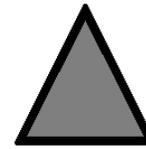




# TENANT RESOURCE CENTER



## Wisconsin Law Changes - 3/31/12 2011 Wis. Act 143 (SB466)



- 1. Local Municipalities are prohibited from passing Eviction Moratorium Ordinances** to address foreclosures or other issues. [Wis. Stat. 66.1010](#), [2011 Wis. Act 143, Sec. 1](#)
- 2. Severability.** The law clarifies that if one portion of a lease is found to be illegal, only that provision is invalid, not the entire lease. There are exceptions to the severability law in [Wis. Stat. 704.44 \(see #9\)](#) which lists clauses that make your lease void and unenforceable, and in the [Safe Housing Act](#) which voids any lease that threatens retaliation against tenants who call emergency services to protect their safety. This new provision of the law goes into effect for [leases entered into or renewed after 3/31/12](#). [Wis. Stat. 704.02](#), [2011 Wis. Act 143, Sec. 3](#)
- 3. "In writing" clarification?** The bill clarifies that for leases *longer than a year*, when the lease requires something to be done "in writing" that writing includes fax and email or electronic communication. What it does not address is 99% of the leases in Wisconsin that are *not* for longer than a year. We encourage tenants and landlords to send physical letters, or to print and physically send email. This is especially true if there is no response to your text from the tenant. Text messages continue to be problematic unless they can be printed and saved as evidence. [Wis. Stat. 704.03](#), [2011 Wis. Act 143, Sec. 4](#)  
**NOTE:** [2017 Wis. Act. 317, Sec. 42](#), Eff. 2/18/18 further clarifies when items required to be "in writing" can be done by electronic communications. [Wis. Stat. 704.10](#)
- 4. Property left behind.**  
**For [leases entered into or renewed after 3/31/12](#).** If there is no language in the lease about what the landlord will do with abandoned property, then the landlord must follow the [old law](#) by moving and storing the property for 30 days, giving notice within 10 days of when they move it, etc.  
**For [leases entered into or renewed after 3/31/12](#).** If the landlord notified the tenant in the lease that they would not move and store the tenant's property, the landlord can declare the property abandoned at the end of the lease or when the tenant has left in the middle of the lease. They can then dispose of the property "in any manner that the landlord, in its sole discretion, determines is appropriate." There are several exceptions:
  - a. This does not change the process for property left behind in eviction. The eviction process remains the same.  
**NOTE:** This changed with [2013 Wis. Act 76 Secs. 9 – 11](#) on 3/1/14.
  - b. Prescriptions and medical equipment have to be kept for 7 days and returned upon request.
  - c. Before the landlord sells a mobile or manufactured home, the landlord must notify the tenant and anyone the landlord is aware of who has a secured interest in the property.
  - d. Active duty servicemembers are exempt while they are active and for an additional 90 days after. [Wis. Stat. 321.62\(15\)\(a\)](#)
  - e. This law does not apply to property left behind in self-storage units. These landlords must follow the rules in [Wis. Stat. 704.90](#).  
**NOTE:** As of 3/1/14, this law changed again with [2013 Wis. Act 76](#). [Wis. Stat. 704.05](#), [2011 Wis. Act 143, Secs. 5 - 15](#)
- 5. Landlord disclosure of building code problems.** Landlords are not required to disclose building code or housing code violations unless:
  - a. they have actual knowledge of the code violation, *AND*
  - b. it applies to that tenant's specific unit or the property they are renting, *AND*
  - c. it presents a significant threat to the tenant's health or safety, *AND*
  - d. the violation has not been corrected.This law was modified and moved from [ATCP 134](#) and now also applies to commercial leases. [Wis. Stat. 704.07\(2\)\(bm\)](#), [2011 Wis. Act 143, Secs. 16 & 17](#)
- 6. Check-in sheet.** Landlords are required to use a standard itemized check-in sheet where they document the condition of the premises. The tenant then has *only* 7 days from the day they move-in to also fill out the check in form. Previously, landlords didn't have to fill out the sheets and tenants had to be given *at least* 7 days to fill out the form. Mobile homes owners are exempted from filling out the form for the rental of the plot of land. This provision now also applies to commercial leases. [Wis. Stat. 704.08](#), [2011 Wis. Act 143, Sec. 18](#)
- 7. Holding Over (staying after lease ends) – Landlords** (instead of the courts) can now determine if the tenant will be charged a minimum of double the daily rent for holding over (staying in the unit) after the lease has ended or after the lease has been terminated by an eviction or nonrenewal notice. This law first applies to [actions for damages \(suing for money\), including eviction actions, that occur after 3/31/12](#). [Wis. Stat. 704.27](#), [2011 Wis. Act 143, Sec. 21](#)

- 8. Security Deposit Return.** If the tenant moves out early, the landlord has to return the security deposit within 21 days after the end of the lease or the date a new lease begins for that same unit (whichever is earlier.)

**NOTE:** This also applies to commercial leases until revoked by [2013 Wis. Act 76](#) on 3/1/14. This law went into effect 3/31/12 for [anyone vacating their leases early](#). If a lease has a provision that is contrary to this law, the law first [goes into effect when that lease is renewed](#). [Wis. Stat. 704.28, 2011 Wis. Act 143, Sec. 22](#)

- 9. Lease provisions that make the entire lease invalid.** For the first time, tenants can break their leases without consequences and move out early if the lease contains any of the following illegal provisions:
- Allowing eviction in any other way besides what is required by state law. [Wis. Stat. 704.44\(2m\), 2011 Wis. Act 143, Sec. 26](#)
  - Speeding up rent payments for breaking the lease. [Wis. Stat. 704.44\(3m\), 2011 Wis. Act 143, Sec. 28](#)
  - Waives the landlord's duty to mitigate damages under [Wis. Stat. 704.29](#) if the tenant vacates early. [Wis. Stat. 704.44\(3m\), 2011 Wis. Act 143, Sec. 28](#)
  - Requiring the tenant to pay the landlord's attorney fees or costs for defending their tenant rights, unless the court awards them. [Wis. Stat. 704.44\(4m\), 2011 Wis. Act 143, Sec. 30](#)
  - Allowing the landlord to "confess judgment" for the tenant (speak for them in court) for any action in the rental agreement. [Wis. Stat. 704.44\(5m\), 2011 Wis. Act 143, Sec. 32](#)
  - Excusing the landlord for liability for property damage or personal injury due to negligent acts or omissions by the landlord. [Wis. Stat. 704.44\(6\), 2011 Wis. Act 143, Sec. 33](#)
  - Imposes liability on the tenant for personal injury arising from causes beyond their control or property damage caused by natural disasters or by persons other than the tenant or their guests. [Wis. Stat. 704.44\(7\), 2011 Wis. Act 143, Sec. 34](#)
  - Waives responsibility for the landlord to provide premises in habitable condition or to maintain the property. [Wis. Stat. 704.44\(8\), 2011 Wis. Act 143, Sec. 35](#)
  - Allows the landlord to terminate the tenancy if a crime is committed in or on the rental property (even if the tenant could not have reasonably prevented the crime) for [leases entered into or renewed after 3/31/12](#).

**NOTE:** Items a – g apply to any lease in effect as of 3/31/12.

**NOTE:** This language is changed again by [2013 Wis. Act 76 on 3/1/14](#). [Wis. Stat. 704.44\(9\), 2011 Wis. Act 143, Sec. 35m](#)

Previously, having provisions (a – g) in the lease only entitled the tenant to double damages, court costs, and reasonable attorneys fees. [ATCP remedies](#) are still available to tenants, as well as the remedy of breaking the lease without consequences.

**NOTE:** The provisions in [Wis. Stat. 704.44](#) seem to conflict with provisions in [Wis. Stat. 704.02](#) about severability ([see #2](#)).

However, both statute changes were made in [2011 Wis. Act 143](#) so the legislative intent seemed to be to exempt these provisions from the severability language in [Wis. Stat. 704.02](#).

- 10. Any violation of chapter 704 may entitle the tenant to double damages, court costs, and reasonable attorney fees.**

Previously only violations of ATCP 134 were entitled to double damages, court costs, and reasonable attorney fees.

**NOTE:** This changes with [2013 Wis. Act 76](#) effective 3/1/14, after which time it will only apply to certain provisions. Also, note the law says "may" not "shall." [Wis. Stat. 704.95, 2011 Wis. Act 143, Sec. 36](#)

- 11. Limits Department of Agriculture Trade and Consumer Protection powers.** The law specifically says that "the department of agriculture, trade and consumer protection may not issue an order or promulgate a rule under 100.20 that changes any right or duty arising under this chapter." [Wis. Stat. 704.95, 2011 Wis. Act 143, Sec. 36](#)

- 12. Landlord's acceptance of rent in an eviction action won't stop eviction action.** If a landlord files for eviction for non-payment of rent and then accepts rent from a tenant, that payment cannot be the sole reason the eviction is dismissed. [Wis. Stat. 799.40\(1m\), 2011 Wis. Act 143, Sec. 37](#)

**NOTE:** The tenants still has the right to cure (fix) a 5- or 30-day notice as allowed in [Wis. Stat. 704.17](#).

**Complicated changes and effective dates.** How these law changes affect a specific situation will depend on many overlapping factors, including what the lease says (or doesn't say), when the events took place, where the tenant lives, and the details of the dispute. This act may make additional minor changes which are not listed in this summary. Please contact Tenant Resource Center with specific questions.

[www.tenantresourcecenter.org](http://www.tenantresourcecenter.org)

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