

**ADMINISTRATIVE RULES  
FISCAL ESTIMATE  
AND ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original     Updated     Corrected

Administrative Rule Chapter, Title and Number

Ch. ATCP 134, Residential Rental Practices

Subject

Residential Rental Practices

Fund Sources Affected

GPR     FED     PRO     PRS     SEG SEG-S

Chapter 20 , Stats. Appropriations Affected

20.115(1)(a)

Fiscal Effect of Implementing the Rule

No Fiscal Effect  
 Indeterminate

Increase Existing Revenues  
 Decrease Existing Revenues

Increase Costs  
 Could Absorb Within Agency's Budget  
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes     No

Policy Problem Addressed by the Rule

Ch. ATCP 134, Wis. Adm. Code, was enacted in 1980 and the rule was revised in 1998. The current rule regulates rental transactions between landlords and residential tenants as follows:

- Requires disclosure of rental agreement and earnest money receipts to the tenant.
- Requires disclosures to tenant prior to lease relating to the identity of the landlord, conditions affecting habitability, and utility charges.
- Prescribes procedures for accepting and withholding earnest money fees and credit check fees.
- Prescribes procedures for handling security deposits.
- Prescribes procedures for promises to repair.
- Prohibits a landlord from including in rental agreements provisions that do the following:
  - Authorize unlawful eviction.
  - Accelerate rent payments in event of tenant default.
  - Require the tenant to pay attorney's fees.
  - Authorize the landlord to confess judgment against the tenant.
  - Relieve the landlord from liability for property damage or personal injury caused by the landlord.
  - Impose liability on the tenant for property damage or personal injury not caused by the tenant.
  - Waive statutory or legal obligations of the landlord.
- Prohibits a landlord from:
  - Advertising or renting condemned premises.
  - Unauthorized entries.
  - Automatically renewing a lease without notice.
  - Unlawfully confiscating personal property.
  - Engaging in retaliatory or self-help eviction.
  - Charging late rental fees and other penalties not set out in the lease.

- Misrepresenting the dwelling units offered or the amount of all rent and non-rent charges.
- Failing to disclose all non-rent charges in connection with the representation of any rent amount.

Chapter 704, Stats., relating to Landlord Tenant, regulates transactions between landlords and both residential and non-residential tenants. The department does not administer ch. 704, Stats. The Wisconsin legislature enacted Act 143 on March 21, 2012 that made changes to ch. 704, Stats that also affect some provisions of current rule. This rule would modify the current rule to conform to the new statutory requirements.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule makes minor changes to the existing rule and does not represent any significant shift in policy. It does not pose any significant fiscal or economic impact on specific businesses, business sectors, public utility rate payers, local governments or the state's economy as a whole.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

***Benefits***

This rule will benefit renters and landlords. Generally, it continues policies that have been in place for a number of years.

***Alternatives***

The passage of Act 143 leaves no real alternative. The newly created s. 704.95, Stats., prohibits DATCP from promulgating rules that change any right or duty described in ch. 704, Stats. There are a number of provisions where the existing rule is similar, but not identical to ch. 704, Stats. If this rule is not adopted, it is questionable that those rule provisions are enforceable. This is significant because DATCP, the Department of Justice, and district attorneys have the authority to enforce ch. ATCP 134 (as an Unfair Trade Practice under s. 100.20, Stats.) but do not have authority to enforce ch. 704, Stats.

Long Range Implications of Implementing the Rule

There are no long term implications of implementing this rule. This rule modifies the current rule to conform to policies dictated by a change in Wisconsin statutes.

Compare With Approaches Being Used by Federal Government

Federal law does not generally regulate landlord and tenant relationships or residential rental practices. The Federal Fair Housing Act of 1968 makes it illegal for a landlord to discriminate against a potential tenant because of a person's race, sex, national origin, or religion, and it prohibits certain discriminatory conduct.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois, Iowa, Michigan, and Minnesota all have statutes or administrative rules governing residential rental practices. These statutes and rules address common topics such as rental agreements, security deposits and other duties of landlords and tenants.

Comments Received in Response to Web Posting and DATCP Response

No comments were received in response either to the posting on the DATCP external website or the statewide administrative rules website.

