

WISCONSIN LEGISLATOR
BRIEFING BOOK
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**CHAPTER 20 – HOUSING
AND LANDLORD-TENANT
LAW**

A wide diversity of laws and programs combine to provide a framework for housing, real estate, and landlord-tenant transactions in Wisconsin. This chapter contains sections on three housing-related topics: housing assistance, housing discrimination, and residential landlord-tenant law.

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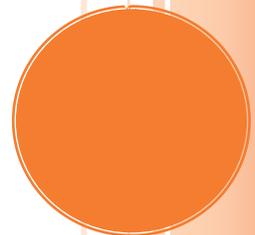


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INTRODUCTION

This chapter contains an overview of the main laws and programs in this area.

The section on **housing assistance** provides information on financial assistance available through various government programs to subsidize the cost of housing. The key federal agency involved in housing is the U.S.

Department of Housing and Urban Development (HUD), which administers numerous assistance programs. Both the Wisconsin Housing and Economic Development Authority (WHEDA) and the Department of Administration (DOA) have primary roles at the state level in administering housing assistance for low- and moderate-income families. In addition, the DOA administers various energy assistance and weatherization programs.

Federal and state housing assistance programs are administered in Wisconsin by HUD, WHEDA, the Department of Veterans Affairs (DVA), and the DOA.

The section on **housing discrimination** describes federal and state laws prohibiting discrimination in real estate transactions, often referred to as “fair housing” laws. At the federal level, this includes the Fair Housing Act, which is administered by HUD. In the State of Wisconsin, fair housing law is administered primarily by the Department of Workforce Development (DWD). In addition, local government and organizations such as the Metropolitan Milwaukee Fair Housing Council play a role in providing fair housing services.

The section on residential **landlord-tenant** law describes general law governing the rental of residential property. Specific information is provided regarding severability of rental agreements and prohibited provisions, as well as an overview of recent changes in landlord-tenant law made by the Legislature.

HOUSING ASSISTANCE

This section on housing assistance is organized in three parts, addressing the programs administered by HUD, the DOA, and WHEDA.

HUD Programs

HUD – Wisconsin Field Office:

414-227-3214

<http://www.hud.gov/local>

HUD administers numerous housing assistance programs, as described below. More information about any of these programs may be obtained through HUD’s Wisconsin field office in Milwaukee.

HUD programs include:

- **Mortgage Insurance Program.** HUD supports homeownership by low- and moderate-income families through the Federal Housing Administration (FHA) program. The FHA insures mortgages against loss, thus encouraging lenders to make loans to people who might not otherwise be able to meet the larger down payment requirements or higher interest rates that would be required in the absence of mortgage insurance.
- **Housing Counseling Programs.** HUD administers a grant program to sponsor housing counseling agencies that provide services to homebuyers, homeowners, low- to moderate-income renters, and the homeless. Counselors provide advice on avoiding foreclosure, homebuying, renting, defaults, credit issues, and reverse mortgages. A list of HUD-approved counseling agencies may be found at: <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>.
- **Making Home Affordable (MHA) Program.** The MHA program is designed to deliver mortgage relief and help homeowners avoid foreclosure by reducing monthly loan payments, reducing the loan's interest rate, and modifying second mortgages. MHA also includes assistance specifically designed to assist homeowners who are unemployed; whose homes have decreased in value and who now owe more on their mortgages than their homes are worth; or who are veterans with loans that are insured or guaranteed by the DVA. More information of all MHA program options may be found at: <http://www.makinghomeaffordable.gov/programs/view-all-programs/Pages/default.aspx>.
- **Public Housing Program.** This program provides housing at affordable rent for eligible low-income families, the elderly, and persons with disabilities. Local housing agencies receive HUD funds to manage the housing and determine applicant eligibility based on income limits developed by HUD.
- **Housing Choice Voucher Program.** This program, formerly known as "Section 8," also provides assistance to low-income renters and first-time homebuyers. To be eligible for the program, a renter must have income below 50% of an area's median income. Under the program, participants must contribute 30% of their adjusted monthly income for rent. The program then issues a voucher for the difference between the participant's contribution and the area's fair market rent. Participants are responsible for rent in excess of the fair market rent. Local public housing agencies (PHAs) administer the housing choice voucher program. A list of all PHAs in Wisconsin and links to their websites may be found at: <http://www.hud.gov/offices/pih/pha/contacts/states/wi.cfm>.

HUD was created by Congress in 1965. HUD's mission is to help both low- and moderate-income families by creating strong, sustainable, inclusive communities, and quality affordable homes for all.

DOA Programs

The Division of Housing in the DOA has the primary responsibility for administering most of the housing grant and loan programs funded by state or federal dollars.

In connection with this role, the department prepares the **State of Wisconsin Consolidated Plan**, which is a comprehensive five-year state housing strategy plan. The DOA's

Division of Energy Services also administers several programs for home energy assistance and for home weatherization, as described below.

The DOA's Division of Housing is responsible for administering most of the state or federally funded housing grant and loan programs. In doing so, it also prepares a comprehensive five-year state housing strategy plan called the "State of Wisconsin Consolidated Plan."

State of Wisconsin Consolidated Plan

Section 16.302, Stats., requires the DOA to prepare a comprehensive state housing strategy plan, known as the State of Wisconsin Consolidated Plan, once every five years. The plan serves as the state's application to HUD for key federal program funds. It also acts as a plan for distributing federal and state dollars to a variety of housing programs, community programs, and economic development programs. The consolidated plan currently in effect for 2010–15 was prepared by the former state Department of Commerce.

The current *State of Wisconsin Consolidated Plan* is available on DOA's website at:

<http://www.doa.state.wi.us>

Programs Financed With State Funds

The DOA housing programs financed with state funds include the following:

- **The Housing Cost Reduction Initiative (HCRI) Program.** HCRI provides direct financial assistance to reduce the housing costs of low- and moderate-income households. Funds may be used for assistance to eligible homebuyers and eligible homeowners facing foreclosure. Funds are awarded to local governments, tribes, and organizations. [s. 16.303, Stats.]
- **The Homeless Prevention Program (HPP).** HPP provides funds for security deposits, short-term rental assistance, and utility costs. Funds for HPP come from the HCRI program. [s. 16.303, Stats.]
- **The Transitional Housing Grant Program.** This program provides competitive grants to organizations and county or municipal governments for the provision of transitional housing and associated supportive services for the homeless, to facilitate transition to self-sufficiency. [s. 16.306, Stats.]
- **The Interest Bearing Real Estate Trust Account (IBRETA) Program.** IBRETA is funded from earnings on interest-bearing real estate common trust accounts into which

real estate brokers and salespersons deposit down payments, earnest money, and similar types of real estate payments. Interest or dividends from IBRETA accounts are sent to the state to provide funds for programs serving homeless individuals and families. [s. 16.307, Stats.]

- The **State Shelter Subsidy Grant (SSSG) Program**. SSSG gives formula-based grants to support homeless shelter facilities and services for homeless persons to recipients including nonprofit organizations, federally recognized American Indian tribes or bands, housing and community development authorities, and county or municipal governments. [s. 16.308, Stats.]
- The **Wisconsin Fresh Start (WFS) Program**. WFS, created in 1998 through an Executive Order of the Governor, replicates a City of Madison program designed to provide at-risk young people with education, employment skills, and career direction leading to economic self-sufficiency. The work component of WFS includes new construction or rehabilitation of housing into well-built, affordable dwellings for low- and moderate-income residents.

Programs Financed With Federal HUD HOME Funds

The DOA also administers a series of initiatives financed with HUD funding, through the Home Investment Partnerships program, generally referred to as the HOME program. This HOME program is separate from WHEDA's home ownership mortgage loan program, described below, which also uses HOME as an acronym. The HUD-funded HOME program primarily helps households having incomes no greater than 80% of county median income, although this threshold drops to 60% for rental rehabilitation and home rental housing development programs for most households. These programs include the following:

- The **HOME Homebuyer and Rehabilitation (HHR) Program**. HHR provides grants to local organizations assisting qualified low-income homebuyers and landlords. Assistance includes subsidization of housing rehabilitation expenses, acquisition costs such as down payments and closing costs, or construction expenses for single-family, owner-occupied dwellings. The program also provides grants and low-interest loans for repairs to rental units that are leased at or below fair market rental levels to low-income persons.
- The **HOME Rental Housing Development Program**. This program funds projects leading to additional rental units for low-income households, through new construction or the acquisition and rehabilitation of existing properties. Awards are made to community housing development organizations that sponsor the developments. Funds are also set aside for WHEDA to piggyback with low-income housing tax credits and multifamily programs.
- The **HOME Tenant-Based Rental Assistance Program**. This program provides funds through local governments, housing authorities, and nonprofit organizations for

rental assistance and support services coordinated by the participating agency, to help homeless persons and to prevent homelessness.

Programs Financed With Other Federal Funds

In addition, the DOA administers various other programs funded with federal dollars, including the following:

- The **Emergency Shelter Grant (ESG) Program**. Under ESG, the Division of Housing distributes federal grants for emergency shelters, homeless prevention programs, and services for homeless persons to eligible applicants such as cities, counties, tribal agencies, and private, nonprofit agencies.
- The **Critical Assistance (CA) Program**. CA provides financial assistance to reduce the housing costs of low- and moderate-income households. Grant awards may be used to provide rental assistance and assistance with mortgage payments, property taxes, and utility arrearages to avoid foreclosure.
- The **Small Cities Community Development Block Grants (CDBG) housing component**. This program provides funds for grants to local governments for housing programs which principally benefit low- and moderate-income households. The goal of the program is to upgrade the quality and expand the supply of decent, safe, and sanitary housing for low- and moderate-income households.
- The **Community Development Block Grant Revolving Loan Fund (CDBG-RLF)**. CDBG-RLF provides loans to low and moderate-income households (defined as households at or below 80% of the county median income), to make needed home repairs. Loans may also be made to local landlords in exchange for an agreement to rent at an affordable rate to tenants that meet this income level.
- The **Housing Opportunities for Persons with AIDS (HOPWA) Program**. HOPWA helps persons affected by AIDS/HIV and their families develop long-term strategies for meeting their housing needs and preventing homelessness.
- The **Projects for Assistance in Transition from Homelessness (PATH)**. PATH provides funds to local agencies to serve homeless individuals with serious mental illnesses and individuals with co-occurring substance abuse disorders.
- The **Lead Hazard Control Program**. The Division of Housing administers this program, which provides lead abatement services to eligible dwelling units throughout Wisconsin, excluding the Cities of Milwaukee, Sheboygan, and Racine, and the Counties of Rock and Kenosha. The most recent program funding was from the 2009 Federal American Recovery and Reinvestment Act.

Programs for Home Energy Assistance and Weatherization

As stated above, the DOA's Division of Energy Services administers several programs for home energy assistance and for home weatherization. These programs include the following:

- The **Wisconsin Home Energy Assistance Program (WHEAP)**. This program provides cash benefit assistance in the form of heating costs, electric costs, and energy crises. WHEAP operates with both federal and state funding.
- **Low-Income Home Energy Assistance Program (LIHEAP)**. This program is established under s. 16.27, Stats. Under LIHEAP, low-income households are provided with cash benefits and services in the form of heating assistance, crisis assistance, and emergency furnace repair and replacement.
- The **Wisconsin Weatherization Assistance Program**. The DOA contracts with various community action agencies, housing authorities, local governments, and other non-profit organizations to provide weatherization services to eligible households. The weatherization services are designed to reduce home heating bills, save energy, and make the home warmer in the winter and cooler in the summer. Information about this program is available at: <http://homeenergyplus.wi.gov/>.

WHEDA Programs

Many low- to moderate-income Wisconsin households are assisted by WHEDA, which sells mortgage revenue bonds to finance housing development, and provides mortgage loans to qualifying individuals at below-market interest rates. WHEDA also administers three federally funded programs on behalf of the state, as described below. For constitutional reasons, WHEDA is organized as an independent authority, and not a state agency.

WHEDA incurs debt by issuing bonds, secured by a capital reserve fund, to finance private housing construction and loans. To avoid a possible violation of Wis. Const. art. VIII, s. 7, WHEDA is an authority, not a state agency.

Constitutional Issue

Article VIII, Section 7, of the Wisconsin Constitution, authorizes the state to incur debt to defend itself and for other public purposes, but does not explicitly authorize the state to incur debt by selling mortgage revenue bonds to finance private housing. To avoid a constitutional challenge, the Legislature created WHEDA as an authority, not a state agency, so that its operating budget is not included in the state budget. Instead, WHEDA's operating budget is financed primarily from interest earnings on loans it makes, from its investments, and from administrative fees it assesses. The Wisconsin Supreme Court agreed that as an authority, WHEDA is not a state agency, and held that the state does not have an enforceable legal obligation to back its bonds. [*State ex rel. Warren v. Nusbaum*, 59 Wis. 2d 391 (1973).]

WHEDA Housing Programs for Homebuyers and Homeowners

WHEDA administers the following programs:

- **WHEDA Fannie Mae Advantage (or WHEDA Advantage) Program**. This program provides first mortgage loans to qualified low- and moderate-income homebuyers. The

program allows the purchase of a single-family home or a duplex and also provides loans for major rehabilitation of a home (at least 33% of the purchase price of the home). Among the various types of assistance, WHEDA Advantage loans provide down payment assistance and assistance with closing costs. The program is based on a national lending initiative agreement between Fannie Mae and state housing finance agencies.

- **WHEDA FHA Advantage Program.** This program is similar to the WHEDA Advantage program. It provides low-cost mortgage loans to qualified low- and moderate-income homebuyers with flexible underwriting. The borrower may purchase an existing single-family home or a HUD reviewed and approved condominium. The borrower must also participate in homebuyer education.
- **Home Improvement Advantage Loan Program.** This program provides loans for home improvement to low- and moderate-income households to repair their homes or to improve home energy efficiency.
- **Easy Close Advantage Program.** Easy Close Advantage offers loan amounts to homebuyers of between either \$3,000 and \$5,000, or between 3.0% and 3.5% of the purchase price, whichever is greater. The loan may be used for a down payment on a home, or for closing costs and homebuyer education expenses.
- **WHEDA Federal Home Bank of Chicago (FHLBC) Advantage.** This financing option provides assistance to reduce the amount of cash needed to buy a home and to reduce monthly mortgage payments. Among other program requirements, to be eligible, the borrower must use a WHEDA Advantage mortgage and must be receiving other down payment assistance from FHLBC.
- **Property Tax Deferral Loan Program.** Under this program, low-income elderly homeowners are able to convert home equity into income to pay property taxes.

WHEDA Housing Programs for the Development and Rehabilitation of Housing

Other programs administered by WHEDA to encourage the development of housing for low- to moderate-income persons include the following:

- **WHEDA Foundation Grant Program.** Under this program, grants are provided by the WHEDA Foundation, a nonprofit corporation, founded by WHEDA, to nonprofit organizations and local governments for improving housing opportunities for low- and moderate-income persons, elderly persons, disabled persons, and persons in crisis.
- **Multifamily Housing Programs.** WHEDA provides numerous loan options to assist in the development and rehabilitation of affordable multifamily housing for low- to moderate-income persons, homeless persons, or persons with disabilities. Some loans are short term and others are long term.

Federally Funded Programs Administered on Behalf of the State

WHEDA administers the following federally funded housing programs on behalf of the state:

- **Low-Income Housing Tax Credit Program.** WHEDA administers the state’s low-income housing tax credit program, which assists the development or rehabilitation of affordable rental housing.
- **HUD Housing Choice Voucher Program.** This program is described under HUD programs above. WHEDA acts on behalf of the state to distribute rental vouchers for low-income Wisconsin households in communities that do not have local housing agencies.
- **WHEDA Preservation Revolving Loan Fund (PRLF).** PRLF is funded by the U.S. Department of Agriculture. WHEDA uses PRLF funds to allocate loans to rural multifamily developments in communities of 20,000 or less if the multifamily housing integrates low-income families and individuals, as well as people who are elderly or have disabilities.

HOUSING DISCRIMINATION

Housing discrimination is prohibited under the federal Fair Housing Act and Wisconsin’s Fair Housing Law. HUD’s Office of Fair Housing and Equal Opportunity administers the federal Fair Housing Act. It also establishes national policies relating to fair housing. At the state level, the Equal Rights Division in the DWD is primarily responsible for administering and enforcing Wisconsin’s fair housing law. The DWD also provides technical assistance to local governments and private nonprofit organizations. At the local level, in some areas, organizations such as fair housing councils help individuals understand their rights with respect to fair housing.

Prohibited Grounds for Discrimination

Federal Fair Housing Act

The federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, is codified at 42 U.S.C. s. 3601, *et seq.* Traditional grounds for discrimination prohibited by the federal Fair Housing Act are race or color, national origin, religion, and sex. Disability and familial status were added in 1988. Each of these prohibited grounds for discrimination is a characteristic that defines a “protected class” of persons, and those individuals are protected by the law from discrimination based on the characteristic.

The federal Fair Housing Act prohibits housing discrimination based on race, color, national origin, religion, sex, disability, or familial status.

With respect to disability, the Fair Housing Act prohibits the refusal of reasonable modifications at the expense of the disabled person. It also prohibits the refusal of reasonable accommodations in rules, policies, practices, or services when these accommodations may be necessary for persons with disabilities to have the equal opportunity to use and enjoy the dwelling. The Fair Housing Act requires certain multifamily dwellings to be designed and constructed as accessible housing.

With respect to familial status, the Fair Housing Act includes prohibitions on discrimination based on characteristics such as being pregnant or having children under the age of 18 living with parents or legal custodians, with some exceptions. [42 U.S.C. ss. 3604-3606.]

Covered Housing

The federal Fair Housing Act covers most housing, but generally excludes single-family housing sold or rented without the use of a broker, as well as owner-occupied buildings with no more than four units.

Accessibility Requirements

The federal Fair Housing Act imposes accessibility requirements for persons with physical disabilities on multifamily housing, which include requirements related to sizing of passageways, placement of door handles and outlets, and access to existing common areas. The Act applies to buildings with **four or more** dwelling units first ready for occupancy after March 13, 1991.

Wisconsin Fair Housing Law

Wisconsin’s Fair Housing Law, also known as the “open housing law,” is similar to its federal counterpart. However, the state law prohibits discrimination based on a wider range of characteristics than federal law. State law prohibits housing discrimination against the same protected classes as federal law, as well as: (1) sexual orientation; (2) marital status; (3) status as a victim of domestic abuse, sexual assault, or stalking; (4) lawful source of income; (5) age; and (6) ancestry. [s. 106.50 (1m) (h), Stats.]

With respect to disability and familial status, the Wisconsin Fair Housing Law includes similar provisions to the Federal Fair Housing Act.

Covered Housing

Wisconsin’s open housing law differs from the federal Act in that it covers single-family residences that are owner-occupied. According to the governing statute: “The legislature

Wisconsin’s Fair Housing Law protects the following six additional classes not found in federal law: (1) sexual orientation; (2) marital status; (3) status as a victim of domestic abuse, sexual assault, or stalking; (4) lawful source of income; (5) age; and (6) ancestry.

finds that the sale and rental of single-family residences constitute a significant portion of the housing business in this state and should be regulated.” [s. 106.50 (1), Stats.]

Accessibility Requirements

State law also imposes accessibility requirements for persons with physical disabilities on multifamily housing. Accessibility requirements under the state open housing law are similar to those under the federal Act. The state law applies to housing first ready for occupancy on or after October 1, 1993, consisting of **three or more** dwelling units and including **at least one** elevator.

Enforcement and Complaints

Federal and state fair housing laws are enforced primarily in response to complaints initiated by individuals who feel that they have been discriminated against in their search for housing. Complaints may be filed under either law. Some areas of the state are served by a fair housing council, which may assist individuals in the complaint process, as described below.

Complaints Under the Federal Fair Housing Act

A person alleging a violation under the federal Fair Housing Act has the following two general options for proceeding:

A person may file a complaint with HUD by any of the methods listed on HUD’s website at:
<http://www.hud.gov/complaints/housediscrim.cfm>.

- A person may file a complaint with HUD no later than one year after the alleged discrimination occurred. HUD will then investigate the claim and determine whether it finds reasonable cause to believe that discrimination occurred. If charges are issued, the person who filed the complaint will not have to pay

the costs of pursuing a legal remedy.

- A person may file a civil action at his or her expense in federal district court or state court no later than two years after the alleged discrimination occurred. This option is only available if an administrative law judge has not yet started a hearing.

Information on filing a state fair housing complaint is available on the DWD’s Equal Rights Division website:
http://www.dwd.state.wi.us/er/discrimination_civil_rights/open_housing_law.htm

A benefit of the first option is that the federal government pays for the proceeding if HUD does not dismiss the complaint, whereas a person choosing the second option does so at his or her own expense.

Complaints Under Wisconsin’s Open Housing Law

A person alleging a violation under Wisconsin’s open housing law may file a complaint with the DWD’s Equal Rights Division no later than one year after the alleged discrimination occurred.

In addition to some differences in state and federal law with respect to the prohibited grounds for discrimination, as described above, the state law requires that a higher threshold be met before charges may be issued on behalf of an individual who brings a complaint. The DWD’s Equal Rights Division must find ***probable cause*** to believe that discrimination occurred before charges may be issued, whereas the federal Act requires only ***reasonable cause***.

Fair Housing Councils

A fair housing council is an organization that helps individuals to understand their options for pursuing a complaint under the fair housing laws. Assistance is provided in Milwaukee by the Metropolitan Milwaukee Fair Housing Council, which also helps individuals in other communities find out if their area is served by a fair housing council.

To find out if a particular area is served by a fair housing council, contact:

Metropolitan Milwaukee Fair Housing Council, Inc. (MMFH)

(414) 278-1240

<http://www.fairhousingwi.com>.

Fair housing councils may conduct investigations using “testing,” a method of investigating complaints that

compares treatment of various persons seeking housing to determine whether differences in treatment are occurring which may constitute discrimination. Such testing has the potential to yield significant evidence in later administrative hearings or court proceedings. A fair housing council may also refer persons to attorneys experienced in fair housing issues and, in some cases, can itself be a plaintiff.

RESIDENTIAL LANDLORD-TENANT LAW

This section on residential landlord-tenant law describes state regulation in the renting of residential properties. Specific information is provided regarding severability of rental agreements and prohibited provisions. The section also describes recent changes in landlord-tenant law made by the Legislature, which included a modification to the role of the Department of Agriculture, Trade, and Consumer Protection (DATCP) in regulating landlord trade practices.

State Regulation of Landlord-Tenant Law

Residential landlord-tenant law is a mix of statutes, administrative rules, and common law (law derived from court decisions on individual cases). Chapter 704, Stats., sets forth the

main part of Wisconsin statutory law governing landlord and tenant relationships, including important provisions regarding severability of rental agreements and prohibited provisions. The state agency with responsibility for promulgating and administering the main body of rules relating to landlord-tenant law is DATCP. These rules were promulgated as ch. ATCP 134, Wis. Adm. Code (Residential Rental Practices), under DATCP's general statutory authority for the regulation of unfair competition and unfair trade practices.

Severability of Rental Agreements and Prohibited Provisions

Section 704.02, Stats., provides that provisions of a rental agreement are generally severable.

Rental agreement provisions found to be void or unenforceable by reason of statute, rule, regulation, or judicial order are generally severable from the rental agreement itself. This allows the rest of the agreement to be enforceable. Some prohibited provisions are not severable, and render the entire agreement invalid.

If any provision of a rental agreement is determined to be void or unenforceable by reason of any statute, rule, regulation, or judicial order, the invalidity or unenforceability of that provision does not affect other provisions of the rental agreement that can be given effect without the invalid provision. An example of a provision that is void and severable from the rental agreement is

an agreement to waive any of the duties owed by either the landlord or tenant requiring the property to meet code requirements and be fit for tenants. [s. 704.07 (1), Stats.]

However, under the statutes, certain provisions found to be void or unenforceable will not be severed from the agreement but will instead render the entire lease void and unenforceable. A provision will render an entire rental agreement void and unenforceable if it does any of the following:

- Allows a landlord to do any of the following because a tenant has contacted an entity for law enforcement services, health services, or safety services:
 - Increase rent.
 - Decrease services.
 - Bring an action for possession of the premises.
 - Refuse to renew a rental agreement.
 - Threaten to take any action on the previous four items.
- Authorizes the eviction or exclusion of a tenant from the premises, other than by judicial eviction procedures as provided under ch. 799, Stats.

- Provides for an acceleration of rent payments in the event of tenant default or breach of obligations under the rental agreement, or otherwise waives the landlord's obligation to mitigate damages as provided in s. 704.29, Stats.
- Requires the tenant to pay attorney fees or costs incurred by the landlord in any legal action or dispute arising under the rental agreement. This does not prevent a landlord or tenant from recovering costs or attorney fees under a court order under ch. 799 or 814, Stats.
- Authorizes the landlord or an agent of the landlord to act on the tenant's behalf in an action arising under the rental agreement.
- States that the landlord is not liable for property damage or personal injury caused by negligent acts or omissions of the landlord. This does not affect ordinary maintenance obligations of a tenant under s. 704.07, Stats., or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.
- Imposes liability on a tenant for any of the following:
 - Personal injury arising from causes clearly beyond the tenant's control.
 - Property damage caused by natural disasters or by persons other than the tenant or the tenant's guests or invitees. This paragraph does not affect ordinary maintenance obligations of a tenant under s. 704.07, Stats., or assumed by a tenant under a rental agreement or other written agreement between the landlord and the tenant.
- Waives any statutory or other legal obligation on the part of the landlord to deliver the premises in a fit or habitable condition or to maintain the premises during the tenant's tenancy.
- Allows the landlord to terminate the tenancy of a tenant based solely on the commission of a crime in or on the rental property if the tenant, or someone who lawfully resides with the tenant, is the victim of that crime.
- Allows the landlord to terminate the tenancy of a tenant for a crime committed in relation to the rental property if the rental agreement does not include the required notice related to certain domestic abuse protections available under the statutes.

[s. 704.44, Stats.]

Recent Changes in Landlord-Tenant Law

The Legislature has enacted changes in the area of landlord-tenant law during the two most recent legislative sessions.

2011 Wisconsin Act 143, Relating to Miscellaneous Landlord-Tenant Provisions and Prohibiting Ordinances Imposing a Moratorium on Eviction Actions

2011 Wisconsin Act 143 made changes in a variety of areas of landlord-tenant law. For example, the Act revised procedures for disputes over security deposits, occupancy beyond termination of the lease, a standardized check-in sheet, and disposition of property abandoned by the tenant. The Act also restricted the ability of local governments to impose a moratorium on eviction actions. For a stand-alone summary of 2011 Wisconsin Act 143, please consult the Legislative Council Act Memo, dated March 26, 2012, which is available here: <https://docs.legis.wisconsin.gov/2011/related/lcactmemo/sb466.pdf>.

2013 Wisconsin Act 76, Relating to Evictions, Towing Practices, and Prohibitions on Certain Ordinances Regarding Landlords

2013 Wisconsin Act 76 made additional changes in a variety of areas of landlord-tenant law. The Act included further revisions related to disputes over security deposits and evictions. In addition, it created procedures allowing landlords to initiate the towing of illegally parked vehicles and removal of abandoned property, under certain circumstances, which was not possible under prior law without greater involvement from law enforcement. The Act also further restricted local governments from regulating in this area. Specifically, the Act prohibits a city, village, town, or county (municipality) from enacting or enforcing an ordinance that does any of the following:

- Limits a tenant's responsibility or a landlord's right to recover for any damage or waste to, or neglect of, the premises that occurs during the tenant's occupancy of the premises.
- Limits a tenant's responsibility or a landlord's right to recover for any other costs, expenses, fees, payments, or damages for which the tenant is responsible under the rental agreement or applicable law.
- Requires a landlord to communicate to tenants any information that is not required to be communicated to tenants under federal or state law, unless the ordinance has a reasonable and clearly defined objective of regulating the manufacture of illegal narcotics.
- Requires a landlord to communicate to the municipality any information concerning the landlord or a tenant, unless the information: (1) is required under federal or state law; (2) is required of all residential real property owners; or (3) is solely information that will enable a person to contact the owner or, at the option of the owner, an agent of the owner.

For a stand-alone summary of 2013 Wisconsin Act 76, please consult the Legislative Council Act Memo, dated February 28, 2014, available here:

<https://docs.legis.wisconsin.gov/2013/related/lcactmemo/act076.pdf>

ADDITIONAL REFERENCES

1. At the beginning of each biennial legislative session, the Legislative Fiscal Bureau publishes Informational Papers that describe various state programs and agencies, including state housing programs, the property tax deferral loan program, and WHEDA. The Informational Papers are available at: <http://www.legis.wisconsin.gov/lfb>.
2. DATCP Bureau of Consumer Protection:
http://datcp.wi.gov/Consumer/Consumer_Protection/index.aspx.
3. *The Wisconsin Way: A Guide for Landlords and Tenants* (DATCP), available at:
http://datcp.wi.gov/Consumer/Wisconsin_Way/index.aspx.
4. *Household Housing Guide: A Guide to Identifying Public Sources of Housing Financial and Informational Assistance for Low- and Moderate-Income Households in Wisconsin*, is a useful document for identifying public sources of housing and financial information and is available on the Division of Housing's website at:
<http://doa.wi.gov/docview.asp?docid=9089&locid=173>.

GLOSSARY

Division of Energy Services: The DOA's Division of Energy Services. The Division administers various weatherization assistance programs to eligible low-income households.

Division of Housing: The DOA's Division of Housing. The Division administers most of the housing grant and loan programs funded by state or federal dollars.

HUD: The U.S. Department of Housing and Urban Development. HUD provides housing and other economic assistance to moderate- to low-income families, including the Housing Choice Voucher Program (formerly known as Section 8 housing). It also investigates claims of housing discrimination arising under federal law.

Wisconsin Legislative Council

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