental inspection program to ensure their safety. While we would prefer not to administer this program on a citywide basis, we are following the law. I would hope that in the future, we could collaboratively work with the legislature and landlord groups to give cities like Oshkosh the flexibility to administer programs in problem neighborhoods rather than on a narrow complaint only basis or an overly broad citywide basis. In other words - one size fits all.

SP 639 requires that we track exact cost for each individual inspection and/or case, and bill the costs in an hourly form. While no cost allocation system is perfect, the requirement for us to track exact time on actual individual inspections would add significant cost tracking everything that is done. Our current system allows us to take total cost and divide it over the number of inspections to come up with a per inspection rate.

We recognize the imperfections in our system, but from an administrative standpoint, it makes more sense for us to allocate program costs on a per inspection basis. Furthermore, as we have already invested in software to administer our inspection program, we would have to make significant software modifications to track inspections in this manner. Which would add administrative costs.

SB 639 also requires that the city send out a notice prior to charging any fees for some inspections and enforcement activities. This could have several negative effects. For example, sending out a letter prior to enforcement activities does not factor in new violations for repeat offenders, many of whom ignore first, second, and third notices.

We tried early notices. Frankly it did not work. We have gained much greater compliance by fielding a complaint, and noticing the property owner for the violation if one exists. For minor problems, they are typically corrected the first time and not repeated.

For multiple offenders, it captures their attention much earlier and results in greater compliance. SB 639 would effectively reverse the progress we've been making to enforce code violations. To reverse our practice will lead to habitual violators scamming the system, knowing that we have to warn them first before we take action. This will create a disincentive for them not to comply until they receive multiple warnings. I can tell you that based on our track record, the program that we have is very effective and does not need to be reversed.

There are so many imperfections and problems associated with SB 639 that it would take much more time for me to fully go through all of them. I know that my municipal colleagues have and will continue to point these out over the course of this hearing. Instead, let me leave you today with a request that the legislature

work with our League of Municipalities, and its members and other interested groups, including landlord groups, to develop common sense solutions so that we can administer our rental inspection program in accordance with the wishes of our residents.

Please do not accept hastily drawn up legislation which is ambiguous in many areas and reverse the progress we have made. Allow us to continue administering a common sense rental inspection program that works for the City of Oshkosh and our residents and their families.

Thank you for your time and consideration today.

City of Oshkosh

Address / Unit #:	
Tenant: (please print)	
Tenant Signature:	

CITY OF OSHKOSH RENTAL INSPECTION CHECKLIST

EXTERIOR	YES	NO	COMMENTS
Is the address visible from the street?			
Is there any evidence of roof damage?			
Are there any broken windows or missing screens?			
Do foundation walls appear structurally sound?			
Do the stairways and hand/guardrails appear structurally sound?			
Furnace/ Boiler/ Water heater venting - Are there any visible signs of deterioration indicating unsafe conditions?			
INTERIOR			
Are smoke detectors installed and functioning properly?			
Are CO detectors installed and functioning properly ?			
Are there any gas leaks to appliances apparent?			
Are there any visible leaks in plumbing system?			
Is there hot water supplied to all required fixtures?			
Are any cross connection controls needed on plumbing fixtures?			
Are plumbing fixtures or piping properly installed and functional?			
Are there any electrical switches, receptacles missing cover plates?			
Is there any exposed electrical wiring that is not properly supported?			
Is there any open/ bare electrical wiring?			
Do all electrical fixtures and receptacles function properly?			
Do bathroom exhaust fans function?			
Do all the windows open properly?			
Are the exterior doors free of damage or deterioration?			
Do the exterior doors have working hardware and deadbolt locks?			
Are there any holes (excluding nail holes) in walls or ceilings?			
Do the stairways and hand/ guardrails appear structurally sound?			
Are there any signs of water leakage from the foundation walls or basement floor?			
Is there an accumulation of refuse, trash or other matter that may pose rodent infestation or fire risk?			
Are there any signs of rodent or pest infestation?			
Are there proper heating appliances able to maintain minimum 67 degree heat?			
Is the furnace properly vented?			
Is the water heater properly vented?			
Is the clothes dryer properly vented?			

NOTE: The above inspection was completed for the purpose of performing a rental inspection. This inspection performed is for a limited purpose and does not mean that there are no building code violations outside the scope of the inspection performed. The City of Oshkosh reserves the right to issue correction notices, citations, or take any other lawful action to remedy any code violation in the future, even though such condition may have existed at the time of the above inspection but was not identified or noted.

THE LANDLORD LINE
A Division of Rental Finders Inc
Landlord & Tenant Services

December 13, 2017

RE: ~~LRB 2582~~
SB 639

*MEMBER OF WISCONSIN APARTMENT ASSCOCIATION

*MEMBER OF FOX VALLEY APARTMENT ASSOCIATION

*PAST PRESIDENT OF FOX VALLEY APARTMENT ASSOCIATION

*MANAGEMENT OF 315 UNITS

Thank you for giving me the opportunity to speak today on behalf of all Landlords in the State of Wisconsin.

I currently oversee properties that range from $375.00 per month to $2500.00 per month. Yes, we still have "Affordable Housing" in the Fox Valley.

However, with the current housing problems: shortages, the cost of rehab, and repairs the term "Affordable Housing" is quickly becoming endangered.

As with all businesses, when costs rise, the business owner needs to make up the difference somewhere. Wages, Fees, and fines will be passed along to the tenants.

When Landlords are not playing by the rules there **should** be fines and fees, but these costs should not be put on every landlord. Unfortunately, when Landlords hold their tenants accountable, some problem tenants will do anything to cause issues. The only times, in 31 years, I have ever been contacted for an inspection of any of my properties, have been because the tenant had received a 14 or 28 day notice to vacate. In both incidents, the items sited in the inspection for repairs were damages caused by the tenant and were not items that the tenant notified us about.

- Landlords should be afforded transparency in government. If someone is requesting an inspection, the landlord should know who asked for it.
- The punishment should fit the crime: the inspection fee needs to make sense. If an inspector simply did a "drive by" inspection, why should the landlord pay an exorbitant fee? Some municipalities are utilizing inspection fees to subsidize their bottom line.

As always, there are bad actors in every field. Inspectors have to deal with that always.

Regarding therapy pets: luckily, landlords have the advantage of time for the issue of service animals. We, unlike the airline or food industries have time to request a signed form from a licensed health professional. I would say that about 10% of our applicants stating they have service or assistance animals can actually provide the proper documentation. I believe there is a real need for many to have these types of animals. Unfortunately, landlords sit at the front line and see many folks who like to tell stories. My job is to verify the information. The documentation they provide from the easily available web sites are very convincing and actually fool many landlords. Pets are an extreme risk to rental properties. All tenants need to be responsible for damages to their apartments. Pet owners with false therapy pets are looking to avoid the costs that go with responsible pet ownership.

Regarding the issuance of notices, landlords need to come into the 21st century and use tools like email and texting. This is also an excellent way to prove that tenants have been notified avoiding the He said/she said.

531 W Wisconsin Ave | Appleton WI 54911 | Ph 920-731-9001 | Fax 920-731-9029 | [redacted]

And finally, with respect to CCAP. This has been a most valuable tool for landlords. The eviction process and the behaviors of our future tenants are all a landlord has to go by. Is my potential tenant the kind that values paying bills on time, following laws and rules, and understands the game of renting? This is one place that gives a landlord the necessary information to question his prospects.

Real Life Conversations:

- When asked, have you ever been evicted? A tenant responded "Only Once!"
- The Tenants tell me "I was not evicted," when CCAP tells me the writ was issued.
- The Tenant tells me "I don't know anything about any eviction," when CCAP tells me the tenant disputed the charges and was obviously present in court.

Over 50% of my applicants come in with 1 or more evictions in their history, the most recent being 7 (at all price ranges).

I want to know if my future tenant is more knowledgeable about eviction than I am. I want to know if they understand the meaning of a 5 day notice?

Thank you for your time and consideration,

Sincerely,

Nanette L Rozelle
Rental Finders Inc
President

Eau Claire City-County
Health Department

720 Second Ave, Eau Claire, WI 54703
www.echealthdepartment.org
P: 715-839-4718
F: 715-839-1674

DATE: December 13, 2017
TO: Committee on Insurance, Housing and Trade
FROM: KT Gallagher, Environmental Health Supervisor with the Eau Claire City-County Health Department
RE: Testimony regarding SB 639

The Eau Claire City-County Health department would like to speak about our local Housing Maintenance Code and corresponding Housing Inspection Program. Our long-standing program works to ensure safe and healthy housing for all residents in our county. This program promotes safe, sanitary housing and neighborhoods for our whole community. After 30 years, the municipal code was updated in April after a comprehensive, collaborative community effort. *The updated code prioritizes the community's desire to incentivize the upkeep of the community's housing stock and support safe, sanitary housing for at-risk populations.*

- **Our collaborative process intentionally incorporated feedback from all local constituency groups**. The process started two years in advance of the code re-write, engaging groups that represented whole neighborhoods, marginalized populations, home owners, rental property owners and property management companies. We understood that it was important to incorporate feedback from all segments that would be impacted by any change to our local code. We had multi-modal stakeholder engagement with people that shared their lived experience regarding unsafe housing, the lack of market forces to maintain properties in their neighborhoods and undue landlord scrutiny.

- **Our code incentivizes the safety and upkeep of both owner-occupied and renter-occupied housing.** Houses kept in good condition will likely never be identified for a Health Department initiated inspection. Additionally, owners of identified houses are given considerable written notice prior to the inspection. This allows for the owner to make any self-identified health and safety oriented repairs. If no violations are noted during the routine inspection, then the ultimate goal of the program is achieved and the inspection fee is waived.

As you review SB 639 please consider the following:

- Local municipalities are best able to engage the community and craft a local code that addresses the needs of the constituency.
- Proactive programs assure that barriers to safe and healthy housing are decreased for marginalized populations. Section 8 may impact how we do our work in Eau Claire.
- It is critically important that local programs are able to capture all appropriate costs of inspection programs including staff training, inspection scheduling and direct program related infrastructure. Our reasonable fee structure may be impacted by Section 9.

We welcome the opportunity to provide additional feedback. Please contact me directly at kt.gallagher@co.eau-claire.wi.us or 715-839-4718. Thank you for the opportunity to speak to you today.

WUA 44 East Mifflin Street · Suite 202 · Madison, Wisconsin 53703 · 608/257-3151

To: **Wisconsin Legislature**

From: **Bill Skewes, Executive Director**
Wisconsin Utilities Association

Re: **SB 639 Concerns**

Date: **December 13, 2017**

On behalf of Wisconsin's investor-owned gas and electric energy providers, the Wisconsin Utilities Association (WUA) submits the following comments for your information regarding concerns we have with SB 639, relating to the authority of political subdivisions to regulate rental properties and historic properties and of municipalities to inspect dwellings, public utility service to rental dwelling units, and other provisions.

As you may know, under the bill, a utility that provides electric service to a rental tenant must notify the owner within five days before disconnecting service for nonpayment, but only if the unit's owner has requested the utility to make the notification. The bill also allows a utility to provide the owner with information about a tenant's past due charges by telephone. Finally, the bill prohibits the utility from requiring the unit's owner to provide proof that a tenant has vacated the unit, as a condition for service.

Our concerns with the electric service provisions are found in **Section 32** and **33.** As these sections read today, they would dramatically change the way we protect customer privacy, root out fraud and could provide a free pass for those seeking electric service despite having significant arrears.

Currently, much of what **Section 32** attempts to accomplish is already offered by WUA members and **the landlord can simply include a requirement for the various notifications as part of a rental agreement.** This would eliminate the need to change the statute.

Customer privacy is paramount to Wisconsin utilities. Yet, the bill, as drafted, would allow anyone stating they are a landlord to obtain private customer information. **WUA strongly suggests deleting Section 32 or, if necessary, amending it to ensure that that the customer authorizes the sharing of information with the landlord, perhaps as part of a lease.** We would be willing to work with the authors to provide alternative language to address this issue while also protecting customer privacy.

Section 33 is even more troubling to WUA member companies because of the potential for fraud which already occurs thousands of times annually. For example, one tenant may attempt to put the service in their name and remove a tenant who has significant arrears.

Thus, WUA members do not allow a person to take service unless we can positively identify that the past customer has moved out of the dwelling.

Unfortunately, it is often the landlord who confirms the previous tenant is out of the dwelling. However, without documentation, WUA members would be vulnerable to significant fraud by inadvertently allowing those who are subject to disconnection, to retain service. Wisconsin utilities are currently owed over a half-billion dollars in arrearages. Thus, allowing "name switching" without positive identification will only compound that financial burden.

Another example: some WUA members have experienced possible fraud attempts by landlords calling in late October to put service in their name for tenants on the verge of disconnection. Then, after the start of the heating season shut-off moratorium, the landlord puts service back in the name of their tenant, knowing the utility cannot re-lock that tenant due to the moratorium. In response to this practice, one WUA member implemented a policy whereby, in this scenario, the owner is read the following disclaimer:

> "I'd be happy to put service in your name at this address. Please be informed that if the tenant or their associates are still residing at the property, service must remain in your name until the current tenants move out or make suitable arrangements with us."

WUA is willing to provide several simple changes to **Sections 32 and 33** and we hope the authors will consider these changes to protect customer privacy and customers' rates by not shifting an even greater burden of arrears on those that pay their bills each month.

Thank you for your consideration.

CITY OF Beloit WISCONSIN

Lori S. Curtis Luther
City Hall
100 State Street
Beloit, Wisconsin 53511

608-364-6614 (Office)
608-364-6756 (Fax)
beloitwi.gov
Equal Opportunity Employer

CITY MANAGER

TESTIMONY BEFORE
THE SENATE COMMITTEE ON INSURANCE, HOUSING AND TRADE

SENATE BILL 639

RELATING TO: THE AUTHORITY OF POLITICAL SUBDIVISIONS TO REGULATE RENTAL PROPERTIES AND HISTORIC PROPERTIES AND OF MUNICIPALITIES TO INSPECT DWELLINGS, PUBLIC UTILITY SERVICE TO RENTAL DWELLING UNITS, LANDLORD AND TENANT REGULATIONS, FEES IMPOSED BY A POLITICAL SUBDIVISION, CERTAIN LEVY LIMIT REDUCTIONS, CERTAIN PROCEDURAL CHANGES IN EVICTION ACTIONS, INFORMATION AVAILABLE ON THE CONSOLIDATED COURT AUTOMATED INTERNET SITE, DISCRIMINATION IN HOUSING AGAINST INDIVIDUALS WHO KEEP CERTAIN ANIMALS, FALSELY CLAIMING AN ANIMAL TO BE A SERVICE ANIMAL, MUNICIPAL ADMINISTRATIVE PROCEDURE, ENFORCEMENT OF THE RENTAL UNIT ENERGY EFFICIENCY PROGRAM, AND PROVIDING PENALTIES. (FE)

Dear Chairman Lasee, Vice-Chair Olsen and Honorable Members of the Senate Committee on Insurance, Housing and Trade:

The City of Beloit began a rental registration and systematic interior inspection program in 1994 in response to serious neighborhood concerns. This program has been supported by our community for over 20 years and addresses public health and safety issues that are unique to Beloit. We currently have 14,803 dwelling units and of these 6,611 (45%) are rental. Over 40% of these rental units or roughly 2,700 units are single family homes, which means a significant number of families are living in rental properties.

For decades, the City of Beloit has had significantly lower property values than other cities of similar size. The housing crisis further depressed those values and a high number of rental properties in Beloit are inhabited by low-income families. The most vulnerable of tenants frequently do not complain as they may be unaware of their rights, have language barriers, or fear increased rent or other retaliation. Students are also impacted. Anti-retaliation laws require knowledge and access to legal services that may be unrealistic for significant portions of our population. Relying on a complaint basis only is not sufficient for the City of Beloit.

Even after having a program in place, new violations are still found during every round of systematic inspections. We routinely discover rental properties without smoke detectors, carbon monoxide detectors, insufficient sanitation, inadequate heating and violations for insect, rodent and vermin infestations – the list goes on and this is after we have scheduled our visits and informed landlords in writing of the inspection checklist. Clearly, we cannot presume that all landlords will be responsible and

ensure appropriate safety for their tenants. How many more properties would not have basic life safety components if we stopped our systematic inspections?

Some landlords are responsible but sadly, many particularly out-of-town and often out-of-state landlords, purchase properties inexpensively, rent them, and do not maintain their units. Without the systematic rental inspection program in Beloit, we would be unable to ensure minimum standards. Even with the program in place there are multiple examples of an LLC purchasing properties and the registered agent resigning after the purchase is executed, which makes contact with the appropriate party difficult if not impossible.

Two of our most challenged neighborhoods have high concentrations of rental properties and high poverty levels.

Merrill Neighborhood

- Persons living at poverty level is 39% compared to 24% Citywide
- Persons under 18 living in poverty is 51% compared to 38% Citywide
- 54% of the housing units are rental compared to 45% Citywide
- This neighborhood has been a designated Low-Mod Area by HUD for several decades

Hackett Neighborhood

- Persons living at poverty level is 37% compared to 24% Citywide
- Persons under 18 living in poverty is 45% compared to 38% Citywide
- 61% of the housing units are rental compared to 45% Citywide
- This neighborhood has been a designated Low-Mod Area by HUD for several decades

We are working hard to address tough issues like poverty, unemployment, declining property values, gang and other criminal activities, particularly in our most challenged neighborhoods. Prohibiting the City from continuing its systematic inspection program removes a critical tool to helping the City as a whole and these neighborhoods in particular.

The City of Beloit implores you to refrain from enacting legislation that inappropriately treats all local governments the same. The City has worked hard to accommodate landlord issues and recently enacted several options in regard to our inspection programs. The history of the Beloit inspection program is solid, defendable, and literally saves lives. Our residents and local leaders expect this service to be provided. Please do not prohibit us from continuing it.

Thank you for the opportunity to present our viewpoint on this important proposal.

Sincerely,

Kevin D. Leavy
City Council President

Lori S. Curtis Luther
Beloit City Manager

SUPERIOR
WISCONSIN
Living up to our name.

Finance Department
Jean Vito, Finance Director | Senior Administrative Officer

Phone: (715) 395-7260
Fax: (715) 395-7292

E-mail: finance@ci.superior.wi.us

1316 North 14th Street, #235
Superior, WI 54880
Website: www.ci.superior.wi.us

December 13, 2017

Re: Testimony regarding Senate Bill 639

The City of Superior opposes SB 639. The bill appears to target Superior by reversing a statutory change signed into law by Governor Walker as part of 2015 ACT 55 that allowed for the implementation of a garbage fee for a municipal landfill without effect on the levy limit. Previous law required a General Fund levy reduction if a new fee was implemented to cover garbage collection. Only two municipalities within the State of Wisconsin own municipal landfills (Janesville and Superior). Janesville already has a garbage collection fee in place prior to the enactment of the levy restriction so ACT 55 simply treated both municipal landfills the same.

If Senate Bill 639 is passed it will again leave the City of Superior with two choices: 1) discontinuing the garbage collection service and allowing private haulers to charge a substantially higher fee to our residents for garbage collection, or 2) reducing funding to core service departments (police, fire and public works) to reinstate the landfill's subsidy from the General Fund.

The City of Superior seeks the ability to continue making long term decisions on the local level for one of its largest municipal operations. This means having the ability to offer residents the most cost-effective option for waste disposal. Clearly the most concerning result of this proposed legislation change would be jeopardizining the funding of core services in order to pay for the costs of garbage collection. The City of Superior is seeking support for the continuation of State Statute 66.0602 (2m)(b) 1.

Sincerely,

Jean Vito

Jean Vito, Finance Director/Senior Administrative Officer

WUA 44 East Mifflin Street · Suite 202 · Madison, Wisconsin 53703 · 608/257-3151

To: **Wisconsin Legislature**

From: **Bill Skewes, Executive Director**
Wisconsin Utilities Association

Re: **SB 639 Concerns**

Date: **December 13, 2017**

On behalf of Wisconsin's investor-owned gas and electric energy providers, the Wisconsin Utilities Association (WUA) submits the following comments for your information regarding concerns we have with SB 639, relating to the authority of political subdivisions to regulate rental properties and historic properties and of municipalities to inspect dwellings, public utility service to rental dwelling units, and other provisions.

As you may know, under the bill, a utility that provides electric service to a rental tenant must notify the owner within five days before disconnecting service for nonpayment, but only if the unit's owner has requested the utility to make the notification. The bill also allows a utility to provide the owner with information about a tenant's past due charges by telephone. Finally, the bill prohibits the utility from requiring the unit's owner to provide proof that a tenant has vacated the unit, as a condition for service.

Our concerns with the electric service provisions are found in **Section 32** and **33.** As these sections read today, they would dramatically change the way we protect customer privacy, root out fraud and could provide a free pass for those seeking electric service despite having significant arrears.

Currently, much of what **Section 32** attempts to accomplish is already offered by WUA members and **the landlord can simply include a requirement for the various notifications as part of a rental agreement**. This would eliminate the need to change the statute.

Customer privacy is paramount to Wisconsin utilities. Yet, the bill, as drafted, would allow anyone stating they are a landlord to obtain private customer information. **WUA strongly suggests deleting Section 32 or, if necessary, amending it to ensure that that the customer authorizes the sharing of information with the landlord, perhaps as part of a lease**. We would be willing to work with the authors to provide alternative language to address this issue while also protecting customer privacy.

Section 33 is even more troubling to WUA member companies because of the potential for fraud which already occurs thousands of times annually. For example, one tenant may attempt to put the service in their name and remove a tenant who has significant arrears.

Thus, WUA members do not allow a person to take service unless we can positively identify that the past customer has moved out of the dwelling.

Unfortunately, it is often the landlord who confirms the previous tenant is out of the dwelling. However, without documentation, WUA members would be vulnerable to significant fraud by inadvertently allowing those who are subject to disconnection, to retain service. Wisconsin utilities are currently owed over a half-billion dollars in arrearages. Thus, allowing "name switching" without positive identification will only compound that financial burden.

Another example: some WUA members have experienced possible fraud attempts by landlords calling in late October to put service in their name for tenants on the verge of disconnection. Then, after the start of the heating season shut-off moratorium, the landlord puts service back in the name of their tenant, knowing the utility cannot re-lock that tenant due to the moratorium. In response to this practice, one WUA member implemented a policy whereby, in this scenario, the owner is read the following disclaimer:

> "I'd be happy to put service in your name at this address. Please be informed that if the tenant or their associates are still residing at the property, service must remain in your name until the current tenants move out or make suitable arrangements with us."

WUA is willing to provide several simple changes to **Sections 32 and 33** and we hope the authors will consider these changes to protect customer privacy and customers' rates by not shifting an even greater burden of arrears on those that pay their bills each month.

Thank you for your consideration.

Michael Best

Memorandum

To: The Apartment Association of South Central Wisconsin

From: Katie C. Hinkle
Hamang B. Patel

Date: December 12, 2017

Subject: Modifications to the Historic Landmark Designation Process

---

This Memorandum sets forth our conclusions regarding whether changes in the manner in which historic properties are nominated to and placed on the National Register of Historic Places in Wisconsin (the "National Register"), the State Register of Historic Places in Wisconsin (the "State Register"), and/or locally designated lists of historic places (the "Local Registers") impact funding received by the State of Wisconsin (the "State") or local property owners by the Federal government for the rehabilitation and preservation of historic properties?

CONCLUSION

Nothing in the Federal law governing historic preservation grants would explicitly restrict or prohibit grant money payments to the State if the State requires that property owners consent to the inclusion of their property on a historic register.

ANALYSIS

I. *The Nomination Process*. There is currently no requirement that a property owner consent to a nomination or to the listing of their property on a register. Generally, any person may nominate a district, building, structure, or object to the State Register, and the National Register, and a property must fulfil certain requirements to be accepted.[1] Once an application is made to the State Historic Preservation Review Board (the "State Board"), the State Board will notify local municipalities and request that they forward comments from affected neighborhood groups, public bodies, and interested citizens.[2] Then, the State Board will accept and approve nominations to the State Register and the National Register upon the recommendation of the State historic preservation officer.[3]

II. *Receipt of Federal Grant Money.* In order to further historic preservation programs, and rehabilitate historic properties, states may apply for funds from the Federal government. However, to be eligible to apply, states and local governments have to have preservation programs approved by the Federal government.

At the State level, the historic preservation program is approved by the National Park Service if it meets certain standards.[4] At the local level, a local historic preservation ordinance (a "Local Ordinance"), is approved by the State Historical Society (the "Society") if it contains the appropriate methods for approving historic properties and an

approved governing structure.[5] Once the Local Ordinance is approved, the municipality may then receive funding from the Federal government through grants.[6] The Federal Historic Preservation Fund distributes up to an aggregate of One Hundred and Fifty Million Dollars annually for preservation projects across the nation, including grants to state and municipalities.[7]

III. Impact of Proposed Changes on CLG Status. Requiring the Society or a municipality to seek the consent of a property owner prior to that property being nominated to or listed on a historic register likely does not conflict with any of the requirements for certification of a Local Ordinance or state historic preservation program, and would likely not impact the ability for the State to receive Federal grant funding. Approval of both the State and local programs generally only requires that the programs include the establishment of adequate historic review commissions and adequate public participation in the historic preservation program.[8] Requiring owner consent would be consistent with the requirement for "public participation" in the nomination process and requirements that the local governments notify owners who may be nominated to the National Register.[9]

It is possible that a historic preservation commission may not be considered adequate if its recommendations to the State or National Registers are subject entirely to the consent of a property owner. However, there is nothing explicit in Federal law which indicates that this is the case. The Secretary of the Interior has the ability to revoke the approval of a state program if "a major aspect of the state program is not consistent" with Federal law. However, there is no indication that a consent requirement would trigger this provision.[10] Therefore, if a State law requiring a property owner to consent to a property's inclusion in a historic register were enacted, there is no evidence that such legislation would cause the State to lose Federal grant funding for historic preservation.

[1] Wis. Stat. § 44.36(4) (2017). A property must be historically significant to be nominated to a historic register. Wis. Stat. § 44.36(2) describes the criteria required for "significance" as the following: "The quality of significance is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association and that satisfy any of the following conditions: 1. Association with events that have made a significant contribution to the broad patterns of history. 2. Association with the lives of persons significant in the past. 3. Embodiment of the distinctive characteristics of a type, period or method of construction or that represent the work of a master or that possess high artistic values. 4. Representation of a significant and distinguishable entity whose components may lack individual distinction. 5. Yielding, or likely to yield, information important in prehistory or history." There are additional requirements and limitations listed in Wis. Stat. § 44.36(2)(b) (2017). *See also* Wis. Stat. § 44.36(3) (2017).

[2] Wis. Stat. § 44.33(7) (2017).

[3] Wis. Stat. § 44.33 (2017).

[4] 54 U.S.C. § 302301 (2017). The Secretary of the Interior is responsible for consulting with the National Conference of State Preservation Officers and the National Trust and promulgating regulations for state historic preservation programs. *Id.*

[5] Wis. Stat. § 44.44 (2017). The Society shall certify a local historical preservation ordinance if it meets the following conditions: (a)Contains criteria for the designation, on the register of a political subdivision, of historic structures and historic districts which are substantially similar to the criteria for inclusion in the national register of historic places in Wisconsin; (b) Provides a procedure for the designation of historic structures or historic districts which includes, at a minimum, a nomination process, public notice of nominations and an opportunity for written and oral public comment on nominations; (c) Provides for the exercise of control by a political subdivision by ordinance, to achieve the purpose of preserving and rehabilitating historic structures and historic districts; (d) Creates a historic preservation commission in the

political subdivision. Wis. Stat. § 44.44(1) (2017). The Local Ordinance will govern the nomination and approval of property to a Local Register, but the criteria for inclusion must be substantially similar to the criteria for inclusion in the State Register for the Local Ordinance to be approved by the Society. Wis. Stat. § 44.44(1) (2017).

[6] 54 U.S.C. § 302505 (2017). Certified Local Governments are eligible for matching grants under 54 U.S.C. § 302902(c)(4) (2017). Certified Local Governments will generally be eligible to receive not less than 10% of the annual apportionment distributed by the Federal government to each state pursuant to the National Historic Preservation Act. 54 U.S.C. § 302902(c)(4) (2017).

[7] 54 U.S.C. § 3031 (2017).

[8] With regard to the approval of the State program, 54 U.S.C. § 302301 (2017) requires that "The regulations shall provide that a State program submitted to the Secretary under this chapter shall be approved by the Secretary if the Secretary determines that the program provides for—(1) the designation and appointment by the chief elected official of the State of a State Historic Preservation Officer to administer the program in accordance with section 302303 of this title and for the employment or appointment by the officer of such professionally qualified staff as may be necessary for those purposes; (2) an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and (3) adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register." Approval of a local program requires that the local historical preservation body do the following under 54 U.S.C. § 302503 (2017) "(1) enforces appropriate State or local legislation for the designation and protection of historic property; (2) has established an adequate and qualified historic preservation review commission by State or local legislation; (3) maintains a system for the survey and inventory of historic property that furthers the purposes of chapter 3023; (4) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and (5) satisfactorily performs the responsibilities delegated to it under this division."

[9] 54 U.S.C. § 302504(b) (2017).

[10] 54 U.S.C. § 302302(b) (2017).