

## RECENT CHANGES TO LANDLORD-TENANT LAW IN WISCONSIN

November 15, 2016

**Maya S. Zahn Rhine**  
608-229-2212  
mrhine@reinhartlaw.com

**Reinhart Boerner Van Deuren s.c.**  
22 East Mifflin Street, Suite 600, Madison, WI 53703  
www.reinhartlaw.com



**Maya S. Zahn Rhine** is an attorney in Reinhart's Real Estate Practice where she works with commercial real estate companies involved in leasing, acquisitions, and dispositions. Prior to joining Reinhart, she practiced in Indiana where she specialized in energy and mineral law (mining, oil and gas, coal, and green initiatives). Licensed in Minnesota, Indiana, and Wisconsin, Maya is able to provide legal counsel to clients in all three states, and her positive attitude and pleasant disposition makes working with her enjoyable. She takes personal satisfaction in helping her clients successfully carry through a project.

## Webinar Housekeeping

### Viewing the Slides

Today's slide presentation will advance automatically in synch with the live presentation.

### Handouts

If you would like a hard copy of the slide presentation, a printable version was e-mailed to you yesterday.

### Adjusting Your Volume

Volume can be adjusted using the volume control on your computer or phone.

### Asking Questions

Throughout the webinar, type your questions using the "QUESTIONS" section in the webinar panel. We will answer as many questions as possible during our Q & A session at the end of the presentation.

### Information

This webinar provides general information about legal issues. It should not be construed as legal advice or a legal opinion. Attendees should seek legal counsel concerning specific factual situations confronting them.

2

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Disposing of Personal Property Post-Eviction



- New law effective as of March 1, 2015
- Old law: Required bonded mover, sheriff and 30 days' notice before disposing of property

3

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## New Law: Evictions filed on or after March 1, 2015

- Landlord may assume personal property left behind by evicted tenant is abandoned
- Landlord may dispose of abandoned personal property as it deems appropriate
- Limited exceptions for prescription medication, medical equipment, mobile homes/vehicles
- Landlord must notify sheriff that personal property is being removed
- **LANDLORD REQUIREMENT: Must provide written notice in rental agreement that landlord will not store any personal property left behind by tenant**

4

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Changes to ATCP 134

- Wisconsin Landlord-Tenant law refresher: Controlled by Wisconsin Statutes Chapter 704 and Wisconsin Administrative Code, Chapter ATCP 134
- Changes to ATCP 134: Effective November 1, 2015
- Remember: Injured tenants can recover double damages and reimbursement of attorneys' fees against landlord that violates ATCP 134!

5

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## ATCP 134: Security Deposit Rule Changes

- No longer required to send to tenant's last known address
- No longer required to write checks with all tenants' names on the check
- Must return deposit within 21 days of lease ending, when new tenant's lease begins or when premises are known to be vacated (but only if tenant was evicted for holding over)



6

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## New ATCP 134: Carpet Cleaning

- Lease may include provision requiring tenant to pay for routine carpet cleaning
- May not be collected in advance
  - Prepayments in excess of one month's rent must be treated as a "security deposit"
- Landlord may not deduct cost of routine carpet cleaning from the security deposit



7

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Wisconsin Act 176 (2015)

- Effective March 2, 2016
- Key landlord-tenant changes:
  - Terminating a lease due to criminal activity
  - Notices for nonrent breaches
  - Limitations on local governmental authority
  - Trespassing on residential rental property

8

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Criminal Activity at Rental Property



- Applies to criminal activity occurring after March 2, 2016
- Landlord may terminate for criminal activity (including drug-related activity) by serving noncurable five-day notice
- "Criminal activity" does NOT include use or possession of drugs
- If tenant contests termination, tenancy cannot be terminated unless landlord provides proof "by the greater preponderance of the credible evidence" of the criminal activity

9

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Noncurable Five-Day Notice Requirements

1. Description of criminal activity
2. Date when criminal activity occurred
3. Identity/description of person(s) engaged in the criminal activity
4. Notice that tenant may seek assistance of legal counsel, volunteer legal clinic or tenant resource center
5. Notice that tenant may contest allegations of criminal activity before a court commissioner or judge if eviction actions are filed



10

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Notices for Nonrent Breaches

- Landlord may serve month-to-month tenant engaging in a nonrent breach with either:
  - 5-day notice with a right to cure; OR
  - 14-day notice terminating the tenancy
- Under old law: Only 14-day termination notice
- 14-day notice can now be served even if tenant remedies the breach

11

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Limits on Local Government

- No rental property inspections unless a criminal complaint has been made about the property or the inspection is part of regularly scheduled inspections
- No rental licensing ordinances unless ordinances apply to all residential rental property owners, including owners of owner-occupied rental property
- Limits on rental unit inspection fees
- Reinspection fees cannot be more than two times the fee charged for initial reinspection
- No occupancy or transfer of tenancy fees on rental units

12

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## Trespassing

- "Trespasser" = nontenant who enters or remains without landlord's or tenant's consent
- Requires law enforcement agencies to have a written policy for investigating trespassing complaints, including removal of suspected trespassers
- Landlords must hold personal property of trespassers left behind at rental property for seven days from date of discovery
  - If unclaimed after seven days, landlord may presume abandonment and dispose in any manner



13

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

## 10 Deadly Sins of Residential Leases

1. Allows landlord to do any of the following because tenant has contacted an entity for law enforcement, health or safety services:
  - a) Increase rent
  - b) Decrease services
  - c) Bring action for possession of the premises (i.e., eviction lawsuit)
  - d) Refusal to renew a rental agreement
  - e) Threaten to take any action in a) through d), above

14

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law

2. Authorizes eviction by process other than judicial eviction under Wisconsin Statutes
3. Provides acceleration of rent if tenant defaults or breaches the lease
4. Requires tenant to pay landlord's attorneys' fees or costs in a lease dispute
5. Authorizes landlord or its agent to confess judgment against tenant in any lease dispute

15

©2016 All Rights Reserved  
Reinhart Boerner Van Deuren s.c.

**Reinhart**  
Boerner Van Deuren s.c. Attorneys at Law



6. Relieves landlord from liability for property damages or personal injuries caused by landlord's negligent acts or omissions
  7. Imposes liability on tenant for injuries or damages clearly beyond tenant's control or damages caused by natural disasters or persons other than tenant or tenant's guests
  8. Waives statutory or legal obligation of landlord to deliver unit in fit or habitable condition or maintain the unit during
- 16 tenancy

9. Allows landlord to terminate the lease based solely on the commission of a crime at the property if tenant is a victim of that crime
  10. Allows landlord to terminate the lease for a crime committed in relation to the property and the lease does not include the required statutory domestic violence language
- \*Leases that include any of the above provisions are VOID and UNENFORCEABLE!

**Questions?**

**Thank you!**