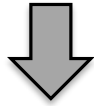




TENANT RESOURCE CENTER



Wisconsin Law – 4/18/18 [2017 Wis. Act 317 \(AB771\)](#)



CHANGES DIRECTLY AFFECTING TENANTS

1. **Landlord cost of repairs.** Landlords who make repairs due to damages caused by the action or inaction of the tenant will be allowed to charge by the hour at a “reasonable hourly rate,” not only for their time and their materials, but also for: time spent purchasing or providing materials, supervising their staff or agents, and hiring a third-party contractor. What was previously considered a landlord’s cost of doing business can now be passed on to tenants. [Wis. Stat. 704.07\(3\)\(a\)](#), [2017 Wis. Act 317, Secs. 37 & 38](#)
2. **Rent abatement.** If a tenant stays in a unit that has become untenable due to fire, water, or conditions hazardous to health, or if there is a violation of the landlord’s duty to repair that “materially affect the health or safety of the tenant,” a tenant can now *only* collect rent abatement if the violation “substantially affects the use or occupancy of the premises.” [Wis. Stat. 704.07\(4\)](#), [2017 Wis. Act 317, Sec. 39](#)
3. **Local rent abatement.** Local rent abatement ordinances are now also restricted to violations that “materially affect the health or safety” of the tenant or “substantially affect the use and occupancy of the premises.” [Wis. Stat. 704.07\(5\)](#), [2017 Wis. Act 317, Sec. 40](#)
4. **Credit and other background checks.**
 - a. **Removes double damages for violations of credit report violations.** The legislature lifted language from DATCP 134 (which is a consumer protection regulation) and put it into Wis. Stat. 704. Tenants can no longer get double damages, court costs and reasonable attorney fees for portions of the law related to credit checks and all portions of the law regarding background checks, unless the Department of Agriculture, Trade and Consumer Protection adds this new language about background checks to their regulations where double damages are allowed. [Wis. Stat. 704.085](#), [2017 Wis. Act 317, Sec. 41](#)
 - b. **Raises the limit on the amount a landlord can charge for a credit check fee.** The landlord can still only charge for the actual amount they paid for a credit check. The new law raises the maximum amount that can be charged from \$20 to \$25. Tenants should be sure to ask for a receipt or proof of the cost. (The law still requires that: 1) the credit check come from a nationwide credit agency, 2) the tenant be informed of the costs in advance and, 3) the tenant is entitled to a copy of the credit report. Tenants still can avoid these charges by bringing in a report that is less than 30 days old that is from a nationwide credit reporting agency.) [Wis. Stat. 704.085\(1\)\(a\) & \(b\)](#), [2017 Wis. Act 317, Sec. 41](#)
 - c. **Background checks for out-of-state residents.** If a prospective tenant is currently living out of state, a landlord can charge up to \$25 for a background check in addition to the credit check fee. The tenant must be notified of the charge before it happens and landlords must provide a copy of the report. However, tenants can continue to be charged by other prospective landlords even if the tenant has a recent report. [Wis. Stat. 704.085\(2\)](#), [2017 Wis. Act 317, Sec. 41](#)
 - d. **Effective date.** These laws are effective for rental agreements made or renewed on or after 4/18/18 [2017 Wis. Act 317, Sec. 56](#).
5. **Email and text communications, electronic transfers.** If it is written into the lease the landlord can “provide and indicate agreement” by other electronic communication (email, text, fax) for any of the following:
 - a. Copies of the rental agreement [Wis. Stat. 704.10\(1\)](#), [2017 Wis. Act 317, Sec. 42](#)
 - b. Documents related to the rental agreement [Wis. Stat. 704.10\(1\)](#), [2017 Wis. Act 317, Sec. 42](#)
 - c. Security deposit [Wis. Stat. 704.10\(2\)](#), [2017 Wis. Act 317, Sec. 42](#)
 - d. Documents relating to the accounting for and disposition of the security deposit and security deposit return [Wis. Stat. 704.10\(2\)](#), [2017 Wis. Act 317, Sec. 42](#)
 - e. Promises made to clean, repair or improve the premises prior to entering into the rental agreement [Wis. Stat. 704.10\(3\)](#), [2017 Wis. Act 317, Sec. 42](#)
 - f. Notice to enter to inspect, make repairs, or show the unit at reasonable times and with advance notice [Wis. Stat. 704.10\(4\)](#), [2017 Wis. Act 317, Sec. 42](#)**Effective date.** These laws are effective for rental agreements made or renewed on or after 4/18/18 [2017 Wis. Act 317, Sec. 56](#).
6. **Eviction notices for non-payment of rent or other money owed to the landlord.**
 - a. For the purposes of 5-, 14-, or 30-day notices for non-payment, “rent” means rent and late fees. [Wis. Stat. 704.17\(1g\)](#), [2017 Wis. Act 317, Secs. 44](#)
 - b. If the notice includes an incorrect amount due the notice is valid unless:
 - i. the landlord’s statement is intentionally incorrect, or [Wis. Stat. 704.17\(4m\)\(a\)](#), [2017 Wis. Act 317, Sec. 45](#)
 - ii. the tenant paid the amount they thought was due [Wis. Stat. 704.17\(4m\)\(b\)](#), [2017 Wis. Act 317, Sec. 45](#)**Effective date.** These laws are effective for rental agreements made or renewed on or after 4/18/18 [2017 Wis. Act 317, Sec. 56](#).

7. **Summons and complaints do not need to be notarized.** This change will prohibit the courts from requiring the summons and complaint to be notarized. [Wis. Stat. 799.06\(3\)\(b\)](#), [2017 Wis. Act 317, Sec. 48](#)
8. **Requires a tenant to raise “valid legal grounds” to get a full hearing in front of a judge at Small Claims Court.** Previous language allowed a party to simply “contest” and a hearing would be set. Under new language the court could deny a hearing based on a preliminary determination that there are no “valid” legal grounds. [Wis. Stat. 799.206\(3\)](#), [2017 Wis. Act 317, Sec. 49](#)
9. **If the landlord serves a 5-, 14-, 30- or 28-day notice (or other periodic tenancy termination) by certified mail, certified mail is proof that the notice has been properly served.** Also, the landlord cannot be required to provide an affidavit of service. [Wis. Stat. 799.40\(1g\)](#), [2017 Wis. Act 317, Sec. 50](#)
10. **Eliminates estoppel as a defense to an action of eviction or claim for damages.** If a tenant and landlord develop a custom or routine practice that is contrary to their lease agreement, the landlord can still evict the tenant for not following the lease agreement. For example, if a landlord has been accepting rent on the 3rd of the month for 5 years, even though the lease says it’s due on the 1st, the landlord can suddenly give the tenant an eviction notice for not paying on the 1st of the month. The fact that the tenant always paid on the 3rd is no longer a defense to an eviction. [Wis. Stat. 799.40\(1s\)](#), [2017 Wis. Act 317, Sec. 51](#)
11. **Limit on length of stay for emergency assistance.** If a tenant qualifies for emergency assistance, the tenant will only get a stay of an eviction for 10 days. A stay will be granted only if the tenant requests the stay prior to when the writ (court order for eviction) is issued. Since writs are required to be issued immediately after a judgement, this severely limits the ability to get a stay. [Wis. Stat. 799.40\(4\)\(a\)](#), [2017 Wis. Act 317, Sec. 52](#)
12. **Service and Emotional Support Animals (ESAs).**
 - a. **Definition.** ESAs were not previously defined in Wisconsin law. ESAs are newly defined as an animal who gives “emotional support, well-being, comfort, or companionship” to a person with a disability. Unlike a service animal, and ESA does not need to be trained to perform tasks to benefit that individual. [Wis. Stat. 106.50\(1m\)\(im\)](#), [2017 Wis. Act 317, Sec. 28](#)
 - b. **Prohibits discrimination/denial of housing for ESA’s and service animals.** The landlord cannot discriminate by:
 - i. refusing to rent or sell housing,
 - ii. causing an eviction,
 - iii. requiring additional compensation (such as pet fees) or
 - iv. 4) engaging in harassment. [Wis. Stat. 106.50\(2r\)\(bg\)1.](#), [Wis. Stat. 106.50\(2r\)\(br\)1.](#), [2017 Wis. Act 317, Sec. 30](#)
NOTE: Unlike other discrimination laws, this law does not protect renters from discrimination based in the following situations: 1) in contracting or discussing or negotiating in renting, 2) by refusing to permit inspection, 3) having different terms for or conditions in a lease or rental of housing, 4) in advertising with a preference or limitation, 5) in rental insurance, 5) failing to renew a lease, 6) by falsely stating the unit is unavailable for rental or inspection, or 7) coercing threatening or intimidating people for exercising a right or helping others do so. However, Wis. Stat. 106.50 still prohibits discrimination in all the aforementioned items for people with disabilities. This makes the law slightly misleading if read out of context.
 - c. **Documentation may be requested for ESAs and service animals.** The landlord may request that the tenant provide documentation from a “licensed health professional” showing the tenant has a disability and a disability-related need for the animal (unless the disability and disability-related need is readily apparent or known.) [Wis. Act 106.50\(2r\)\(bg\)2.](#), [Wis. Stat. 106.50\(2r\)\(br\)2.](#), [2017 Wis. Act 317, Sec. 30](#)
NOTE: Licensed health professional is defined as a physician, psychologist, social work or other health professional who is:
 - i. licensed or certified in Wisconsin, and
 - ii. acting within the scope of that license or certification. [Wis. Stat. 106.50\(1m\)\(mx\)](#), [2017 Wis. Act 317, Sec. 29](#)
 - d. **Damages and sanitation charges for service animals and ESAs.** Requires tenants to accept responsibility for any damages and sanitation charges caused by the service animal or ESA. [Wis. Stat. 106.50\(2r\)\(bg\)3.](#), [Wis. Stat. 106.50\(2r\)\(br\)3.](#) [2017 Wis. Act 317, Sec. 30](#)
 - e. **Landlords may deny the right to keep a service animal or ESA for any of the following reasons:**
 - i. the tenant is not disabled or does not have a disability-related need, [Wis. Stat. 106.50\(2r\)\(bg\)4.a.](#), [Wis. Stat. 106.50\(2r\)\(br\)4.a.](#), [2017 Wis. Act 317, Sec. 30](#)
 - ii. the tenant fails to provide requested documentation allowed by this law, [Wis. Stat. 106.50\(2r\)\(bg\)4.a.](#), [2017 Wis. Act 317, Sec. 30](#)
 - iii. there is undue financial or administrative burden or would fundamentally change the services provided, or [Wis. Stat. 106.50\(2r\)\(bg\)4.b.](#), [Wis. Stat. 106.50\(2r\)\(br\)4.b.](#), [2017 Wis. Act 317, Sec. 30](#)
 - iv. the specific animal “poses a direct threat to a person’s health or safety” that cannot be reduced or eliminated by another accommodation. [Wis. Stat. 106.50\(2r\)\(bg\)4.c.](#), [Wis. Stat. 106.50\(2r\)\(br\)4.c.](#) [2017 Wis. Act 317, Sec. 30](#)
 - v. the specific animal would cause substantial physical damage to the property that can’t be reduced or eliminated by another accommodation. [Wis. Stat. 106.50\(2r\)\(bg\)4.d.](#), [Wis. Stat. 106.50\(2r\)\(br\)4.d.](#), [2017 Wis. Act 317, Sec. 30](#)
 - f. **Requires a fine of not less than \$500 (ESAs only) to be charged to:**
 - i. any individual seeking housing who intentionally misrepresents that they have a disability, or intentionally misrepresents that they have a need for an ESA to assist with a disability. [Wis. Stat. 106.50\(2r\)\(br\)5.](#), [2017 Wis. Act 317, Sec. 30](#)

- ii. a licensed health professional who assists a patient who is seeking to obtain housing and misrepresents that the patient has a disability, or misrepresents the patient's need for an ESA or an ESA to assist with a disability. [Wis. Stat. 106.50\(2r\)\(br\)6., 2017 Wis. Act 317, Sec. 30](#)
 - iii. The fine requires a complaint and finding by a hearing examiner or administrative law judge. [Wis. Stat. 106.50\(6\)\(h\)](#)
NOTE: This law does not make Wisconsin landlords exempt from: the Federal Fair Housing Act requirement to provide a reasonable accommodation for emotional support animals, from the Americans with Disability Act, or, other sections of the Wisconsin Open Housing Law ([Wis. Stat. 106.50.](#)) These laws allow another avenue for legal recourse.
13. **CCAP records.** Unless a civil case is closed, confidential or sealed, a civil case may be removed from CCAP (Wisconsin Circuit Court Access website) as follows:
- a. if a writ (court order) has been issued in an eviction, the case can now be removed after 10 years have passed, or [Wis. Stat. 758.20\(2\)\(a\), 2017 Wis. Act 317, Sec. 46](#)
 - b. if an eviction has been dismissed and there is no money judgement docketed, the case can be removed after 2 years. [Wis. Stat. 758.20\(2\)\(b\), 2017 Wis. Act 317, Sec. 46](#)
14. **Eliminates rental weatherization program.** [2017 Wis. Act 317, Sec. 55](#) This law is retroactive to January 1, 2018. [2017 Wis. Act 317, Sec. 57](#)
15. **Trespassing.** Sets a deadline of July 1, 2018 for police departments to have written policies for investigating complaints of trespassing and removing people from a dwelling. [Wis. Stat. 175.403\(2\), 2017 Wis. Act 317, Sec. 33](#)
16. **Requires lawyers who assist in drafting pleadings, motions or documents for self-represented persons to include their name and state bar number on any such documents.** Attorneys are not required to sign the document, but they have to note that the document was prepared with the assistance of a lawyer now must add their name and state bar number. [Wis. Stat. 802.05\(2m\), 2017 Wis. Act 317, Sec. 53](#)
17. **Local Programs for Periodic Building Inspections.**
- a. **Restores the ability of cities to pass ordinances that require landlords to provide contact information** for themselves (or their agent) if the municipal ordinance requires only the name of one owner, a telephone number and a way to contact the owner electronically (if that contact information exists). The law clarifies that municipalities cannot have landlord registration, certification or licensing programs. Milwaukee cannot charge a fee for the building inspection program except for a one-time initial fee that reflects the actual cost (not to exceed \$10 per building) and a one-time fee that reflects the actual cost (not to exceed \$10) for changes to ownership, management or contact information. [Wis. Stat. 66.0104\(2\)\(e\)2.am., 2017 Wis. Act 317, Secs. 9, 14 & 15.](#)
 - b. **Allows cities, towns, villages or counties to have periodic property inspection** programs only if they designate a district that has any of the following:
 - i. Evidence of blight
 - ii. High rates of building code complaints or violations
 - iii. Deteriorating property values
 - iv. Increases in single family home conversions to rentals [Wis. Stat. 66.0104\(2\)\(e\)1m., 2017 Wis. Act 317, Secs. 10 & 11](#)
 All other programs inconsistent with the above may not be enforced. [Wis. Stat. 66.0104\(3\)\(c\), 2017 Wis. Act 317, Sec. 17](#)
 - c. **New programs must follow these rules:**
 - i. If a property is inspected and has no violations or violations are corrected within 30 days, the property can not be inspected for at least five years.
 - ii. If no corrections are found or the violation is not fixed in 30 days after a program inspection or a complaint-based inspection, the municipality can require annual inspections.
 - iii. If a property passes two annual inspections then the property cannot be inspected for at least five years.
 - iv. Properties less than eight years old are exempted from inspections.
 - v. If the tenant is in imminent danger the municipality can require the landlord to cure the violation in less than 30 days.
 - vi. Extensions of the 30 day period shall be given for good cause.
 - vii. The municipality shall provide a notice of the habitability violation, including specifics of the violation and exact location.
 - viii. If the tenant refuses to allow the inspection, the inspection may not occur unless it is under special warrant. [Wis. Stat. 66.0104\(2\)\(e\)1m., 2017 Wis. Act 317, Secs. 10 & 11](#)
 - d. **Habitability violations in the ordinance may include the following for any unit:**
 - i. lacks hot or cold running water [Wis. Stat. 66.01014\(1\)\(ah\)1., 2017 Wis. Act 317, Sec. 8](#)
 - ii. has heating facilities that are not in working condition or capable of reaching 67 degrees in all living areas of the property or unit during all seasons of the year that the unit can be occupied (temperature will be measured at the approximate center of the room midway between the floor and ceiling) [Wis. Stat. 66.01014\(1\)\(ah\)2., 2017 Wis. Act 317, Sec. 8](#)
 - iii. is not served by electricity or the electrical system or components of the system are not in safe operating condition [Wis. Stat. 66.01014\(1\)\(ah\)3., 2017 Wis. Act 317, Sec. 8](#)

- iv. has structural or other conditions that are a substantial hazard to the health or safety of the tenant or create an unreasonable risk of personal injury as a result of any reasonably foreseeable use of the property or unit other than negligent use or abuse of the property by the tenant [Wis. Stat. 66.01014\(1\)\(ah\)4., 2017 Wis. Act 317, Sec. 8](#)
 - v. is not served by plumbing facilities in good operating condition [Wis. Stat. 66.01014\(1\)\(ah\)5., 2017 Wis. Act 317, Sec. 8](#)
 - vi. does not have sewage disposal facilities in good operating condition [Wis. Stat. 66.01014\(1\)\(ah\)6., 2017 Wis. Act 317, Sec. 8](#)
 - vii. lacks working smoke detectors or carbon monoxide detectors [Wis. Stat. 66.01014\(1\)\(ah\)7., 2017 Wis. Act 317, Sec. 8](#)
 - viii. is infested with rodents or insects [Wis. Stat. 66.01014\(1\)\(ah\)8., 2017 Wis. Act 317, Sec. 8](#)
 - ix. has excessive mold [Wis. Stat. 66.01014\(1\)\(ah\)9., 2017 Wis. Act 317, Sec. 8](#)
- e. Fees for periodic building inspection programs.** Fees can only be raised annually and no more than the consumer price index for the US city average for all urban consumers, as determined by the Department of Labor for the previous year or 2% whichever is greater. Fees cannot exceed the following for periodic inspection programs:
- i. Vacant buildings in initial and periodic inspection programs = \$75
 - ii. Exterior and common area inspections for initial and periodic inspection programs = \$75
 - iii. All other initial inspections in periodic inspection program = \$90
 - iv. 2nd or additional inspections required due to non-compliance = \$150
 - v. No fees for can be charged if:
 - a. no violation is found during a program inspection
 - b. violation is corrected within 30 days (or shorter length if imminent danger, longer than 30 days if good cause)
 - c. landlord voluntarily allows the inspection of an exterior or common area and no violation is found
 - d. a violation is found, but corrected on time
 - e. re-inspection when the item was corrected
 - f. Occupant doesn't allow entry [Wis. Stat. 66.0104\(2\)\(e\)2.a., 2017 Wis. Act 317, Sec. 12](#)
- f. Fees for complaint driven inspections** under [Wis. Stat. 66.0119](#). Fees can only be raised annually and no more than the consumer price index for all urban consumers, US city average as determined by the Department of Labor for the previous year or 2% whichever is greater. Fees cannot exceed \$150 except for the following:
- i. If the violation isn't fixed in 30 days = \$300
 - ii. No violation is found = \$0 [Wis. Stat. 66.0104\(2\)\(e\)2.am., 2017 Wis. Act 317, Sec. 13](#)
- g. Municipality employee or inspector complaints.** A municipality must keep records of the name of the municipal employee making the complaint, the nature of the complaint and any inspection conducted as a result of the complaint. [Wis. Stat. 66.0104\(2m\), 2017 Wis. Act 317, Sec. 16](#)

NOTE: These changes do not apply to building inspections requested by tenants, only municipal programs for periodic inspections.

18. **Notice to owner when disconnecting utilities.** When the utility is in the tenant's name, if requested by the landlord and authorized by the tenant (directly to the utility or by separate written agreement to owner) a public utility shall notify the owner (can be done by phone) of any pending disconnection of services due to tenant's nonpayment. [Wis. Stat. 196.643\(3\), 2017 Wis. Act 317, Sec. 35](#)
19. **No proof of eviction needed to resume utility service to owner.** A public utility may not require the owner to provide proof of eviction or other evidence that the tenant has moved before they provide or resume utility services that are in solely the owner's name. [Wis. Stat. 196.643\(4\), 2017 Wis. Act 317, Sec. 35](#)

OTHER

20. **Repairs or replacement materials for Landmarks or properties in a Historic Districts or Neighborhood Conservation Districts:** Counties, towns and cities must allow the owner to repair or replace materials for historic landmarks or that are in a historic district or neighborhood conservation district if they are "similar in design, color, scale, architectural appearance and other visual qualities." [Wis. Stats. 59.69\(4m\)\(a\) & \(bm\), 60.64\(1\) & \(2m\), & 62.23\(7\)\(em\), 2017 Wis. Act 317, Secs. 1-6, 26, 27, 31 & 32.](#)
21. **Limiting fees local governments can charge.** [Wis. Stats. 66.0602\(2m\)\(b\)2. & 3., 66.0628\(2m\), 66.0821\(4\)\(a\) & 68.125, 2017 Wis. Act 317, Secs. 18, 19, 20, 24 & 25.](#)
22. **Municipal public utilities must send bill to the tenant and may have a lien on the assets of a tenant in the property.** [Wis. Stats. 66.0809\(3m\)\(a\) & \(5\)\(am\) 2017 Wis. Act 317, Secs. 21 & 22.](#)

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