



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-4143/1  
MCP:skw

## 2023 ASSEMBLY BILL 712

November 27, 2023 - Introduced by Representatives HONG, J. ANDERSON, CLANCY, MADISON, RATCLIFF, BALDEH, CABRERA, DRAKE, SHELTON, SINICKI, SNODGRASS, STUBBS, EMERSON, MOORE OMOKUNDE, PALMERI, CONSIDINE, JOERS and HAYWOOD, cosponsored by Senators AGARD, LARSON and L. JOHNSON. Referred to Committee on Housing and Real Estate.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

1     **AN ACT** *to renumber and amend* 704.17 (1p) (a), 704.17 (2) (a) and 704.17 (3)  
2           (a); *to amend* 704.17 (3m) (b) 1., 710.15 (5r) and 799.40 (1m); and *to create*  
3           704.155, 704.17 (1p) (a) 2., 704.17 (1p) (a) 3., 704.17 (2) (a) 2., 704.17 (2) (a) 3.,  
4           704.17 (3) (a) 1., 704.17 (3) (a) 2., 704.17 (3) (a) 3., 704.17 (6) and 799.40 (4) (c)  
5           and (d) of the statutes; **relating to:** requiring landlords or tenants to apply for  
6           emergency rental assistance and participate in mediation prior to eviction and  
7           prohibiting certain rent increases.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a tenant is late in paying rent, the landlord may give the tenant a notice that requires the tenant to pay rent or vacate within at least five days after the notice is given. If the tenant fails to pay the rent by that date, the tenancy is terminated. Under certain circumstances, if a tenant is late in paying rent, the landlord may give the tenant a notice requiring the tenant to vacate within at least 14 days after the notice is given without the option to cure by paying rent. Under current law, a landlord may bring a small claims eviction action against a tenant whose tenancy has been terminated for failure to pay rent.

Under this bill, if a residential tenant fails to pay rent when due, the tenant's tenancy is terminated only if the landlord gives the tenant a notice that requires the tenant to pay rent or vacate within at least 30 days after the notice is given; the

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tenant fails to pay the rent; and the landlord applies for and is denied emergency rental assistance under a local, state, or federal assistance program, if such a program exists, or is ineligible for such emergency rental assistance. Under the bill, a 30-day notice must include certain information, including contact information for the emergency rental assistance provider serving the county where the tenant resides; a statement as to whether the landlord is qualified to receive emergency rental assistance under a rental assistance program, and, if eligible, that the landlord is required to apply for such funds; a statement that, if the landlord is ineligible for such funds, the tenant may be able to apply for emergency rental assistance; and a statement that the landlord may not pursue an action for eviction against the tenant for failure to pay rent if the tenant or the landlord applies for and is approved to receive emergency rental assistance, and may not pursue an action for eviction unless the landlord and tenant participate in mediation and are unable to reach a settlement or the landlord shows that the tenant has refused to participate in mediation.

The bill also requires a court to stay the proceedings in a residential eviction action until the landlord files proof with the court that he or she has applied for and been denied emergency rental assistance under a local, state, or federal assistance program, if such a program exists, or, if the landlord is ineligible for such emergency rental assistance, that the tenant has either failed to apply or has applied for and been denied such emergency rental assistance; and until the landlord and tenant notify the court that they have participated in mediation and are unable to reach a settlement or the landlord notifies the court that the tenant has refused to participate in mediation. In addition, a court must stay residential eviction proceedings if either the tenant or the landlord has been approved to receive emergency rental assistance.

Finally, the bill prohibits a landlord that receives emergency rental assistance under a local, state, or federal assistance program from raising the tenant's rent for 12 months, except that the landlord may raise rent to cover any increase in property taxes for the tenant's rental unit.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 704.155 of the statutes is created to read:  
2           **704.155 Certain rent raises prohibited.** If a landlord receives emergency  
3 rental assistance under a local, state, or federal assistance program, the landlord  
4 may not increase the amount of rent required to be paid by any tenant for which the  
5 emergency rental assistance was received for a period of 12 months following the  
6 receipt of the emergency rental assistance, except that the landlord may increase the

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1 amount of rent required to be paid by such tenant in an amount not to exceed any  
2 increase in property taxes for the tenant's rental unit.

3 **SECTION 2.** 704.17 (1p) (a) of the statutes is renumbered 704.17 (1p) (a) (intro.)  
4 and amended to read:

5 704.17 **(1p)** (a) (intro.) If a month-to-month tenant or a week-to-week tenant  
6 fails to pay rent when due, the tenant's tenancy is terminated if the all of the  
7 following occur:

8 1. The landlord gives the tenant notice requiring the tenant to pay rent or  
9 vacate on or before a date at least ~~5~~ 30 days after the giving of the notice ~~and if the~~  
10 ~~tenant fails to pay accordingly. A month-to-month tenancy is terminated if the~~  
11 ~~landlord, while the tenant is in default in payment of rent, gives the tenant notice~~  
12 ~~requiring the tenant to vacate on or before a date at least 14 days after the giving of~~  
13 ~~the notice.~~

14 **SECTION 3.** 704.17 (1p) (a) 2. of the statutes is created to read:

15 704.17 **(1p)** (a) 2. The tenant fails to pay the rent.

16 **SECTION 4.** 704.17 (1p) (a) 3. of the statutes is created to read:

17 704.17 **(1p)** (a) 3. The landlord applies for and is denied emergency rental  
18 assistance under a local, state, or federal assistance program, if such a program  
19 exists, or is ineligible for such emergency rental assistance.

20 **SECTION 5.** 704.17 (2) (a) of the statutes is renumbered 704.17 (2) (a) (intro.)  
21 and amended to read:

22 704.17 **(2)** (a) (intro.) If a tenant under a lease for a term of one year or less, or  
23 a year-to-year tenant, fails to pay any installment of rent when due, the tenant's  
24 tenancy is terminated if the all of the following occur:

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1           1. The landlord gives the tenant notice requiring the tenant to pay rent or  
2 vacate on or before a date at least ~~5~~ 30 days after the giving of the notice ~~and if the~~  
3 ~~tenant fails to pay accordingly. If a tenant has been given such a notice and has paid~~  
4 ~~the rent on or before the specified date, or been permitted by the landlord to remain~~  
5 ~~in possession contrary to such notice, and if within one year of any prior default in~~  
6 ~~payment of rent for which notice was given the tenant fails to pay a subsequent~~  
7 ~~installment of rent on time, the tenant's tenancy is terminated if the landlord, while~~  
8 ~~the tenant is in default in payment of rent, gives the tenant notice to vacate on or~~  
9 ~~before a date at least 14 days after the giving of the notice.~~

10           **SECTION 6.** 704.17 (2) (a) 2. of the statutes is created to read:

11           704.17 **(2)** (a) 2. The tenant fails to pay the rent.

12           **SECTION 7.** 704.17 (2) (a) 3. of the statutes is created to read:

13           704.17 **(2)** (a) 3. The landlord applies for and is denied emergency rental  
14 assistance under a local, state, or federal assistance program, if such a program  
15 exists, or is ineligible for such emergency rental assistance.

16           **SECTION 8.** 704.17 (3) (a) of the statutes is renumbered 704.17 (3) (a) (intro.)  
17 and amended to read:

18           704.17 **(3)** (a) (intro.) If a tenant under a lease for more than one year fails to  
19 pay rent when due, ~~or~~ the tenant's tenancy is terminated if all of the following occur:

20           (am) If a tenant under a lease for more than one year commits waste, or  
21 breaches any other covenant or condition of the tenant's lease, the tenancy is  
22 terminated if the landlord gives the tenant notice requiring the tenant to ~~pay the~~  
23 rent, repair the waste, or otherwise comply with the lease on or before a date at least  
24 30 days after the giving of the notice, and if the tenant fails to comply with the notice.  
25 A tenant is deemed to be complying with the notice if promptly upon receipt of the

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1 notice the tenant takes reasonable steps to remedy the default and proceeds with  
2 reasonable diligence, or if damages are adequate protection for the landlord and the  
3 tenant makes a bona fide and reasonable offer to pay the landlord all damages for  
4 the tenant's breach; ~~but in case of failure to pay rent, all rent due must be paid on~~  
5 ~~or before the date specified in the notice.~~

6 **SECTION 9.** 704.17 (3) (a) 1. of the statutes is created to read:

7 704.17 (3) (a) 1. The landlord gives the tenant notice requiring the tenant to  
8 pay rent or vacate on or before a date at least 30 days after the giving of the notice.

9 **SECTION 10.** 704.17 (3) (a) 2. of the statutes is created to read:

10 704.17 (3) (a) 2. The tenant fails to pay the rent.

11 **SECTION 11.** 704.17 (3) (a) 3. of the statutes is created to read:

12 704.17 (3) (a) 3. The landlord applies for and is denied emergency rental  
13 assistance under a local, state, or federal assistance program, if such a program  
14 exists, or is ineligible for such emergency rental assistance.

15 **SECTION 12.** 704.17 (3m) (b) 1. of the statutes is amended to read:

16 704.17 (3m) (b) 1. Notwithstanding subs. (1p) (b), (2) (b), and (3) ~~(a)~~ (am), and  
17 except as provided in par. (c), a landlord may, upon notice to the tenant, terminate  
18 the tenancy of a tenant, without giving the tenant an opportunity to remedy the  
19 default, if the tenant, a member of the tenant's household, or a guest or other invitee  
20 of the tenant or of a member of the tenant's household engages in any criminal  
21 activity that threatens the health or safety of, or right to peaceful enjoyment of the  
22 premises by, other tenants; engages in any criminal activity that threatens the  
23 health or safety of, or right to peaceful enjoyment of their residences by, persons  
24 residing in the immediate vicinity of the premises; engages in any criminal activity  
25 that threatens the health or safety of the landlord or an agent or employee of the

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1 landlord; or engages in any drug-related criminal activity on or near the premises.  
2 The notice shall require the tenant to vacate on or before a date at least 5 days after  
3 the giving of the notice. The notice shall state the basis for its issuance; include a  
4 description of the criminal activity or drug-related criminal activity, the date on  
5 which the activity took place, and the identity or description of the individuals  
6 engaging in the activity; advise the tenant that he or she may seek the assistance of  
7 legal counsel, a volunteer legal clinic, or a tenant resource center; and state that the  
8 tenant has the right to contest the allegations in the notice before a court  
9 commissioner or judge if an eviction action is filed. If the tenant contests the  
10 termination of tenancy, the tenancy may not be terminated without proof by the  
11 landlord by the greater preponderance of the credible evidence of the allegation in  
12 the notice.

13 **SECTION 13.** 704.17 (6) of the statutes is created to read:

14 704.17 (6) NOTICES FOR FAILURE TO PAY RENT. A notice under sub. (1p) (a), (2) (a),  
15 or (3) (a) is valid only if it includes all of the following:

16 (a) The name and contact information, including phone number, address, and  
17 website, of the emergency rental assistance provider serving the county where the  
18 tenant resides, if applicable.

19 (b) The name and contact information, including phone number, address, and  
20 email address, of the landlord.

21 (c) A statement that, if the landlord is qualified to seek emergency rental  
22 assistance under a local, state, or federal assistance program, the landlord is  
23 required to apply for such rental assistance.

24 (d) A statement as to whether the landlord is qualified to receive emergency  
25 rental assistance under a local, state, or federal assistance program.

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1 (e) If the landlord is not qualified to receive emergency rental assistance under  
2 a local, state, or federal assistance program, a statement that the tenant may be able  
3 to apply for emergency rental assistance.

4 (f) A statement that the landlord may not pursue an action for eviction against  
5 the tenant on the basis of the notice provided under sub. (1p) (a), (2) (a), or (3) (a) if  
6 the tenant or the landlord applies for and is approved to receive emergency rental  
7 assistance under a local, state, or federal assistance program.

8 (g) A statement that the landlord may not pursue an action for eviction against  
9 the tenant on the basis of the notice provided under sub. (1p) (a), (2) (a), or (3) (a)  
10 unless the parties participate in mediation and are unable to reach a settlement or  
11 unless the tenant refuses to participate in mediation.

12 **SECTION 14.** 710.15 (5r) of the statutes is amended to read:

13 710.15 (5r) NOTICE REQUIREMENTS APPLY. The notice requirements of s. 704.17  
14 (1p) (a), (2) (a), and (3) (a) apply to a termination of tenancy under sub. (5m) (a) and  
15 the notice requirements of s. 704.17 (1p) (b), (2) (b), and (3) (am) apply to a  
16 termination of tenancy under sub. (5m) (b) to (k).

17 **SECTION 15.** 799.40 (1m) of the statutes is amended to read:

18 799.40 (1m) ACCEPTANCE OF RENT OR OTHER PAYMENT. If Except as provided  
19 under sub. (4) (c) 1. or (d), if a landlord commences an action under this section  
20 against a tenant whose tenancy has been terminated for failure to pay rent or for any  
21 other reason, the action under this section may not be dismissed because the landlord  
22 accepts past due rent or any other payment from the tenant after serving notice of  
23 default or after commencing the action.

24 **SECTION 16.** 799.40 (4) (c) and (d) of the statutes are created to read:

