Frank Lasee

WISCONSIN STATE SENATOR

FIRST SENATE DISTRICT

Testimony for SB179
Landlord/Tenant Regulation Reforms

SB 179 and its amendments are a common sense approach to protecting the rights of both landlords and tenants.

When bad tenants act badly, good tenants pay—both with their pocketbook and quality of life. Wisconsin tenants deserve quality housing at a fair price and Wisconsin landlords need a good regulatory environment to provide that.

Several improvements to the current regulations will be accomplished under SB 179:

- This bill will lend extra protection to victims of sexual assault or domestic abuse and will offer landlords flexibility to evict tenants because of criminal activity to protect other innocent renters. Landlords remain unable to evict a tenant based on his or her status of a victim of sexual assault, domestic violence or abuse.
- Under this bill tenants must still be told of known defects before signing a lease.
- This bill protects the rights of landlords to recover the costs of damages caused by a tenant to a building. It will also remove burdensome regulations that force landlords to provide information that is not required by state or federal law.
- The eviction process will be streamlined requiring that the process must be completed within thirty days of the initial court hearing.
- If a property is posted as private parking, illegally parked vehicles may be towed at the owners expense at the direction of the landlord.
- Landlords will no longer be required to store property left behind by a vacating tenant as long as the tenant is told before the initial lease is signed. Renewing tenants can be told at the beginning of a new lease cycle. If the abandoned property left behind is medical equipment, prescription drugs, a titled vehicle, or a manufactured home, the landlord must notify the former tenant about the abandoned property.
- If a lease contains illegal or unfair trade provisions it will still be void. If a landlord engages in unfair trade practices, a tenant will still be able to sue for double damages as well as attorney's fees. If a landlord's violation is minor a tenant may still sue for actual damages.

Many of these provisions simply clarify existing law, and others provide a better rental housing framework in the law. These are common sense reforms that will reduce rental housing costs for tenants, and improves landlord/tenant regulations statewide.

Please support SB179.

Chair: Committee on Insurance and Housing

Post Office Box 7882
Madison, Wisconsin 53707-7882

(608) 266-3512
Sen.Lasee@legis.wi.gov

COUNTY OF KENOSHA

OFFICE OF THE SHERIFF

David G. Beth
Sheriff
1000 55th Street
Kenosha, WI 53140
(262) 605-5100
Fax: (262) 605-5130

June 4, 2013

Wisconsin State Senate

Senate Members;

On May 2, 2013 I traveled to Madison to testify in front of the Assembly Committee regarding AB 183. I apologize that I am unable to make the trip to speak to you this week about Senate bill 179.

This bill addresses issues concerning the responsibility of landlords and the Sheriff upon the eviction of tenants and the property left behind by the tenants. I would like to summarize my committee testimony for your committee, as well as, the testimony of Sgt. Bill Beth, who supervises the Civil Process Unit at the Kenosha County Sheriff's Department. While I cannot speak for all 72 Sheriff's in the State of Wisconsin, I cannot imagine that the circumstances in other counties are incredibly different than the circumstances in Kenosha County. The reality is that the responsibility of this Sheriff to serve civil process is commanding far more resources than it did six years ago. Further, these resources are being used for a minimal benefit for the tenants involved and no benefit to the other residents of our county.

In 2007 the Kenosha County Sheriff's Department had one Civil Process Clerk and two Civil Process Deputies. The unit answered to Patrol Supervision. The deputies conducted evictions two mornings a week. In 2012 the Kenosha County Sheriff's Department has two full time Civil Process Clerks with two additional clerical staff assisting 50% of the time, as their other duties allow. We have five deputies committed to Civil Process, a supervisor (who has other responsibilities as well) and a Captain who oversees this area and other areas. Evictions are conducted on a daily basis. Our resources invested in the service of civil process have tripled in the last six years. The laws that have governed these procedures were not created with present day circumstances in mind.

As Sheriff of Kenosha County I would like to see the eviction rules simplified. I believe the changes being proposed in AB 183 would allow me as a Sheriff to redirect resources back to patrolling neighborhoods and enforcing other laws, which is where those resources have been drawn from in order to bolster our civil process staff.

There are a couple of concerns in the language of AB 183 that I believe should be clarified. These may have already been addressed in Senate bill 179. I am not sure. Those concerns are outlined in detail in an email to Rep. Samantha Kerman which is included in this letter. The summary of these concerns is this: 799.45(3m) line 15 - Sheriff can be requested to supervise, but has no recourse to take action during that supervision if ordinary care is not used because language has been stricken; 799.45(3)(b) line 5 – Sheriff is not directed to specific statues regarding moving. The remedy is to direct Sheriff to statutes listed above.

In addition to the resources being expended by the Sheriff's Department the reality is that there is a minimal return to citizens as a result of the expenditure. In 2012 it cost $160,000 to move and store abandoned property. Our mover conservatively estimates that 80%-90% of this property was not claimed and had to be disposed of. When asked specifically our mover said, "I remember two people coming last year to get their property." Protections for tenants do need to be in place, but the current system requires a lot of time, effort and resources for a protection that most tenants are not taking advantage of. The reason people are not picking up their property is because most of it is really not of value. Generally people take with them the things that they want. I have attached a cost break down for Kenosha County for 2012.

Thank you for your attention to this important matter that will affect Sheriff's throughout Wisconsin.

Sincerely,

David G. Beth
Sheriff – Kenosha County

Copy of email sent to Representative Kerkman on May 1, 2013

"Greetings Representative Kerkman,

I wish to offer a few concerns from my point of view as a deputy who regularly performs evictions. I have participated in hundreds of evictions over the past 3.5 years.

I read through Act 183 section 799.45. I read some areas of the proposed statute that caused me to question as to how to proceed. The areas I am referring to are 799.45(3m) and 799.45(3)(b).

I wish to offer my concerns by line items. First in 799.45(3m) line 15 starting with the portion that is stricken and ending on line 21. The exact stricken language is "The Sheriff may prevent the plaintiff or the plaintiff's agent from removing property under this paragraph if the plaintiff or the plaintiff's agent fails to exercise ordinary care in the removal and handling of the property." I do not see any confusion with the other language. The confusion would be based on if the plaintiff or their agent requested the Sheriff to supervise the removal and handling of the property. If ordinary care is not used by the plaintiff or their agent it limits the Sheriff from any recourse to prevent any irresponsible acts. Where as if the plaintiff or their agent did not use the expected care we could stop them preventing any future damage and contract with a private moving company to preserve the value of the property. The reason I were to bring this up is because I have experienced landlords who do not believe in taking care of the former tenants property just because they are now evicted. **Concern with this section: Sheriff can be requested to supervise, but has no recourse to take action during that supervision if ordinary care is not used because the language has been stricken.**

Second in 799.45(3)(b) the language in line 5 and continuing to line 6 speaking about "the property removed from such premises under this subsection". I have read and reread that subsection but it does not direct the Sheriff to any particular area of the statute except for the exception in par. (C) which speaks of property without monetary value. I am assuming it is to mean when the Sheriff has removed the property in absence of the plaintiff or their agent enacting their option as to 799.45(3m) Alternative Disposition of Property by Plaintiff. My suggestion would be to remove "under this subsection" and put in its place "under 799.45(2)(b)". 799.45(2)(b) is the direction to the Sheriff to remove the property. In addition the way it is currently written sounds like it would apply to if the plaintiff or their agent were to remove and store as listed in 799.45(3m) starting on line 11 and continuing to line 12. **Concern with this section: Sheriff is not directed to specific statutes regarding moving. Remedy is to direct Sheriff to statutes listed above."**

122 W. Washington Avenue
Suite 300
Madison, Wisconsin 53703-2715

608/267-2380
800/991-5502
Fax: 608/267-0645

E-mail: league@lwm-info.org
www.lwm-info.org

To: Senate Committee on Insurance and Housing

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: June 5, 2013

Re: SB 179, Restrictions on Certain Ordinances Relating to Landlords and Tenants

The League of Wisconsin Municipalities opposes SB 179 because it preempts municipal authority to enact or enforce certain ordinances relating to landlords and tenants. Our main concern is that the bill would prohibit a municipality from enacting or enforcing a landlord registration or licensing requirement. Numerous municipalities have such registration requirements in place, particularly college communities. The municipality's goal in establishing such a requirement is to ensure that it has accurate and up-to-date contact information for the landlord and the landlord's agent. Having such information is critical to making it easier for the community to communicate with the landlord, especially when there are problems or emergencies.

We urge the committee to consider amending the bill to allow communities to enact and enforce landlord registration requirements. Thanks for considering our comments.

WISCONSIN HOUSING ALLIANCE
THE VOICE OF FACTORY-BUILT HOUSING

June 5, 2013

TO: Members of the Senate Insurance and Housing Committee

FROM: Ross Kinzler, Executive Director

RE: SB 179

The Wisconsin Housing Alliance supports SB 179. Specifically, we urge your support for the provisions of the bill that promote personal responsibility. Landlords on a daily basis face problems serving their customers because of people who park illegally, leave property behind which interferes with new tenants moving in, and who evade proper legal notices.

Property Left Behind – The bill harmonizes the process for handling property left behind during the term of the lease and after eviction. For manufactured homes, at our insistence, the bill retains notices to the owner and secured lender before any disposal.

Illegal Parking – Illinois and many other states have recognized that it is a drain on police resources to require a parking ticket before an illegally parked car on private property can be towed. The bill requires the DOT to promulgate rules on posting, towing and return of the car to its owner. Wisconsin taxpayers do not need to fund part of the cost of removing cars from private property. Property owners and towing companies are capable of doing so.

Return of Security Deposits – The bill clarifies when the clock begins for return of security deposits for tenants who leave before their lease term, after eviction or after a hold over period.

Act 143 Corrections – Several sections of landlord-tenant law affected by Act 143, laws of 2011 are corrected by the bill. Most importantly is a provision dealing with crime free and drug free lease addendums. Act 143 included a provision to say a lease could not include a provision that permitted the landlord to evict a person from a premises where a crime was committed, even if the tenant could not prevent the crime. If that statement is confusing, so is the law. The industry's intent is to protect crime victims but also allow landlords to protect other tenants from criminals by allowing leases to provide that the landlord refuses to rent to criminals.

Safe Neighborhoods – Under current law, if a tenant commits an act of violence or a threat of violence against another tenant, the offending tenant can be evicted with 5 days' notice. Recently, a man was arrested for 1st degree repeated sexual assault of a child. Because the man lives in a manufactured home community and not an apartment complex, the law does not apply. The bill expands this law to manufactured home communities.

Wisconsin Housing Alliance is the voice of factory-built housing and is located at 301 N. Broom Street, Suite 101, Madison WI 53707 Voice 608.255.3131 Fax 608.255.5595 Visit us on the Web at www.housingalliance.us or email at info@housingalliance.us

Office of the Mayor

Paul R. Soglin, Mayor

City-County Building, Room 403
210 Martin Luther King, Jr. Boulevard
Madison, Wisconsin 53703-3345
PH 608 266 4611
FAX 608 267 8671
www.cityofmadison.com
mayor@cityofmadison.com

June 5, 2013

To: Members of the Senate Committee on Insurance and Housing
From: Nicholas Zavos, Madison Mayor's Office

Re: 2013 Senate Bill 179

The City of Madison is opposed to Senate Bill 179. There are people who are more capable of discussing many of details of this bill. However, there are two issues in particular that I would like to call your attention to.

First, the bill would preempt the city's ordinance regarding emergency contact information. Under current Madison ordinance 27.04 (2) (i), landlords are required to provide, annually, the name and phone number of two contacts who can exercise control over the property. In addition, the ordinance requires the city to use the information to notify the landlord of any building inspection orders, or any police, fire, or ambulance calls made to the property. This ordinance has enabled the building inspection department to avoid prosecutions for code violations, and has enabled prompt responses to major problems such as a broken furnace in winter. The Madison Fire department uses this contact list weekly. It allows the more efficient deployment of fire crews. For example, if the fire department has to force entry into a building, or is unable to reset a fire alarm system, the contact list provides an immediate contact to secure the building.

Second, on the issue of towing, the requirement to get a citation before towing serves a number of important public purposes. First, it can be used as an investigative tool, and can assist in locating stolen cars. Second, it prevents needless police calls. When an owner finds his car missing, he will frequently call the police to report the car stolen. Under the current system, a citation will have been issued, and the police can inform the owner that the car has been towed. Without the citation, the police will have no means of identifying whether the car has been stolen or towed. This could result in the needless dispatch of police recourses.

The proposed amendment would not remedy this problem. The amendment would require the towing company to notify law enforcement of the make, model, registration plate, and location of the car. First, the police department does not have any system to process these reports. The issuing of a citation places that information in an accessible database. Second, the amendment does not require the notice be provided beforehand, so there is no assurance that this would reduce needless police calls.

These are two examples of the ways in which the landlord tenant laws affect the cities' ability to effectively manage its recourses. For transactions that, by their nature cross jurisdictions, there are benefits to consistent and uniform laws. However, landlord/tenant relations are, by definition, rooted in a specific location. These renal agreements affect more than just a commercial transaction between two individuals - they have implications for the community.

At a minimum, I would request that you slow down, and give consideration to some of the implications of these proposed changes. Thank you for your consideration.

Testimony

307 South Paterson Street, Suite 1
Madison, Wisconsin 53703
Phone: (608) 255-0539 Fax: (608) 255-3560

To: Members of the Senate Committee on Housing and Insurance
From: Tony Gibart, Policy Coordinator, Wisconsin Coalition Against Domestic Violence (WCADV)
Date: June 5, 2013
Re: Opposition to Senate Bill 179 and Assembly Bill 183

Chairman Lasee and Members of the Committee, thank you for the opportunity to submit written testimony today. My name is Tony Gibart, and I represent the Wisconsin Coalition Against Domestic Violence (WCADV). WCADV is the statewide membership organization that represents local domestic violence victim service providers and survivors.

We oppose Senate Bill 179 and Assembly Bill 183 because this legislation will to lead to domestic violence victims and other crime victims being kicked out of their homes simply because they were victimized. It will also discourage domestic violence victims from seeking help and police protection.

SB179 and AB 183, contrary to current law, would permit lease provisions that allow "the landlord to terminate the tenancy of a tenant if a crime is committed in or on the rental property, even if the tenant could not reasonably have prevented the crime." Such lease provisions will result is victims being re-victimized by being forced out of their homes and will create an incredibly strong disincentive for tenants to not report criminal activity to the police.

An amendment was added to AB 183 that attempted to address these problems for domestic violence, sexual assault and stalking victims. While no doubt offered in good faith, the amendment for all practical purposes does not improve the bill and does not address our deep concerns.

Under AB 183 as amended, a landlord would be free to include this language in a lease: *If a crime occurs on the property, even if the tenant is the victim of the crime and could not have prevented the crime, the landlord may evict the tenant.* Domestic violence victims, knowing such a provision is in their lease, will have a very compelling reason to not involve police or report crimes. These types of lease provisions will have a silencing effect on victims in Wisconsin and promote the continuation of abuse.

Even if a victim takes the courageous step of calling the police despite such a lease provision, under AB 183 as amended, she could still be forced out of her home. Although AB 183 clarifies some victims have defenses to evictions that would supersede conflicting lease provisions, landlords would be free to include eviction provisions that make no exception for domestic violence, sexual assault and stalking victims and point to them to convince victims to abandon their homes. Many victims in this situation will be forced out because victims usually do not have the knowledge or ability to assert their legal rights vigorously.

Our concerns are not academic. We know from firsthand experience and research that victims face the dire choices and re-victimizing evictions from landlords described above. One study found that eleven percent of evictions of low-income domestic violence victims were directly based on their victimization.[1]

To be clear, I don't believe any legislator would intend these negative consequences to victims. To the contrary, consistent with Governor Walker's stated priority of improving Wisconsin's response to domestic violence victims, the Legislature has enacted and is working on a number of pro-active domestic violence bills. Passage of SB 179/AB 183, however, would be a giant step backwards in Wisconsin's effort to support victims. We stand willing to work with the author and members of the committee to find a solution agreeable to the interests of the landlords that does not involve silencing and re-victimizing victims.

(over)

[1] National Law Center on Homelessness & Poverty and the National Network to End Domestic Violence, *Lost Housing, Lost Safety: Survivors of Domestic Violence Experience Housing Denials and Evictions Across the Country*, February 2007.

Comparison to Subsidized Housing

Before concluding, I want to address an argument that has been made to justify the bill. Supporters have claimed that repealing Wisconsin's protection for crime victims is necessary because it conflicts with federal regulations for section 8 housing dealing with criminal activity. This claim is not accurate. First, the federals courts have determined that state and local protections for tenants may validly exceed federal regulations and that local law controls when it differs from federal regulations. *Barrientos v. 1801–1825 Morton Limited Liability Company*, 583 F.3d 1197 (9th Cir. 2009).

Second, and perhaps more importantly, the comparison to federal law actually demonstrates the deficiency of SB 179 and AB 183 as amended with respect to protecting domestic violence, sexual assault and stalking victims. Under a recently enacted bipartisan bill, tenants in federally subsidized housing must be provided with notice that tenants, "may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking." This notice must be given to tenants: (1) at the time the applicant is denied residency in a dwelling unit assisted under the covered housing program; (2) at the time the individual is admitted to a dwelling unit assisted under the covered housing program; and (3) with any notification of eviction or notification of termination of assistance. Public Law 113-4 section 601(d).

Therefore, tenants who are victims of domestic violence, sexual assault or stalking in subsidized housing are given clear and definitive notice that they may not be evicted for their victimization. Ironically, in non-subsidized housing, under SB 179 and AB 183 as amended, victims will be confronted with a blanket lease provision that says they can be evicted for any criminal activity, regardless of whether they were the victim. These victims will have no notice that state eviction defenses might apply to them. As described above, victims in non-subsidized housing will, as result, be more hesitant to call the police for help and more willing to accede to landlords' demands that they leave their homes.

Thank you for the opportunity to provide testimony. Please contact me at 608.255.0539 x310 or tonyg@wcadv.org if you have any questions.

GIESE & WEDEN, S.C.
ATTORNEYS AT LAW

Heiner Giese
Dennis J. Weden

1216 North Prospect Avenue
Milwaukee, Wisconsin 53202-3061
Phone (414) 276-7988
Fax (414) 276-8342
Email: hgiese@ameritech.net
djweden@ameritech.net

June 5, 2013

TO: Members of the Senate Insurance and Housing Committee

FROM: Heiner Giese, Attorney for the Apartment Association of Southeastern Wisconsin, Inc.

RE: Pro-tenant Provisions in SB 179/AB 183

Various tenant advocates and organizations have criticized this proposed legislation as unfriendly to tenants. However, there are a number of provisions in the bill which will enhance tenants' rights. Here are a few scenarios:

1. TENANT PARKING.
Tonya Tenant returns home to her apartment complex on the evening of a Wisconsin snowstorm. Her assigned parking spot has been taken by a guest of a co-tenant who has decided to stay the night because of the bad weather. Under current law, Tonya would have to wait for a ticket to be issued to the offending vehicle before it could be towed. She would likely have to park on the street and would find herself plowed-in the next morning. Under the new law, Tonya's landlord can have the offending vehicle towed right away and Tonya's parking spot will be secured.

2. FEWER LAWYERS.
The bill provides that landlords who operate as LLC's or corporations can represent themselves in small claims court or have an employee represent them. This can actually be of benefit to tenants because in the future, when tenants are involved in a legal dispute, they may well be matching their skills against a fellow layperson instead of an attorney.

3. FREEDOM FROM CRIME AND NUISANCES.
The following scenario is based on an actual case. Tonya Tenant lives upstairs in a Milwaukee duplex. Frequently during the week a group of three or four men visit the downstairs tenant and hang out on her porch. It appears that drug dealing is going on. When the landlord confronts the downstairs tenant about this problem she claims that these visitors are really not welcome at her premises, that she knows some of them but that she doesn't know how to stop them from visiting her. She refuses to consistently call the police about this situation. Under current law, the landlord would have difficulty evicting the downstairs tenant because she could claim that she "could not prevent" any criminal activity by her "guests." Under the new law, tacitly allowing criminal activity can be grounds for a tenant's eviction.

(over)

4. FASTER DISPOSITION OF ABANDONED PROPERTY WILL BENEFIT GOOD TENANTS.

Opponents of the bill are objecting to new provisions which will make it easier and faster for a landlord to dispose of property abandoned by a tenant or left on the premises after an eviction. But the facts of life are that good tenants pay for the sins of bad tenants. Responsible tenants do not leave valuable personal property, or even trash, in the premises when they move out. Removal and storage of personal property – to say nothing of the many hundreds of dollars it can cost for the sheriff and eviction movers -- can run up a landlord's annual operating costs dramatically. Less money spent on these items means more money is available to invest in the property for the benefit of the good tenants.

MADISON OFFICE
31 South Mills Street, Madison, Wisconsin 53715
www.legalaction.org | tel 608-256-3304 | toll-free 800-362-3904 | fax 608-256-0510

LEGAL Action
OF WISCONSIN
40 Years of Justice

TO: Senate Committee on Insurance and Housing

FROM: Bob Andersen

RE: SB 179, relating to miscellaneous provisions related to rental and vehicle towing practices and eviction proceedings, prohibitions on enacting ordinances that place certain limitations on requirements of landlords, providing an exemption from emergency rule proceedings, granting rule-making authority

DATE: June 5, 2013

Legal Action of Wisconsin, Inc. (LAW) provides civil legal services to low income people in the 39 most populous counties in the state that cover an area from La Crosse County in the west to Brown County in the east and extending south to the remainder of the state. One of our major priorities is housing law.

I. SB 179 Treats the Furniture and Other Personal Property of a Tenant Who Is Being *FORCIBLY EVICTED* like the Few Personal Belongings Left Behind by a Tenant Who *ABANDONS* His/her Property – by Allowing the Landlord to Freely Dispose of the Property or to Keep the Property. There Is Absolutely *NO SIMILARITY* in These Circumstances and this Provision Only *INVITES VIOLENT CONFRONTATIONS* Between Landlord and Tenant.

A. Property in Evictions and Property that Has Been Abandoned Are Completely Different

This treats property that belongs to a tenant who has been involuntarily evicted the same as property that has been abandoned by the tenant. The landlord gets to dispose of the property in any way they choose, or to keep the property and use it to get cash from the tenant. There is no similarity in these circumstances. The tenant who has been evicted, often on short notice, has no intention of leaving the property behind. These won't be just incidental belongings, as is the case for abandoned property, where a few items may be left behind. In these evictions all of the tenants belongings and furnishings are often involved. It is particularly offensive that a proposal like this comes out at a time that the number of evictions of tenants are skyrocketing because tenants have lost their jobs due to the financial crisis. These are tenants who are desperately looking for other places to live.

B. **The Bill Repeals All of the Safe Guards that Exist Under Current Law Where a Landlord Takes the Property of the Tenant**

The bill repeals all of the safeguards that are required by the sheriff before they approve the landlord engaging in self help removal of property – found in s. 799.45 (3)(am)1. To 7.

- notice to sheriff of address of defendant
- landlord has to exercise ordinary care
- landlord has to have warehouse or other receipts
- landlord has to obtain a bond of insurance
- landlord cannot impose excessive charges
- landlord has to provide the tenant with notice where property to be stored
- within 3 days the landlord has to notify the defendant of the charges imposed

C. **The Bill Invites Violent Confrontations, Especially in Milwaukee County, Which has Been Exempt from these Procedures in the Past**

For many years, the Wisconsin Consumer Act had prohibited self help repossession of automobiles, because of the disagreements and fights that break out between repo men and the owners of the vehicles. Law enforcement was widely in favor of that prohibition. ***That potential for violent confrontations will be mild compared to what will happen here when landlords forcibly seize all of a family's furniture and belongings.*** These are people whose only fault is that they have lost their jobs and are unable to pay the rent – they will not see this as a blanket authorization for landlords to seize their property.

This is especially a concern in Milwaukee County. That is why Milwaukee County has been exempt from the law that allows landlords to store tenants' property. ***The bill repeals the exemption for Milwaukee County! See the letter written by the Milwaukee County Sheriff admonishing the legislature not to make this repeal, based on the threat of violence that exists.***

D. **The Potential for Violence is Further Exacerbated by the Provision in the Bill Allowing Summons by Mail in Eviction Actions. Summons by Mail in Eviction Actions was Ruled Unconstitutional by the Iowa Supreme Court in 1999.**

Eviction actions may be commenced by the service of summons by mail, replacing the historic requirement of personal service. Personal service is required because of the fundamental interests being affected. This is where families live, where they get their shelter and utilities from, for their very survival. The reason that personal service is required is that the law seeks to make sure that people know what is happening. This is not an action for a payment due for a TV set.

Putting something in the mail provides no assurance that the tenant received and understood the notice. Mail is returned to the sender only if the address does not match up with the person living there. There is no assurance that the mail was not lost.

So, the potential for violence is even greater where the tenants had no actual notice that they

were going to be evicted. They may well have paid their rent on time or had a valid defense. Now, you are talking about a tenant who will act in defense of his or her own property.

The Iowa Supreme Court held that such a provision for service by mail in eviction actions is Unconstitutional. In War Eagle Village Apartments v. Plummer, No. 07-1217, 2009 WL 3878146 (Iowa 2009), the Court held that an Iowa Code provision allowing the Original Notice and Petition to be served by certified mail is unconstitutional. Specifically, the Court held that Iowa Code § 562A.29A(2), which provides that the original notice can be served by "sending notice by certified mail or restricted certified mail… whether or not the tenant signs a receipt for the notice" violates the due process clause of the Iowa Constitution. Among other things, the tenant may not have received the notice in time to defend the action.

It has been conjectured that the fact that Iowa based its decision on the Iowa Constitution rather than the U.S. Constitution makes a difference. The truth is that whether the Iowa court based this on the Iowa Constitution or the U.S. Constitution is irrelevant. It is a principle of law that courts reach the least expansive decision available in making decisions. The truth is that Iowa's decision has no binding effect on Wisconsin, whether or not there decision was based on the U.S. Constitution. ***However, the Iowa court decision would certainly be taken into account by analogy by the Wisconsin Supreme Court, because state constitutional provisions regarding due process use similar language. And because Iowa os a neighboring and similar state to Wisconsin.***

II. The Tenant is Made Liable for All Damage Made to the Premises, Even that Caused by the Landlord!

Current law makes the tenant responsible for damage caused by their ***negligence or improper use*** of the premises. This proposal says the tenant is even liable for damage that is caused by the ***proper use*** of the premises. ***Any damage that is caused by the action or inaction of the tenant counts***. So, tenants are liable for damage to plumbing or electrical outlets that are due to the negligence of the landlords, since the only requirement is that the damage is caused by the action or inaction of the tenant. The action of the tenant is that they used the plumbing or electrical facilities of the premises.

III. The Bill Prohibits Ordinances That Justly Make Landlords Responsible for Damages or Even Ordinances that Require Landlords to Give Contact Information!

The prohibits ordinances that limit a tenant's responsibility for damage that is caused by the landlord, since this covers all damage to the premises caused by whatever source during the tenant's occupancy. Ordinances might otherwise provide that a tenant is entitled to the return of a security deposit where the damage is caused by the landlord. This could also include criminal damage to property caused by a burglar.

Ordinances routinely require landlords to provide information about themselves for the benefit of tenants. They would be prohibited. Ordinances would be prohibited that require information that is specific to certain residential buildings, based on the structure of those buildings, since ths is

not information that is required of all residential property owners. This covers a lot of what building codes require.

IV. The Bill Deters Victims of Domestic Violence from Seeking Help to Defend Themselves Because It Gives Them No Actual Notice That They Will Not be Evicted for the Actions of their Abusers

The amendment adopted in the Assembly changes a current provision in the statutes that is designed to protect victims of domestic violence. The current provision prohibits certain lease provisions that would make victims subject to eviction for the actions of their abusers.

The amendment in the Assembly says that there can be no lease provision that

> "704.44 (9) Allows the landlord to terminate the tenancy of a tenant in a manner contrary to s. 106.50 (5m)(dm) or 704.16"

This amendment reveals a misunderstanding of the Wisconsin Supreme Court's decision striking down a similar prohibited lease provision that says that the tenant is liable for the landlord's attorney fees.

The Supreme Court's decision was based not on what the legal effect of such a provision might be, since the law clearly made it illegal for a landlord to require a tenant to pay the landlord's attorney fees.

The Supreme Court decision was based on the fact that, even though illegal, ***THE LEASE PROVISION WOULD DETER TENANTS FROM EXERCISING THEIR RIGHTS.***

The same applies here. THERE IS NO WAY THE PROHIBITION DESCRIBED ABOVE WILL NOTIFY A VULNERABLE VICTIM OF DOMESTIC ABUSE THAT THEY WILL NOT BE EVICTED FOR THE ACTS OF THEIR ABUSERS.

That is because the provision described above requires that a tenant knows what is in s. 106.50(5m) or s. 704.16.

The only way the lease is going to protect victims of domestic violence is by ***putting in the lease the actual protections that are contained in s. 10650 (5m)(dm) or s. 704.16, so that the victim of domestic abuse would be apprised that he/she will not be evicted for the acts of his/her abuser.***

V. The Bill Puts Towing Companies in an Impossible Situation for Knowing Whether Vehicles are Authorized to be on the Premises (Section 6 of the Bill)

This requires a tow truck company to know whether a property is properly posted, whether a vehicle is not authorized to be there, and who is an agent of the owner who can authorize the vehicle to be removed. As has been the history with the law regarding repossession of

automobiles, this will result in fights breaking out between landlords and vehicle owners over who is authorized to be on the premises. The law for many years prohibited self help repossession because of the history of violence that ensued. Recently the law was revised to again allow for self help repossessions and once again incidences of violent confrontations have returned. Law enforcement has opposed these "self help" actions in the past, because of the violence that can occur.

Imagine the fights that will break out when landlords attempt to exercise their self help actions with respect to vehicles belonging to guests of the tenants. The landlords themselves will not know who is authorized and who is not authorized to be on the premises.

VI. The Bill and Act 143 Still Make Its Other Provisions Apply to Non Residential Tenancies

This makes the security deposit provisions apply only to ***residential*** tenancies, not to non residential tenancies. What about all the other provisions in this proposal and in Act 143 that was recently enacted. A major flaw in that legislation was that the authors failed to realize that Chapter 704 applies to ***non residential*** tenancies as well as residential. The authors of this legislation need to comb through this proposal and the recent legislation enacted by Act 143, to separate out non residential tenancies from what they are doing. Otherwise, provisions like those relating to the return of personal property, duties to maintain the premises, or evictions apply to ***non residential*** properties.

VII. Landlord is Immune for Making Defamatory or Libelous Comments, Unless there is Clear and Convincing Evidence the Landlord Acted in Bad Faith

The landlord is immune from civil liability for false, defamatory or injurious information it gives about a tenant, unless there is clear and convincing evidence that the landlord acted in bad faith. No other person has this protection. The limitation regarding bad faith is the strongest protection available.

VIII. Protection of Tenants for Unfair Trade Practices of Landlords who Violate Chapter 704 is Repealed.

This provides that unscrupulous violations of Chapter 704 are not the subject of unfair trade practices, unless they apply to security deposits or prohibited lease provisions. This protection was one of the few protections created by last session's Act 143.

Kovach, Robert

From: Fiorio, Lars
Sent: Wednesday, June 05, 2013 8:35 AM
To: Kovach, Robert
Subject: FW: S.B. 179

From: Charles Day [mailto:waltoninn@sbcglobal.net]
Sent: Tuesday, June 04, 2013 11:11 PM
To: Fiorio, Lars
Subject: S.B. 179

Hello,

I am writing to express my support for S.B. 179 with reference to landlords being able to take back control of their property. The provisions of this bill are necessary because to simply go through an eviction to remove a non-paying tenant is a time consuming and frustrating experience, although it's supposed to be a relatively easy Small Claims procedure, the steps one has to take and the number of trips to the court house is too much. Sometimes I have to go at least 3 times just for the eviction and damages judgment, more if it has to be published, plus a trip to the Sheriff's office attached to the court house. That makes for a total of at least 4 trips to the court house for a simple eviction. Each trip is at least a 3-4 for hour undertaking. More than a working day to undertake just the eviction filing. This does not account for the time spent preparing the paperwork, going to the post office for mailings, i.e. standing in line, all such a waste when I could better spending that time maintaining the property and attending to rent paying tenants.

For example, for a simple eviction in Milwaukee County, the costs alone are:

Certified Mail fee for the 5-Day Eviction Notice: $3.56

Smalls Claims filing fee: $98.00 (and a trip to the court house)
Process Server: $35.00

Once the Writ of Restitution is given, then the Sheriff's costs are:

Sheriff's Fee: $130.00
Moving Company Charges: $350.00 (for a 1 bedroom only, costs can go up to $400.00 for 4 or more bedrooms)

TOTAL: $616.56 just in filing and court costs.

Plus add at least one month's lost rent for the time it takes to evict a tenant, which in my case is at least $645.00 for a 1 bedroom, but it usually means two months because the tenant has badly damages the unit (not wear and tear), which often requires another month to remedy. TOTAL COST of an evicted tenant: $616.56 for eviction costs alone + $645.00 (while tenant sits in apartment without paying rent during court filing, etc.) + $645.00 (remedying apartment from damages after tenant is evicted, approximately one month) =

$1,906.56 IN DAMAGES

Which business can sustain such losses?

And I didn't do anything wrong! Why should I have to be the one paying out of pocket more than $600.00 to get a nonpaying tenant out, and then losing at least $1,290.00 in rents? They are the wrong doers and I get stuck holding the bag? Something isn't right here, so I think the proposed new changes to the law are not only necessary, they are essential and will be a welcome sign that government does work by getting out of the way. Let me spend more time on

maintaining my property and attending to paying tenants, rather than being unfairly burdened and drained of precious financial resources that could be put into a new bathroom or a new shower! When a landlord feels, and more so knows, that they have more control over their property, they believe in investing more in it.

Please let me know when the hearing is scheduled for public comments on this bill as I would be more than willing to drive to Madison to make a statement.

Sincerely,

Charles W. Day
Property Manager
3055 North Oakland Avenue
Milwaukee, Wisconsin

Mailing Address:
Day Company
Post Office Box 170706
Milwaukee, Wisconsin 53217-4861
Telephone 414 964 8100

APARTMENT ASSOCIATION
South Central Wisconsin

702 North High Point Road, Suite 203 • Madison, WI 53717
608-826-6226 • Fax 608-826-6236 • www.aascw.org

June 5, 2013

To: Members of the Senate Committee on Insurance and Housing

Re: SB-179/ AB-183

The Apartment Association of South Central Wisconsin urges you to support Senate Bill 179/Assembly Bill 183.

Our members represent more than 1,000 companies, composed of several thousand owners and managers of rental housing throughout Wisconsin. We have a diverse membership ranging from mom and pop owners to large apartment communities, non-profits, rural, urban, public, conventional, student and affordable housing who strive to offer well managed housing that contributes to the quality of housing opportunities and vital tax base resources throughout our state.

We support this bill because it updates, clarifies and standardizes Wisconsin landlord/tenant laws for all parties, and we believe consistency is needed for consumers and property owners. We also support the reforms in SB-179/AB-183 that create fairness in housing regulations and reduce unnecessary regulations, helping to lower the cost of housing for thousands of Wisconsin residents.

Our members strongly support the fairness in housing statutes created in 66.104(2)(a),(2),(d) and (3) which prevent regulation that discriminates against residential rental housing and tenants who pay the increased costs caused by overreaching regulations. Housing regulations should be uniform, not varied or discriminatory based on the ownership status of the resident.

Requiring landlords to provide information on regulations to residents that local government already has available on their websites is excessive, unnecessary regulation and unfair to one segment of the housing industry and we strongly support prohibiting local regulations that limit tenant responsibility for damages, expenses and fees the tenant is responsible for under the rental agreement or applicable law. This bill clarifies damages within state guidelines for all parties to understand and use consistently, recognizing due process in our courts.

We believe changes in disposal of personal property with alternative notice to the sheriff for disposal of abandoned personal property is an important and needed change, noting from the time an eviction is granted by the court, in counties throughout our state, there is a two to nine day period of time in which the tenant is aware the eviction has been granted and is responsible to move their personal property from the premises.

There is a level of self-responsibility that cannot be legislated, that is required by all parties to the lease contract; and the reforms in SB 179/AB 183 recognize this responsibility, provide needed, consistent statewide landlord-tenant laws, while stemming unnecessary, over-reaching regulation that increases the cost of housing for all residents.

We strongly support SB 179 and its companion bill AB 183, and urge you to pass this legislation.

Nancy Jensen, Executive Director, AASCW

JUDITH MEISTER
115 Maple Ct. #103
MT. HOREB

Good morning. Chairman, members of the committee, thank you for the chance to speak in opposition to Senate Bill 179.

My name is Judith Meister. I am a 70-year-old grandmother of 6. For the last three years I had been living in a HUD subsidized facility in Fitchburg for low-income seniors.

I was a model tenant, fastidious about my three-room apartment and lived as simply as I could on my $700 monthly Social Security payment.

I would likely still be there if I had not been hit with an unwarranted--and probably illegal--bill for damages and then threatened with eviction.

In February, I found bedbugs in my apartment. I cannot begin to describe what a horror that was. I immediately told my landlord, threw out my bed, about a third of my possessions and I started cleaning.

My landlord had my apartment heat treated, as well as my neighbor's when they found two bugs in her place. That's when the nightmare became even worse.

The landlord told me the bugs were my fault and gave me a bill for $2400 for the treatment of the two apartments. I could either pay the bill or be evicted.

I checked the local ordinances--I went to the tenants union---I even went to HUD in Milwaukee and they all said the same thing--bed bug treatment is the responsibility of the landlord.

When I asked the landlord if there had ever been a previous bed bug problem in the building, he said no. I found out later he had lied.

There are about one hundred residents in that building. Medical staff, service people, and visitors come and go every day. Last fall they tore the siding off the entire building replacing air conditioners and windows, workmen were in and out of my apartment, yet somehow the landlord claimed I was the one who let the bugs in.

My landlord lied. He threatened to evict me. He tried to cheat me out of $2400, and ignored a chance to be reimbursed by HUD for the treatment charges probably because he thought an old woman would be easy to intimidate. I did go to a lawyer, but it took half my monthly income just to have a lawyer write a letter to stop the threats.

The stress was unbearable. I moved last month because I could no longer live with the threat of eviction. It was no surprise that the landlord kept my security deposit saying it was money I owed them for the bug treatment.

Believe me when I say I know not all landlords are sinners and not all tenants are saints---but if you give landlords the sole right to charge, evict, and harass a tenant --- you are jeopardizing the security of people like me.

I was lucky, and was able to move. But there are others in that same building – and they have found more bed bugs recently— who are scared to lose what little they have, and have no resources to oppose an illegal threat of eviction.

Senate Bill 179 tries to balance the legal responsibilities between tenants and landlords, but you are still placing too much power in the hands of unscrupulous landlords and management companies.

Committee members—please do the right thing.

Go back to the drawing board. Find the balance, rewrite that part of the bill and make it fair to both sides.

Thank you for listening. I would be happy to answer any questions.

WISCONSIN **REALTORS®** ASSOCIATION

June 5, 2013

TO: Senate Committee on Insurance and Housing

FROM: Joe Murray
Director of Political and Governmental Affairs

RE: SB 179

The Wisconsin REALTORS Association (WRA) supports SB 179, legislation related to landlord-tenant law. The provisions contained in SB 179 reflect legislative priorities of the WRA for the 2013-14 session.

Highlights

1. **Restore the ability of a tenant to initial or sign Nonstandard Rental Provisions**. Wis. Stat. § 704.28 (2) currently requires tenants to sign Nonstandard Rental Provisions authorizing withholding from the security deposit. This modification would permit the tenant to sign or initial. This simplifies the process and provides the same notification requirements to tenants.

2. **Modify Wis. Stat. § 704.08 Information check-in sheet**. Title the section check-in sheet, remove the references to standardized information and streamline the focus of the check-in sheet to its primary purpose: a tool for tenants to notify the landlord on maintenance issues that need attention.

3. **Limit Wis. Stat. § 704.28 to residential transactions only**. The language will now state a clear limitation to residential tenancies and will no longer apply to all tenancies, an unintended consequence of the previous bill.

4. **Liability Protection for Landlords Giving Good Faith References Regarding Tenants (new Wis. Stat. § 895.489).** Similar to Wis. Stat. § 895.487 regarding employment references, this provision would provide civil immunity for landlords giving truthful references regarding tenants' past rental performances.

5. **Towing vehicles illegally parked in posted area**. Some municipalities require a landlord to notify the owner of a vehicle before the landlord tows the car. The modification to Wis. Stat. § 349.13(3m) would allow a landlord to tow a vehicle that is not authorized to park on a private street, private parking lot, or facility as long as there was proper posting clearly visible that it is private parking and that the non-authorized vehicles can be immediately towed. This provision is similar to the law in Illinois, Florida and Texas.

(OVER)

4801 Forest Run Rd, Madison, WI 53704 **ph:** 608.241.2047 | 800.279.1972 **fax:** 608.241.2901 **e-mail:** wra@wra.org **web:** wra.org

6. **Notice for Disposal of Tenant Personal Property at Inception for Renewal (Wis. Stat. § 704.05(bf) amended).** Landlords may dispose of abandoned property left behind by tenant who leaves in the manner the landlord deems appropriate provided advance notice given to tenant. Current law says the notice must be in the original rental agreement and all renewals; the amendment provides the notice may be given in the original rental agreement or a renewal. This provides adequate notice for both landlords and tenants.

7. **Process for Landlord Disposal of Personal Property after Eviction (Amendments to Wis. Stat. § 799.45).** As an alternative to the existing process for the sheriff removing and storing tenant's property following removal of the tenant pursuant to the writ of restitution, the landlord or the landlord's agent may elect to remove the tenant's personal property and store or dispose of the property in the manner designated in Wis. Stat. § 704.05 for disposal of property after the tenant vacates the premise. The landlord need no longer warehouse tenant's property and no advance notice in the rental agreement is required, as would be true for disposal of property if the tenant just leaves. Upon notice to the sheriff the sheriff will supervise this removal and handling of tenant property.

8. **Prohibit Municipal Ordinances Requiring Landlord Distribution of Materials to Tenants (new Wis. Stat. § 66.0104(2)(d)).** Landlord is not required to distribute materials or information (like voter registration materials) unless required by state or federal law for all residential tenants. Landlords are responsible for providing housing, not election information.

9. **21-Day Trigger for Return of Security Deposit (Wis. Stat. § 704.28(4)).** Provide that 21 days begins when rental agreement ends or landlord rerents premises if tenant vacates or is evicted before rental agreement termination date; 21 days begins when landlord learns tenant has vacated or has been evicted if tenant vacates or is evicted after rental agreement termination date.

10. **Acceptance of Rent or Other Payments (amendment to Wis. Stat. § 799.40(1m)**). Clarifies that landlord's acceptance of rent or other payments after tenancy terminated is not reason to dismiss eviction action.

We urge the Assembly to support SB 179.

Rozelle Properties Inc.

"Home Sweet Home"

531 W Wisconsin Ave Appleton WI 54911 920-731-9001

6/5/13

To: Members of the Senate Insurance and Housing Committee

From: Nanette Rozelle, Rental Property Owner since 1986

Re: SB 179/AB 183

My job is to house the general public and make my community work. In doing so, I must run my business at a profit so I have the funds to maintain the property, make improvements, borrow money when required and pay my taxes. I must also provide a property that is affordable for the needs of the community.

When tenants are not accountable to Damages, Items left behind, Criminal Activities and stand nothing to lose, they have no reason to behave in a way that a community requires us all to behave in.

Laws are not just for some, but for all. In my opinion the changes being proposed today fall short of the common sense that laws should be based on.

1. **No one should be able to park an unauthorized car Anywhere at the expense of others.** ***This is an everyone everywhere problem, not just a landlord issue.***
2. **If I am required to have an attorney show up in court to represent me when more often than not the defendant isn't there anyway, it will only be a cost passed on to the tenants that don't cause problems and will drive up the cost of housing.** ***Landlords and tenants have only the small claims court to turn to with problems. This is supposed to be cost affective for all.***
3. **If ONE good tenant moves because others are causing or inviting crime to a property, we are telling our community that crime does pay. Being a nuisance is o.k. for this city.** ***If your behaviors require the police, I should have the ability to take care of my tenants, the neighborhood and my property.***
4. **A tenant that leaves behind belongings, for what ever reason, should not expect to get them back at all. If that family heirloom was not worth your consideration, it just can't be that important. Every Landlord would give tenants the opportunity get their things. We simply don't have time to deal with them.** ***If your belongings are not worth your effort to take care of, why on earth should I have to deal with them.***

RENT & DAMAGES

Case # 13SC23

Rent & Damages Court Date/Time
4/15/13 at 2:30 p.m.

Tenant: [redacted]

Landlord: [redacted]

Vacate Date: 2/12/13

Listed below is an itemization of rents and damages for the rental of the property of [redacted] Appleton:

Security deposit held.....$1000.00
Tenant paid for court costs.....$130.00
Total held.....$1130.00

Rent owed for Feb 2013.....$550.00
Removal of Garbage left behind.....$846.70
Dump charge.....$30.00
Cleaning expense.....$282.50
Water bill outstanding $218.70
Subtotal of rent and damages.....$1927.90

Court costs for eviction action:
Filing Fee.....$95.50
Service Fee..... $25.00
Writ.....$6.00
Sheriff Dept service of writ.....$73.00
Subtotal of Court Costs.....$199.50

Total Damages.....$2127.4

Total amount due.....$997.40

[redacted] (POA) 4/7/13

Nanette Rozelle, POA **Date**

Herrick & Kasdorf, L.L.P.

Patricia Hammel
Scott N. Herrick *Court Commissioner*
Robert T. Kasdorf
Juscha Robinson
David R. Sparer

Robert L. Reynolds, Jr. (1930-1994)

Law Offices
16 N. Carroll, Suite 500
Madison WI 53703

Peter Zarov *of counsel*
Roger Buffett *of counsel*

June 4, 2013

Members of the Senate Committee on Insurance and Housing

RE: SB 179

Greetings everyone:

Yesterday I did testify about this bill, and I was specifically requested to submit some of my comments via e-mail to the Committee. Please find a brief summary of some of the more important points below.

As I noted yesterday, I am a trial attorney who practices specifically in the area of landlord tenant litigation. I have done so for just about 37 years now. I assume you would share my view that I have quite a bit of experience about how these laws actually work and effect real citizens, real court personnel, real judges, real landlords and real tenants.

I would also ask each of you to consider how many of your own constituents are residential landlords. I would also ask you to consider how many of your own constituents are residential tenants. I would ask you to evaluate the various aspects of this bill with the thought in mind that you owe a duty to represent the interests of each one of these individuals, not just a select few of them.

Finally, while it is probably obvious, there is no need what so ever to adopt all 50 sections of this bill, just because they are all in the draft. Some of these sections are perfectly good ideas and deserve your support. Others are really terrible and need your attention to avoid adopting a provision that will be detrimental. What is needed is for each of you to look at each of the 50 sections individually and only support any given section if it, individually, deserves support.

Here's a few things I see that trouble me the most:

1. **Section 9**: About supposedly abandoned property. The reasons for changing the previous law have been articulated. The change made last year, addressed those issues. The factually scenario that is ignored by the changes is where a tenant is moving out and has too much property to move everything in one load, and moves what he/she can, and then comes back the next day to remove the balance of their belongings, and finds that the landlord has removed it all. The new law permits

OVER PLEASE

(608) 257-1369
fax (608) 250-4370

voicemail extension: 228
sparer@herricklaw.net

the landlord to remove everything and to decline to return it to the tenant, even if that is still possible, and NOTE THIS, even if it is very valuable. The worry leading to the changes proposed was that the tenant leaves behind junk of no value. No objection to seeking a modification to protect landlords from that situation. However, what if the tenant left behind property worth $20,000.00? This proposal in this bill, allows the landlord to remove that $20,000 of property and give it to his/her own brother, period. This proposal allows the landlord to refuse to return it, even if the tenant is only one day late in retrieving it, and even if it is simply sitting in the landlord's brother's garage across the street. Honestly, committee members, that is what this law fully authorizes. The previous law, prior to last year, had one set of rules for items of no or almost no value and another set of rules for valuable items. An adjustment that could be adopted instead would be to have these new rules only apply to property worth a sum which is set by statute at a value deemed of less significance, like $200.00 total.

2. **Section 11:** Is truly and terribly awful - this now means that where ever there is no local housing code enforcement agency (which honestly is the case in most of the state - REALLY) then there no longer is any obligation to disclose any defects. None. Such a change goes back to buyer-beware, which State Supreme Court rulings have specifically said is not the law. Also this means that if the landlord was in the midst of fixing the furnace, when showing the rental unit, and knew that the new one had not yet been installed, the landlord is allowed to rent to a tenant and let them move in during the winter, without telling them that there is no furnace, unless a housing order is in place. I spoke during the hearing about the case I had with a rental unit on Lake Kegonsa, in Stoughton, where the tap water in the house was drawn out of the lake itself. Clearly unhealthy and dangerous. The landlord knew about this, and kept it secret, and the tenants did not figure it out until they had been living there for six months and drinking and cooking and cleaning themselves with this water all that time. Under this proposal, the landlord is allowed to do that. Is this REALLY what you want to have the law provide?

3. **Section 19 related to Section 11 which affects 704.07(2)(bm):** ATCP 134.04(2)(b), WAC, obligates Landlords to disclose known defects to potential renters. 704.95 used to say that this chapter may also be a violation of ATCP Codes, thus possibly at least invoking double damages and attorney fees. This change removes any reference to this disclosure obligation and thus, clearly, removes any right to double damages or attorney fees for violations. Why is that change being made? Why is it a good idea for all your constituents?

4. **Section 20:** requires the return date to be no more than 14 days after the filing date. I know this is shorter than is currently the case in most counties, certainly shorter than in Dane County. The County's may object to this on a budget and staffing basis. I know I have spoken with attorneys

OVER PLEASE

(608) 257-1369
fax (608) 250-4370

voicemail extension: 228
sparer@herricklaw.net

who represent mostly landlords, and they tell me this short time period worries them that they will not be able to get service in time.

5. **Section 22:** The service by mail thing. Wow, that is really bad. Dane County has previously allowed service by mail in non-eviction matters, but recently has pulled out of that option. I assume that even if this passed they would not institute it for evictions. However, the option is there for other counties, obviously. Since service may be with as little as 5 day's notice (which is business days), this means that as a landlord I could mail a copy of the Complaint one week prior to the first hearing, and if the tenant doesn't get it on time to schedule time off work to appear, or just doesn't get it at all, then bam - default judgment - eviction writ issued. I know that MANY defaults were being entered based upon no answer being filed, in non-evictions in Dane County, that were served by mail. However, once the person learns of the judgment they can move to reopen, and the commissioners almost always do reopen, and give people their day in court. With a money judgment there is no health or safety concern about having this process occur, but with an eviction, the family is really on the spot, and clearly in danger of homelessness, without any certainty that the person even got notice of the court action.

6. **Section 23 (and 24):** Says that the eviction trial MUST be scheduled in no more than 20 days of the return date. What about when you request a jury? The authors must be forgetting about that. There is no way that could be scheduled. They can't remove the right to a jury. That's a constitutional right. Also what about discovery, or a motion to dismiss? Parties have 30 days to respond to discovery, and this would apparently remove any right to that. Do the authors mean to remove any right to discovery, or are they just not thinking about this consequence? This applies to both residential and commercial matters, remember.

7. **Section 26:** This section is just messed up. This says that an eviction may not be dismissed because the landlord accepted rent after serving a notice of default. So, if the landlord serves a 5 day pay or quit notice of default (which is what they need to do in order to be allowed to file for eviction), and the tenant pays in full before the fifth day, the tenant cannot get the eviction action dismissed if the landlord never the less files the eviction action. That is what this says. This is really what this says.

8. **Section 28:** A writ MUST be issued within 5 days of the court's ruling. Why? This removes all opportunity for the parties to enter into an agreement - maybe the landlord says, I'll give you two weeks to move. Also, what about the option of a stay of the eviction, as provided in § 799.44(3)? I guess that is not removed, but is it?

OVER PLEASE

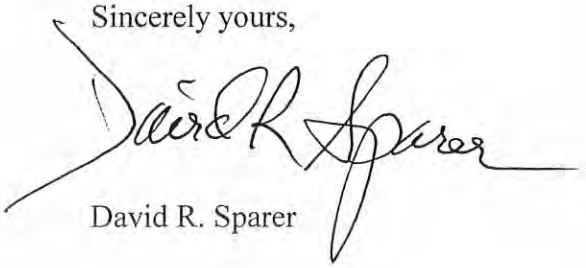
(608) 257-1369
fax (608) 250-4370

voicemail extension: 228
sparer@herricklaw.net

These are the sections I'm most concerned about. Some sections really are quite fine and will be a good improvement. Others are on the edge and need some thoughtful consideration. These eight sections however, really truly are a bad idea.

I would be glad to meet with any of you or your staff to go over any of these points and to discuss any of these matters. Just get in touch.

Sincerely yours,



David R. Sparer

DRS/ms

OVER PLEASE

(608) 257-1369
fax (608) 250-4370

voicemail extension: 228
sparer@herricklaw.net

Gmail

Wisconsin state senate bill 179

Tom Brittain <tombrittainmover@yahoo.com> Tue, Jun 4, 2013 at 9:35 PM
To: Karen Cell Brittain <art@karenbrittain.com>

Wisconsin state senate bill 179

Good morning. My name is Tom Brittain. I live in Racine and operate a home and apartment rental business in Milwaukee county. We have about 120 residential and commercial units.
I've been involved in this type of real-estate for the last 14 years.

In addition to the real-estate business, I own and operate Eagle Movers. We are a local and regional moving company . One of our specilties is landlord assisted evictions.. When land lords need help removing a stubborn tenant they come to us and we help them out. I've been involved in this business for 33 years. My company does the vast majority of all forced evictions in Milwaukee, Racine, Waukesha, and Ozakee County's. And for certain clients we travel all over the state . We work about 50 moves each week. I personally work with an eviction crew once a week in Milwaukee and have for my 33 year term We'll do about 15 moves a day. I estimate that I've seen in excess of twenty thousand forced moves in my 33 years.

With the insight I have, both as a party who has first hand experience with thousands of evictions, and as a landlord who has to evict tenants from time to time, I'd like to comment on the portion of SB179 that speaks to eviction procedures that this bill will unleash on landlords throughout Wisconsin, and in particular in my county, Racine, and my work county, Milwaukee.
The portion of the bill that I'd like to address is the part that will allow a landlord with a writ of assistance to remove a tenant , and then allow the landlord to take possession of that tenants private property and dispose of it as he sees fit.

I believe this well intended bill is meant to free up landlords from all the mess that they have to go thru to get a nonpaying or abusive tenant out of that landlords property in the least amount of time and with minimimum cost.

With all Due respect , Senators, I think that this portion of your bill will do landlords ,particularly in my part of the state, more of a disservice , then that which is intended here.

Being witness to so many thousands of these moves , I will tell you outright that in Milwaukee and Racine county's , if landlords are let into tenants apartments , and take possession of their tenants private property , we will see violence against landlords where evicted tenants see that landlord as a thief steeling their belongings. And then violence against excited tenants , where landlords will defend themselves while executing these new legal arms .

These risks will cause disservice to all landlords across the state with added insurance costs for rental property insurance.

City Police and courts will have to deal with the aftermath of tenant/ landlord violence. Our taxpayers will be asked to pickup those costs.

Liberal Judges , hearing eviction pleadings will give extra-extra scrutiny to landlords paperwork, knowing that each writ they sign will be a potential permit for angry landlord to seize a families private property. This will cause numerous landlord tenant cases to be dismissed on procedure grounds,

Mounds of garbage will be spread across city streets by scavengers and the weather when landlords simply cast tenants property onto the curb not knowing what else to do with it. The cost of blight to landlords is incalculable because it affects so many of us.

Current State law in counties of over 500,000 require the presence of a sheriff throughout the eviction process. The sheriff brings a sheriffs certified mover to the eviction to expedite the move and defuse hot scenes. The presence of neutrals , and allowing evicted tenants options ,calms things down. Costs for these service are usually less than

$300.00.

At the very least, if this bill passes as is, please consider allowing the Sheriff of individual countiesc the right to make his or her own rules for eviction procedures by landlords. What works for a small county probably won't be right for a large county.

There is a lot of good in SB179. It should be a bill that will help all landlords , and keep all of our costs down . We are all in this together. Please make this bill work for all of us.

Thank you

Sent from Tom B.

Tom Brittain <tombrittainmover@yahoo.com> Wed, Jun 5, 2013 at 5:51 AM
To: Karen Cell Brittain <art@karenbrittain.com>

Wisconsin state senate bill 179

Good morning. My name is Tom Brittain. I live in Racine and operate a home and apartment rental business in Milwaukee county. We have about 120 residential and commercial units.
I've been involved in this type of real-estate for the last 14 years.

In addition to the real-estate business, I own and operate Eagle Movers. We are a local and regional moving company . One of our specilties is landlord assisted evictions.. When land lords need help removing a stubborn tenant they come to us and we help them out. I've been involved in this business for 33 years. My company does the vast majority of all forced evictions in Milwaukee, Racine, Waukesha, and Ozakee County's. And for certain clients we travel all over the state . We work about 50 moves each week. I personally work with an eviction crew once a week in Milwaukee and have for my 33 year term We'll do about 15 moves a day. I estimate that I've seen in excess of twenty thousand forced moves in my 33 years.

With the insight I have, both as a party who has first hand experience with thousands of evictions, and as a landlord who has to evict tenants from time to time, I'd like to comment on the portion of SB179 that speaks to eviction procedures that this bill will unleash on landlords throughout Wisconsin, and in particular in my county, Racine, and my work county, Milwaukee.
The portion of the bill that I'd like to address is the part that will allow a landlord with a writ of assistance to remove a tenant , and then allow the landlord to take possession of that tenants private property and dispose of it as he sees fit.

I believe this well intended bill is meant to free up landlords from all the mess that they have to go thru to get a nonpaying or abusive tenant out of that landlords property in the least amount of time and with minimimum cost.

With all Due respect , Senators, I think that this portion of your bill will do landlords ,particularly in my part of the state, more of a disservice , then that which is intended here.

Being witness to so many thousands of these moves , I will tell you outright that in Milwaukee and Racine county's , if landlords are let into tenants apartments , and take possession of their tenants private property , we will see violence against landlords where evicted tenants see that landlord as a thief steeling their belongings. And then violence against excited tenants , where landlords will defend themselves while executing these new legal arms .

These risks will cause disservice to all landlords across the state with added insurance costs for rental property insurance.

City Police and courts will have to deal with the aftermath of tenant/ landlord violence. Our taxpayers will be asked to pickup those costs.

Liberal Judges , hearing eviction pleadings will give extra-extra scrutiny to landlords paperwork, knowing that each writ

Good morning. Chairman, members of the committee, thank you for the chance to speak in opposition to Senate Bill 179.

My name is Judith Meister. I am a 70-year-old grandmother of 6. For the last three years I had been living in a HUD subsidized facility in Fitchburg for low-income seniors.

I was a model tenant, fastidious about my three-room apartment and lived as simply as I could on my $700 monthly Social Security payment.

I would likely still be there if I had not been hit with an unwarranted--and probably illegal--bill for damages and then threatened with eviction.

In February, I found bedbugs in my apartment. I cannot begin to describe what a horror that was. I immediately told my landlord, threw out my bed, about a third of my possessions and I started cleaning.

My landlord had my apartment heat treated, as well as my neighbor's when they found two bugs in her place. That's when the nightmare became even worse.

The landlord told me the bugs were my fault and gave me a bill for $2400 for the treatment of the two apartments. I could either pay the bill or be evicted.

I checked the local ordinances--I went to the tenants union---I even went to HUD in Milwaukee and they all said the same thing--bed bug treatment is the responsibility of the landlord.

When I asked the landlord if there had ever been a previous bed bug problem in the building, he said no. I found out later he had lied.

There are about one hundred residents in that building. Medical staff, service people, and visitors come and go every day. Last fall they tore the siding off the entire building replacing air conditioners and windows, workmen were in and out of my apartment, yet somehow the landlord claimed I was the one who let the bugs in.

My landlord lied. He threatened to evict me. He tried to cheat me out of $2400, and ignored a chance to be reimbursed by HUD for the treatment charges probably because he thought an old woman would be easy to intimidate. I did go to a lawyer, but it took half my monthly income just to have a lawyer write a letter to stop the threats.

The stress was unbearable. I moved last month because I could no longer live with the threat of eviction. It was no surprise that the landlord kept my security deposit saying it was money I owed them for the bug treatment.

Believe me when I say I know not all landlords are sinners and not all tenants are saints---but if you give landlords the sole right to charge, evict, and harass a tenant --- you are jeopardizing the security of people like me.

I was lucky, and was able to move. But there are others in that same building – and they have found more bed bugs recently— who are scared to lose what little they have, and have no resources to oppose an illegal threat of eviction.

Senate Bill 179 tries to balance the legal responsibilities between tenants and landlords, but you are still placing too much power in the hands of unscrupulous landlords and management companies.

Committee members—please do the right thing.

Go back to the drawing board. Find the balance, rewrite that part of the bill and make it fair to both sides.

Thank you for listening. I would be happy to answer any questions.

City of Milwaukee

Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Jennifer Gonda
Director of Intergovernmental Relations

Summary of Testimony from the City of Milwaukee
Committee on Insurance and Housing
Senate Bill 179
June 5, 2013

Senate Bill 179 (SB 179) proposes various provisions related to rental and vehicle towing practices, eviction proceedings, prohibitions on enacting ordinances that place certain limitations or requirements on landlords, providing an exemption from emergency rule procedures, and granting rule-making authority. The City of Milwaukee is opposed to SB 179.

The bill makes a number of changes to the statutes related to landlords and tenants. These changes represent a significant shift in tenant protection to ease of operation for a landlord. While rebalancing that equation has merit in some cases there are others of concern.

- Provision 5 prohibits a municipality from enacting ordinances relating to landlords and tenants.
  - This provision prevents municipalities from enforcing local ordinances that limits a tenants' responsibility or requires a landlord to communicate any information unless required of all residential real property owners. The Department of Neighborhood Services has a Property Recording Program which requires landlords to provide contact information of the responsible party on an address by address basis. Additionally it requires an operator when the owner resides outside the 7 county areas. This information allows easier communication between the department and landlords. Often times a phone call can resolve an issue thus saving time for both the landlord and the department. Additionally this information is valuable to public safety when after hour incidents occur at a property. It also helps in ensuring that orders are being issued to the proper legal entity. Finally it is helpful for neighborhood relations. This will greatly reduce our ability to resolve complaints within the community.

  - This provision would also jeopardize the Residential Rental Inspection Program preventing the City of Milwaukee from registering rental properties. The program provides exterior and interior inspections and monitoring of rental properties on a defined schedule. This program has greatly increased the conditions of rental properties, and it has reduced the number and severity of housing complaints.

SB 179 would also allow any vehicle to be immediately towed if deemed by the owner to be unauthorized. Current law provides safeguards aiding in the recovery of stolen vehicles as well as protecting tenants from predatory towing contractors and nefarious property owners. There are significant economic consequences in the elimination of these safeguards to both the individual and to the municipalities of this state. If this provision cannot be removed the Department of Public Works recommends the following:

- All vehicles are to be run stolen by the municipality as a prerequisite to tow eligibility.
- Towing contractors, in accordance with current repossession laws, must notify the local law enforcement agency prior to towing the vehicle.
- A statutory cap of $105 max towing fee, a maximum of $20/day storage fee, and provision where no additional fees be added.
- All towing contractors and storage facilities be properly licensed, insured and annually inspected.

Thank you for your consideration in this matter.

For more information, please contact:
Kimberly Montgomery, Senior Legislative Fiscal Manager
(414) 286-8564

My name is Charlie Breunig. I've been a volunteer housing counselor for the last five years at the Tenant Resource Center (TRC) in Madison. I also serve on the TRC's board of directors. Over the years I've talked to thousands of people from all over the Wisconsin about all kinds of rental problems. About 90% of the people who consult us are tenants; the rest are landlords.

SB 179 is the third set of changes to Wisconsin's rental housing statutes over the last two years. At the TRC, we're the ones who have to explain these laws to the people who are affected by them. Every year we talk to at least 10,000 tenants and landlords about actual rental situations, so we know what the consequences of changes to the statutes will be. It's disappointing that we've never been consulted about any of these bills because we could offer a lot of practical advice.

As with the last two bills, SB 179 protects good landlords from bad tenants but it does very little to protect good tenants from bad landlords.

My special concern is with Section 12 of SB 179, which amends 704.07(3)(a) to expand the definition of tenant damage to include insect and other pest infestations. Essentially it says that tenants are automatically considered responsible for the infestation and are liable for the cost of treatment. I assume this section is in here because of the rise of bed bugs in the last ten years.

Bed bugs are awful for everyone concerned, landlord and tenant alike. It's easy to bring them into a home and expensive to get them out. I understand why landlords don't want to pay for the treatment of any pest, especially bed bugs. The earlier you discover an infestation, the cheaper it is to treat, especially if the tenant, landlord, and pest control professional are all working together.

So the best bed bug legislation should be aimed at discovering and treating the infestation quickly, not at establishing whose fault it is. Pests do migrate from unit to unit, so someone can have an infestation even if the pest was brought into the building by a tenant in a different unit. And it can be very hard to prove where an infestation originated.

This proposed change to 704.07(3)(a) establishes the tenant's liability for the cost of pest treatment, and therefore some tenants will choose not to report the infestation, fearing they might be evicted because they can't pay for the treatment. Instead they'll turn to self-help remedies that aren't effective and can even make the problem worse. I've talked to tenants who have been in this situation. This isn't good for the tenant, the landlord, or the building.

I'm not saying tenants should never pay for treatment, but there need to be more guidelines about who's responsible for what when it comes to eliminating a bed bug infestation.

I encourage this committee to remove Section 12 of this bill, and maybe later on in this legislative session someone could introduce a bill that deals specifically with bed bugs in rental housing. You should look at the work already done by other state legislatures, specifically Maine, New Hampshire, and Connecticut. All three states have crafted legislation with the help of landlord organizations as well as tenants' rights advocates. We all want to make sure that bed bugs in Wisconsin remain a minor nuisance instead becoming a major problem the way they have in states like Ohio and New York.

Charlie Breunig
608-692-6122
charlbreun@gmail.com

HEUER LAW OFFICES, S.C.

ATTORNEYS AT LAW
9312 W. NATIONAL AVE.
WEST ALLIS, WISCONSIN 53227

JOHN M. HEUER
KIRSTEN FAGERLAND PEZEWSKI
JONATHAN D. MCCOLLISTER

TELEPHONE 414/224-3500
FAX 414/224-3510

JENNIFER L. ANDERSON
JAMES E. SNODGRASS
GARY D. KOCH
BRYAN M. BECKER

Ladies and gentlemen of the Committee, my name is Gary D. Koch. I am attorney in the State of Wisconsin with a private practice, and have handled landlord-tenant matters for over 5 years, primarily on behalf of landlords. Heuer Law Offices has handled landlord-tenant matters for over 15 years. We became aware of this bill from Representative Duey Stroebel, who we have represented in landlord-tenant matters for several years.

I am testifying on behalf of this bill because the changes which were implemented to the landlord-tenant code in 2012 need important revision to clarify legislative intent and prevent application of clearly residential provisions to commercial tenancies. In addition, the changes address issues which are otherwise given differing interpretations in courts, and leave landlords and tenants uncertain as to the requirements of the law.

This bill provides many welcome proposed changes to the law. For instance, it removes the portions of the 2012 amendments which were burdensome (requiring landlords to provide itemized descriptions of unit condition and requiring tenants to fully sign each NONSTANDARD RENTAL PROVISION) and contradictory to federal law (voiding leases which prohibit illegal activity – which would include HUD model leases for subsidized housing).

We are almost uniformly in support of the proposed changes, with the exception of the proposed change to §799.05(3)(b), reducing the time for the return dates for eviction actions from between 8 days and 30 days to between 8 days and 14 days (the introduction to the bill says 20 days, however the bill's text says 14 days). It is our understanding that there is an amendment to the companion bill before the Assembly setting this time frame as between 8 and 25 days, a change which would we support; however, we believe there is no need to change the current statutory language. With respect to the proposed changes, fourteen days is simply too short and removes flexibility in scheduling and additional time to secure service with the required due diligence. The courts set those days and times upon which evictions will be held; it is the plaintiff's responsibility (unless the court assigns the court date, which rarely happens in my experience practicing throughout southeastern Wisconsin) to insert the return date into the summons. Since the landlord (the plaintiff in an eviction action) chooses the return date, there is no advantage to limiting the time to 14 days—the landlord may choose an earlier date if he wishes. Prior to the return date, it is the plaintiff's responsibility to get the summons and complaint filed and served in enough time, and this makes compliance and scheduling more difficult. There does not appear to be any advantage, either to the landlord or the tenant, to implement any change.

We are also not in support of an amendment which the Assembly has made to the bill, reintroducing language voiding an entire lease which contains language prohibiting criminal activity prohibited by two other statutes. This amendment simply creates further confusion, rather than clarifying the law, as it references two already-existing statutes which provide the protection the amendment attempts to add. Adopting this language simply maintains the confusion which this bill is attempting to remove.

Although we broadly support the proposed changes, I would like to offer the following comments with regard to potential gaps, issues or ambiguities:

Section 2. 66.0104 (2)(d)

The purpose of Section 66.01.0104(2)(d) appears to be completely prohibiting any governmental entity but the state and federal governments from imposing requirements upon landlords beyond state and federal law. This is a worthy change, since with the existing state and federal laws pertaining to landlord-tenant law, there is a lot of regulation with which to harmonize and comply. Ordinances are difficult to find, and landlords can be subject to many different sets of ordinances across different buildings.

An earlier draft of this provision included language also prohibiting municipalities and counties from requiring any provisions in rental agreements not required by state or federal law. Without such language, municipalities and counties may continue to enact the kinds of ordinances that the statute means to prohibit by requiring landlords to include the information in the lease documents as opposed to "distributing" or "communicating" the information.

Section 9. Section 704.05(5)(a)1

This amendment affects the recently amended statutory section allowing landlords to treat property left after a tenant "removes" from a unit as abandoned. The proposed change now extends the "abandoned" property to include property left after a tenant is evicted as well. **However, what is "evicted"?** If the language is to read "If a tenant removes from or is evicted from the premises and leaves personal property, the landlord may presume, in the absence of a written agreement between the landlord and the tenant to the contrary, that the tenant has abandoned the personal property…" Is "evicted" considered to be the issuance of a judgment of eviction or writ of restitution? Or is "evicted" considered to be when the writ of restitution has somehow been processed by the sheriff's department? Or when the landlord changes the locks? How will unrepresented landlords and tenants, in looking for guidance as to how to act, understand this section?

The more complicated difference between "evicted" and "removed" in this section is that when tenants "remove" from the premises, the tenant has intent to leave and opportunity to take and preserve personal property. (I'm gone, I left this stuff behind me, it's junk and I'm abandoning it). When a tenant is "evicted" the tenant is caught in the legal process, and may not have had the opportunity to consciously decide what possessions are junk and what have value, and may not know when that decision has to be made.

Section 15. 704.28(4)(b)

This change further defines the trigger dates for return of the tenant's security deposit. However, the paragraph discusses the timing of the "date upon which the tenant's rental agreement terminates". The language of the amendment seems to imply that the date is to be the contractual ending date of the parties' lease agreement. However, this section could be held to be ambiguous because eviction notices (for example, five-day notices terminating tenancy) also terminate the tenancy, leaving open confusion as to whether the "date upon which the tenant's rental agreement terminates" is the end of the contract or the end of the tenancy. While it should be clear from the text of the proposed statute that legislature

meant the end of the rental agreement because that's what it says, leaving this potential ambiguity leaves courts with an opening to penalize landlords by construing the statute to mean the end of the tenancy.

Since the tenancy is terminated before the eviction is commenced, it could be argued that the rental agreement ALSO terminates at the time the tenancy is terminated, NOT when the lease/agreement would have terminated but for the tenant's breach.

Perhaps language of "the date on which the rental agreement would have terminated but for the tenant's breach" instead of "the date on which the tenant's rental agreement terminates" would assuage these concerns.

Section 18. 704.44(9)

This change not only makes logical sense, but it removes what had become an absurdity in the law. For example, HUD Section 8 site-based housing projects are required to use a HUD model lease, which contains HUD approved language regarding the termination of tenancy for various types of criminal behavior. Without this change, it is difficult if not impossible to harmonize the requirements of HUD with the way this law is currently written. If we extrapolate from the existence of these provisions in the HUD model leases the fact that it is necessary for communities to have the ability to be drug- and violence-free and that it is not only legal but necessary to provide landlords with the tools to deal with such criminal behavior, it is similarly necessary to provide that same measure of control to Wisconsin landlords. Furthermore, it is absurd to prohibit landlords from being able to deal with tenants who are involved in criminal behavior on the property. For example, tenants that are using the property as a drug house cannot be allowed to continue with such behavior without fear of recourse, especially since landlords can be cited by police agencies for nuisance violations that landlords allow to continue. For another example from a recent case in Milwaukee County, it is similarly absurd to prevent a landlord from being able to evict a tenant that broke into another tenant's vehicle and found and stole a firearm. It is unfortunately true that the criminal behavior of tenants, which doesn't rise to the level of abuse required by Section 704.16, Termination of Tenancy for imminent threat of serious physical harm; changing locks (which is quite exacting and properly requires specific injunction orders, etc.), can still be terrifying to other tenants and can affect an entire apartment community. If the purpose of the provision is to protect crime victims from being evicted, that circumstance is provided for in (1) the provisions already protecting victims of violence from eviction and (2) the discrimination laws which prohibit landlords from taking action against the victims of discrimination by retaliating against the victims.

See attached excerpt from "MODEL LEASE FOR SUBSIDIZED PROGRAMS", Form HUD-90105a, from HUD Handbook 4350.3 Occupancy Requirements of Subsidized Multifamily Housing Programs, which states, in addition to other provisions, that a landlord may terminate the rental agreement for tenant's failure to carry out obligations under any State Landlord and Tenant Act, for drug-related criminal activity, and criminal activity by a tenant, any member of the tenant's household, a guest or another person under the tenants control that threatens health, safety and the right to peaceful enjoyment.

The Assembly proposed an amendment to the companion bill which amends, rather than altogether deletes, this language. The Assembly amendment does little to rectify the above concerns and should not be adopted by the Senate. The amendment prohibits landlords from including language in the lease

authorizing eviction contrary to two already-existing statutes. The language is superfluous, as the two already-existing statutes provide for the protection the amendment aims to add.

Section 20. 799.05(3)(b)

The introductory language to the Bill indicates that an eviction action is returnable within 20 days of the filing, yet the actual proposed statutory language requires the return date be within 14 days (reduced from 30)! Landlords regularly file eviction actions with return dates MORE than 14 days from filing, and need this flexibility to accommodate scheduling in counties in which evictions are held only once per week (for example Waukesha, Racine, Sheboygan and Washington Counties), or only semi-monthly (for example Ozaukee County). Even a 20-day time period could also be potentially problematic in counties which have eviction return dates on a less-than-daily basis. Is the change even necessary? We have not had any issues with having to wait too long for a court date. We have, however, experienced courts "capping" the numbers of files that the court will accept for return dates, and do not anticipate that the courts will change this procedure—therefore, plaintiffs who show up at the courthouse with summons and complaint in hand finding that the next court date is already full, may have to re-do their pleadings and return to the courthouse at a later date to comply with the time constraints.

What is the concern that this proposal is trying to rectify? Fourteen days is onerous, we would not even recommend 20.

There is an amendment to the counterpart bill before the Assembly which changes the proposed date range to between 8 and 25 days. Again, we believe the current version of the statute is acceptable, but, if the time limit is to be reduced, we support a longer range.

Section 27. 799.42

The amendment appears to require that both the summons and complaint shall now be published if there is to be service by publication. **Is this the intention of the statute? If so, this should be made absolutely clear since it will be a major procedural change and have a more stringent procedural requirement than large claim/civil matters. This will substantially increase costs to plaintiff, and after entry of judgment, to the defendants**

Since the amendment removes language limiting the service of the complaint to personal and substituted service, and also changes the cross-reference to services under s. 799.12 (which includes publication at ¶4-¶6), whereas the section formerly only cross-references s. 799.12(1), it would appear that the complaint must then also be published. However, this appears to contradict Ch. 801, Commencement of Action and Venue, which specifically applies to small claims procedure pursuant to s. 799.12(1) except as is otherwise provided in Ch. 799. Why should the small claims complaints be required to be published, when the large claim-civil complaints are not?

There is an amendment to the counterpart bill before the Assembly which removes the requirement that the complaint be served when jurisdiction is obtained through publication. We support this amendment, and hope that the Senate also amends this provision to remove the requirement that the complaint be published.

Thank you, I am happy to answer any questions.

23. Termination of Tenancy:

a. To terminate this Agreement, the Tenant must give the Landlord 30-days written notice before moving from the unit.

b. Any termination of this Agreement by the Landlord must be carried out in accordance with HUD regulations, State and local law, and the terms of this Agreement.

c. The Landlord may terminate this Agreement for the following reasons:

1. the Tenant's material noncompliance with the terms of this Agreement;

2. the Tenant's material failure to carry out obligations under any State Landlord and Tenant Act;

3. drug related criminal activity engaged in on or near the premises, by any tenant, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant's control;

4. determination made by the Landlord that a household member is illegally using a drug;

5. determination made by the Landlord that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;

6. criminal activity by a tenant, any member of the tenant's household, a guest or another person under the tenant's control:

(a) that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises); or

(b) that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises;

7. if the tenant is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that in the case of the State of New Jersey, is a high misdemeanor;

8. if the tenant is violating a condition of probation or parole under Federal or State law;

9. determination made by the Landlord that a household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents;

10. if the Landlord determines that the tenant, any member of the tenant's household, a guest or another person under the tenant's control has engaged in the criminal activity, regardless of whether the tenant, any member of the tenant's household, a guest or another person under the tenant's control has been arrested or convicted for such activity.

d. The Landlord may terminate this Agreement for other good cause, which includes, but is not limited to, the tenant's refusal to accept change to this agreement. Terminations for "other good cause" may only be effective as of the end of any initial or successive term.

The term material noncompliance with the lease includes: (1) one or more substantial violations of the lease; (2) repeated minor violations of the lease that (a) disrupt the livability of the project; (b) adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment to the leased premises and related project facilities, (c) interfere with the management of the project, or (d) have an adverse financial effect on the project (3) failure of the tenant to timely supply all required information on the income and composition, or eligibility factors, of the tenant household (including, but not limited to, failure to meet the disclosure and verification requirements for Social Security Numbers, or failure to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies), and (4) Non-payment of rent or any other financial obligation due under the lease beyond any grace period permitted under State law. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law constitutes a minor violation.

d. If the Landlord proposes to terminate this Agreement, the Landlord agrees to give the Tenant written notice and the grounds for the proposed termination. If the Landlord is terminating this agreement for "other good cause," the termination notice must be mailed to the Tenant and hand-

delivered to the dwelling unit in the manner required by HUD at least 30 days before the date the Tenant will be required to move from the unit and in accordance with State law requirements. Notices of proposed termination for other reasons must be given in accordance with any time frames set forth in State and local law. Any HUD-required notice period may run concurrently with any notice period required by State or local law. All termination notices must: