

**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

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

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

- Requires the landlord to provide to the tenant before entering into the rental agreement copies of the rental agreement and a receipt for any earnest money or security deposits that the tenant has paid to the landlord.
- Requires the landlord to disclose to the tenant before entering into the rental agreement the names and addresses of the owners and managers, code violations and other conditions affecting habitability, and any utility charges that the tenant may be required to pay.
- 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 enter a plea in a court action on behalf of the tenant in which the tenant agrees to accept a 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 specified 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.

2011 Wisconsin Act 143 was enacted on March 21, 2012. Act 143 made changes to ch. 704, Stats., that affect certain the provisions of the current rule relating to:

- Disclosures required before entering into a rental agreement.
- Returning security deposits.
- Withholding security deposits.
- Prohibiting certain rental agreement provisions.
- Disposing of personal property left behind by a tenant.
- Violations of Landlord Tenant law may constitute a violation of Unfair Trade Practices Law.

2013 Wisconsin Act 76 was enacted on December 12, 2013. Act 76, among other things, made additional changes to landlord, tenant and DATCP obligations in ch. 704, Stats., including:

- Disposing of personal property left behind by a tenant.
- Damage to premises due to action or inaction of the tenant.
- Check-in sheets.
- Requiring notice of domestic abuse protections.
- Prohibition on rental agreement terms that allows landlord to terminate tenancy if a crime is committed in or on the rental property.
- Violations of s. 704.28 or 704.44, Stats., may be an unfair trade practice under s. 100.20, Stats., and the department may not issue an order under s. 100.20, Stats., that conflicts with rights and duties arising under ch. 704, Stats.

This rule makes revisions to ch. ATCP 134 that are necessary to conform the rule to provisions of ch. 704, Stats., (as amended) and ensure that enforcement of the rule will not change a right or duty provided by ch. 704, Stats.

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 proposed rule makes a number of minor modifications to the existing rule. However, these modifications simply align the rule with policy changes dictated by the legislature in 2011 Act 143 and 2013 Act 76. Therefore, any economic or fiscal impact would have been caused by that legislation, not this proposed rule.

### **Landlords and Tenants**

Generally, relationships between landlords and tenants are governed by ch. 704, Stats., and the existing ch. ATCP 134, Wis. Adm. Code. The legislature recently made a number of changes to ch. 704, Stats. – some of which relate to subjects that are currently in ch. ATCP 134, Wis. Adm. Code. This rule modifies the existing rule to ensure that there is no confusion between the rule and the recently revised statute.

### **Utility Rate Payers**

The rule will have no impact on utility rate payers.

### **Local Governments**

This rule will not impact local governments. Local governments will not have any implementation or compliance costs.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
<p style="text-align: center;"><b><i>Benefits</i></b></p> <p>This rule benefits landlords, tenants, and other interested parties by ensuring that the rule follows policies recently adopted by the legislature.</p> <p style="text-align: center;"><b><i>Alternatives</i></b></p> <p><u>Not make changes to existing rule.</u> This would mean a number of provisions of the existing rule would be similar to the statute; but worded slightly differently; which could cause confusion.</p>
Long Range Implications of Implementing the Rule
Same as Economic and Fiscal Impact discussed above.
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 laws 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
DATCP received no comments related to the economic impact in response either to the posting on the DATCP external website or the statewide administrative rules website. DATCP did, however, receive comments on the content of the proposed rule. DATCP has considered these comments as part of the public hearing process.