



State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-2188/1

JAM:cdc

2025 BILL

1 **AN ACT** *to amend* 704.44 (intro.), 704.44 (1m) (intro.), 704.44 (9) and 704.44
2 (10); *to create* 421.103 (5) and 704.445 of the statutes; **relating to:** voidable
3 provisions in residential rental agreements and the application of the
4 Wisconsin Consumer Act to leases.

Analysis by the Legislative Reference Bureau

Under current law, a residential lease is void and unenforceable if it contains certain provisions (voidable provisions). Examples of voidable provisions include provisions that: 1) allow landlords to refuse to renew a lease because a tenant has contacted an entity for law enforcement, health, or safety services; 2) waive a landlord's obligation to mitigate damages; 3) impose liability on a tenant for personal injury arising from causes clearly beyond the tenant's control, and; 4) allow landlords to terminate a tenancy for a crime committed in relation to the rental property when the tenant's lease did not include a statutorily required notice of domestic abuse protections.

This bill provides that if court of competent jurisdiction finds that a residential lease includes a voidable provision, a tenant may elect to: 1) void the lease and have their tenancy converted into a periodic tenancy, or; 2) sever the voidable provision from their lease and continue under the remainder of the lease.

In addition, in April 2024, the Wisconsin Court of Appeals published a decision, *Koble Invs. v Marquardt*, 2024 WI App 26, regarding certain landlord and

BILL**SECTION 1**

tenant matters. As of February 28, 2025, the case was on appeal to the Wisconsin Supreme Court, with parties' first briefings due to the court in March 2025.

Among the holdings in *Koble*, the court of appeals determined that a particular landlord was acting as a "debt collector" and that landlord's tenant was a "customer" as those terms are defined under Wisconsin Consumer Act. The court of appeals also held that because the landlord violated a provision of the Wisconsin Consumer Act, the tenant's attorney was entitled to recover reasonable attorney fees and court costs. Under this bill, the Wisconsin Consumer Act does not apply to residential leases or mobile home leases.

In the same case, the court of appeals held that the tenant's lease was void and unenforceable under landlord and tenant law, and that, under another law enforcing fair methods of competition, the tenant could recover twice the amount of the tenant's pecuniary loss, together with reasonable attorney fees and court costs. The bill provides that under landlord and tenant law, a person injured by a voidable provision can recover twice the amount of the pecuniary loss, together with reasonable attorney fees and court costs, and provides that such pecuniary loss does not include any rent by the tenant. The bill also limits the remedies a person may seek when a rental agreement includes a voidable provision to only those remedies provided in the bill.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 421.103 (5) of the statutes is created to read:

421.103 (5) Chapters 421 to 427 do not apply to residential rental agreements governed under s. 710.15 or ch. 704.

SECTION 2. 704.44 (intro.) of the statutes is amended to read:

704.44 Residential rental agreement that contains certain provisions
is void. (intro.) Notwithstanding s. 704.02, ~~a residential rental agreement is void~~
~~and unenforceable if it~~ and subject to s. 704.445, a tenant may elect to void a
residential rental agreement, or sever a provision from a residential rental
agreement, if a court of competent jurisdiction finds that the residential rental
agreement does any of the following:

SECTION 3. 704.44 (1m) (intro.) of the statutes is amended to read:

BILL**SECTION 3**

1 704.44 (1m) (intro.) ~~Allows~~ Authorizes a landlord to do any of the following
2 because a tenant has contacted an entity for law enforcement services, health
3 services, or safety services:

4 **SECTION 4.** 704.44 (9) of the statutes is amended to read:

5 704.44 (9) ~~Allows~~ Authorizes the landlord to terminate the tenancy of a
6 tenant based solely on the commission of a crime in or on the rental property if the
7 tenant, or someone who lawfully resides with the tenant, is the victim, as defined in
8 s. 950.02 (4), of that crime.

9 **SECTION 5.** 704.44 (10) of the statutes is amended to read:

10 704.44 (10) ~~Allows~~ Authorizes the landlord to terminate the tenancy of a
11 tenant for a crime committed in relation to the rental property and the rental
12 agreement does not include the notice required under s. 704.14.

13 **SECTION 6.** 704.445 of the statutes is created to read:

14 **704.445 Remedies for voidable residential rental agreements.** (1) If a
15 tenant elects to void the tenant's residential agreement under s. 704.44, the
16 tenant's tenancy shall become a periodic tenancy as defined under s. 704.01 (2), and
17 the tenant shall be responsible for the payment of rent, utilities, parking, and other
18 charges under terms and conditions identical to the terms and conditions as set
19 forth in the original residential rental agreement, but not including a provision
20 described under s. 704.44 (1m) to (10).

21 (2) If a tenant elects to sever a provision from his or her residential rental
22 agreement as provided under s. 704.44, the unsevered portion of the residential
23 rental agreement shall be given full effect.

24 (3) A tenant's election to void or sever a provision from his or her residential

BILL**SECTION 6**

1 rental agreement as provided under s. 704.44 is effective upon the tenant giving
2 notice of the election to the landlord in the same manner as specified in s. 704.21
3 (2).

4 (4) A person suffering pecuniary loss directly caused by a residential rental
5 agreement's inclusion of a provision described under s. 704.44 (1m) to (10) may sue
6 for damages therefor in any court of competent jurisdiction and shall recover twice
7 the amount of such pecuniary loss, together with costs, including a reasonable
8 attorney fee. Pecuniary loss under this subsection does not include rental payments
9 the tenant made under his or her residential rental agreement that included a
10 provision described under s. 704.44 (1m) to (10) or any rule promulgated under this
11 chapter.

12 (5) A person injured by a residential rental agreement's inclusion of a
13 provision described under s. 704.44 (1m) to (10) is limited to the remedies provided
14 under this section.

15 (END)