



2023 ASSEMBLY BILL 706

November 27, 2023 - Introduced by Representatives MADISON, CLANCY, RATCLIFF, PALMERI, BALDEH, CABRERA, DRAKE, EMERSON, SHELTON, SINICKI, SNODGRASS, STUBBS, C. ANDERSON, J. ANDERSON, CONLEY, HONG, JACOBSON, JOERS, MOORE OMOKUNDE, OHNSTAD and SUBECK, cosponsored by Senators ROYS, LARSON, HESSELBEIN, L. JOHNSON and SPREITZER. Referred to Committee on Housing and Real Estate.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 704.07 (4), 704.45 (1) (c) and 704.45 (2); and *to create* 704.07
2 (6) and 704.45 (1m) of the statutes; **relating to:** rent abatement and retaliatory
3 conduct and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, a tenant may withhold (abate) rent if the rental premises is in such disrepair that it affects the health or safety of the tenant or substantially affects the use and occupancy of the premises. Current law allows a tenant to abate rent to the extent that the tenant is deprived of the full normal use of the premises, but prohibits a tenant from withholding rent in full if the tenant remains in possession of the premises.

This bill provides that, in these situations, a tenant may abate rent in accordance with a rent abatement schedule promulgated by the Department of Agriculture, Trade and Consumer Protection by rule, if available, and directs DATCP to create such a schedule. The bill also allows rent to be abated in full.

In addition, if a tenant complains to the landlord or to a local housing code agency about a defect in a residential premises, current law prohibits the landlord from retaliating against the tenant by increasing rent, decreasing services, bringing an eviction action, refusing to renew a lease, or threatening to do any of these things. This bill clarifies that a landlord may not retaliate against a tenant for the reasonable abatement of rent. The bill also provides that if a landlord in a residential tenancy increases rent, decreases services, brings an action for possession of the premises, refuses to renew a lease, or threatens to do any of these things, such action

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is presumed to be a prohibited retaliatory action if the tenant has complained to the landlord or to a local housing code agency about a defect in a residential premises or exercised any of the tenant's legal rights relating to his or her tenancy, including reasonably abating rent, at any point in the preceding 12 months.

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

1 **SECTION 1.** 704.07 (4) of the statutes is amended to read:

2 704.07 (4) UNTENANTABILITY. If the premises become untenable because of
3 damage by fire, water, or other casualty or because of any condition hazardous to
4 health, or if there is a substantial violation of sub. (2) materially affecting the health
5 or safety of the tenant, the tenant may remove from the premises unless the landlord
6 proceeds promptly to repair or rebuild or eliminate the health hazard or the
7 substantial violation of sub. (2) materially affecting the health or safety of the tenant;
8 or the tenant may remove if the inconvenience to the tenant by reason of the nature
9 and period of repair, rebuilding, or elimination would impose undue hardship on the
10 tenant. If the tenant remains in possession and the condition materially affects the
11 health or safety of the tenant or substantially affects the use and occupancy of the
12 premises, rent abates to the extent the tenant is deprived of the full normal use of
13 the premises in accordance with a rent abatement schedule promulgated under sub.
14 (6), if available. ~~This section does not authorize rent to be withheld in full, if the~~
15 ~~tenant remains in possession.~~ If the tenant justifiably moves out under this
16 subsection, the tenant is not liable for rent after the premises become untenable
17 and the landlord must repay any rent paid in advance apportioned to the period after
18 the premises become untenable. This subsection is inapplicable if the damage or
19 condition is caused by negligence or improper use by the tenant.

20 **SECTION 2.** 704.07 (6) of the statutes is created to read:

