



Historic Preservation Commission

335 South Broadway

Regular Meeting

De Pere, WI 54115
<http://www.de-pere.org>

Agenda

Monday, December 21, 2015	6:00 PM	De Pere City Hall Council Chambers
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Pursuant to Wisconsin Statutes 19.84, Notice is hereby given to the public that a meeting of the **Historic Preservation Commission** of the City of De Pere will be held on **December 21, 2015** at **6:00 PM** in the **De Pere City Hall Council Chambers, 335 S. Broadway Street, De Pere, WI 54115.**

This meeting can be viewed LIVE at www.depere.tv. This meeting is also rebroadcast on TW Cable Channel 4 and AT&T U-verse Channel 99 throughout the week and available on demand at www.depere.tv.

Call to Order

1. Roll Call.
2. Approval of the minutes of the November 16, 2015 meeting.
3. Discussion of Cost Estimates for Historic Plaques for the State and National Historic Broadway District. To include Request for Carryover to 2016 Budget for Project.*
4. Review proposed Wisconsin Legislation (Assembly Bill AB 568 and Senate Bill SB 445) and discuss passage impact on: 1. De Pere's Certified Local Government sub-grant application 2. Local government's preservation activities will become advisory only
5. Discuss Federal Bill H. R. 3846
6. Future Agenda Items

Adjournment

*** Items with an asterisk require City Council approval.**

Any person wishing to attend this meeting who, because of disability, requires special accommodations should contact the City Planner's office at 339-4043 by Noon on Monday, December 21, 2015 so that arrangements can be made.

AGENDA SENT TO:

Commission Members
Alderspersons
Department Heads
News Media
De Pere Chamber of Commerce
Brown County Library, De Pere Branch
Joe De Rose, Historic Preservation Division

City of De Pere, Wisconsin



Request For Historic Preservation Commission Action

MEETING DATE: December 21, 2015

DEPARTMENT: Planning

FROM: Sarah Wallace

SUBJECT: Approval of the minutes of the November 16, 2015 meeting.

ATTACHMENTS:

- HPC_Nov2015_Minutes_Draft (PDF)



Historic Preservation Commission

335 South Broadway

De Pere, WI 54115

<http://www.de-pere.org>

Regular Meeting

Draft Minutes

Monday, November 16, 2015

6:00 PM

De Pere City Hall Council Chambers

Call to Order

The meeting was called to order at 6:00 PM by Chairperson Mike Fleck

Attendee Name	Title	Status	Arrived
Scott Crevier	Alderperson	Present	
Mike Fleck	Chairperson	Present	
Gene Hackbarth	Commissioner	Present	
Brian Netzel	Vice Chairperson	Present	
Kate Sabel	Commissioner	Present	
Sue Sands	Commissioner	Present	
Adam Turriff	Commissioner	Present	

Also present: City Planner Sarah Wallace and members of the public.

2. Approval of the minutes of the October 19, 2015 meeting

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Adam Turriff, Commissioner
SECONDER:	Gene Hackbarth, Commissioner
AYES:	Crevier, Fleck, Hackbarth, Netzel, Sabel, Sands, Turriff

3. General Historic Preservation Procedures Discussion

City staff recently met with two Commission members to clarify procedures; the two week agenda item submission deadline will be revised to one week. City Planner Sarah Wallace noted that certain items may require staff research in advance, and so would request as much advance notice as possible for those types of agenda items. Discussion followed regarding reminders for submittal deadlines and who can submit items. Staff requested that the item include the purpose and what type of action is required (i.e. a recommendation from the Commission, request for research, informational update, etc). Scott Crevier commented that if the only items submitted are updates, it should be considered whether a meeting is required or could be scheduled for the following month.

4. Review and Action of Certificate of Appropriateness for 403 N. Broadway (White Pillars) to remove and rebuild porch. Applicant - Reetz Builders

City Planner Sarah Wallace reported that the agenda packet contains the City's first Certificate of Appropriateness application as well as review guidelines. The White Pillars application did not include an official rendering of the rebuild, but the contractor indicated that it will be constructed with similar materials. The project is for the porch on the south side of the building only. Mike Fleck noted that the existing porch is in disrepair and the Historical Society is concerned that someone could fall through. Scott Crevier clarified that the Commission does not consider project cost as part of their review, but only whether the project meets design criteria. Gene Hackbarth motioned, seconded by Scott Crevier, to approve the Certificate of Appropriateness. Upon vote, motion carried with Mike Fleck abstaining.

Attachment: HPC_Nov2015_Minutes_Draft (4243 : minutes)

RESULT:	ADOPTED [6 TO 0]
MOVER:	Gene Hackbarth, Commissioner
SECONDER:	Scott Crevier, Alderperson
AYES:	Crevier, Hackbarth, Netzel, Sabel, Sands, Turriff
ABSTAIN:	Mike Fleck

5. Update on the State and National Register of Historic Places for Nicolet High School
City Planner Sarah Wallace reported that Nicolet High School (currently the Pennings Activity Center on the St. Norbert campus) has been officially placed on the State and National Historic Registers; the accompanying documentation is on file at City Hall. Gene Hackbarth reported that he is working with the City Administrator and the SNC President's office to schedule their attendance at a future Common Council meeting to be recognized.
6. Update on 2016 CLG Subgrant Application
Brian Netzel reported that he and Gene Hackbarth have completed and submitted the application for a 2016 CLG Subgrant, requesting funds to update the 2001 intensive survey. Adam Turriff thanked them for their hard work.
7. Review and Discussion on Historic Plaques for the Residential N. Broadway State and National Historic District
City Planner Sarah Wallace summarized the initial work that had been done over the last year for this project. The agenda packet includes a photo of existing plaques, sample renderings, and a spreadsheet with information that was compiled about the homes in the district. The Commission needs to identify the process by which this research will be completed; Adam Turriff stated that homeowner interest also needs to be determined. Staff recommends obtaining new quotes, since the original price was obtained at least three years ago. Mike Fleck will research cost estimates to report at next month's meeting; he clarified that homeowners would pay a portion of the cost. Sarah will review the city's procurement policy to determine if a certain number of bids need to be obtained.
8. Review of 2015 Historic Preservation Budget Expenditures - Request for Carryover to 2016*
Mike Fleck asked if the \$5260 carryover line item in the budget report requires a motion. City Planner Sarah Wallace clarified that this amount was carried over already from 2014; none of those funds have been utilized, nor have the consulting funds that were budgeted in 2015. No action needs to be taken tonight, however Commission members should determine specifically what amount they would like to request for carryover into 2016.
9. Review and Discussion for Ideas for 2016 May Historic Preservation Month
Gene Hackbarth suggested that the re-installation of the historic bronze plaque that identifies the site of the St. Francis Xavier mission could be incorporated into Preservation Month activities. The Definitely De Pere design committee is interested in pursuing this project. Discussion followed regarding the marker's history and the issue of where it should be placed.
Adam Turriff suggested that the WAHPC Conference in April at Heritage Hill could be included in marketing efforts for Historic Preservation Month.

Scott Crevier observed that the walking tours conducted last year would be worth repeating.

Gene Hackbarth stated that he would be willing to organize another seminar on the historic tax credit program.

Adjournment

Gene Hackbarth motioned, seconded by Sue Sands, to adjourn the meeting at 6:32 PM. Upon vote, motion carried unanimously.

Respectfully submitted,
Carey Danen

City of De Pere, Wisconsin

**Request For Historic Preservation Commission Action**

MEETING DATE: December 21, 2015

DEPARTMENT: Planning

FROM: Sarah Wallace

SUBJECT: Discussion of Cost Estimates for Historic Plaques for the State and National Historic Broadway District. To include Request for Carryover to 2016 Budget for Project.*

At last month's meeting the Commission generally discussed the next steps for the residential plaques. Mr. Fleck received price quotes for plaques (see attached) to allow the Commission to review the costs associated with purchasing plaques, and allow the discussion for the Commission to request carryover funds for the project into the 2016 budget.

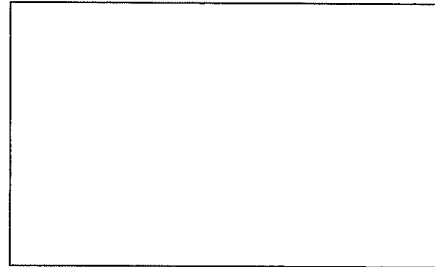
Staff recommends that the Commission identify the process to finish the research, reach out to homeowners within the district and a timeline for implementation.

ATTACHMENTS:

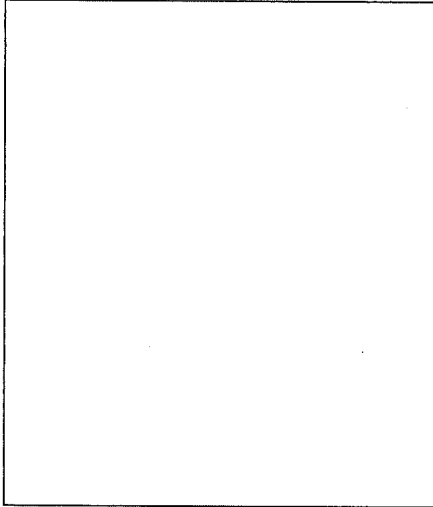
- HPC_201512150819 (PDF)

Please write your wording here, or on a separate sheet. For National Register plaques you do not need to write in all the standard working - just indicate where you would like your custom text to be placed - above/or below the main paragraph.

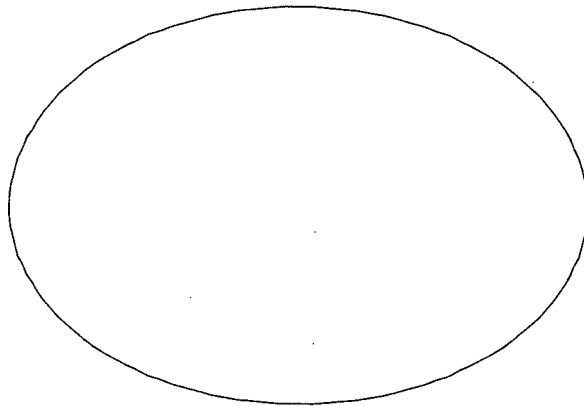
Size: _____" x _____"



Size: _____" x _____"



Size: _____" x _____"



We will send you a copy of the layout for review before casting. Please call us when you receive it. We will not proceed with casting until we have your approval.

ERIE LANDMARK COMPANY

PRICE LIST AND ORDER FORM

EFFECTIVE - OCTOBER 15, 2012

Prices subject to change without notice

NATIONAL REGISTER PLAQUES-STANDARD WORDING

Bronze w/ Brown Finish Aluminum w/ Pewter Finish All Front Mount

			BRONZE	ALUM
Bronze	7" X 5"		\$69.00	\$48.00
	10" X 7"		\$100.00	\$71.00
Colonial Style	10" X 7"		\$116.00	\$82.00 beveled edge
	11" X 8"		\$115.00	\$74.00
	15" X 12"		\$281.00	\$111.00
	10" X 7"		\$116.00	\$82.00 Intertwined border
Metal photo	10" X 7"	N/A	\$90.00	DEPENDS ON AMOUNT OF SHEET THAT IS FILLED

NATIONAL REGISTER PLAQUES-CUSTOM WORDING

AND HISTORIC GROUP PROGRAMS

Available in bronze or aluminum, in four standard sizes, with up to three lines of custom text.

			BRONZE	ALUM
	7" X 5"		\$121.00	\$85.00
	10" X 7"		\$169.00	\$118.00
	11" X 8"		\$206.00	\$145.00
	15" X 12"		\$374.00	\$262.00

CUSTOM WORDED PLAQUES IN STANDARD SIZES

Available in bronze or aluminum. Letter characters may not be smaller than 1/4".

			BRONZE	ALUM	
	7" X 5"		\$134.00	\$107.00	3 Lines of Text
	10" X 7"		\$179.00	\$143.00	3 Lines of Text
	11" X 8"		\$246.00	\$197.00	4 Lines of Text
	15" X 12"		\$504.00	\$403.00	Includes 180 letters
additional letters \$.50 - additional lines \$15.00					

ERIE LANDMARK COMPANY

637 Hempfield Hill Road - Columbia PA 17512

Phone: (717) 285-9040 - Fax: (717) 285-9060

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email: info@erielandmark.com

Online catalog: www.erielandmark.co

Packet Pg. 7

ADDITIONAL SIZES

Size	Sq. Inches	Price	Size	Sq. Inches	Price
Up to 24 square inches		\$109.00	16" X 12"	192	\$536.00
25 - 35 square inches		\$134.00	18" X 12"	216	\$604.00
36 - 55 square inches		\$151.00	18" X 16"	288	\$800.00
			20" X 12"	240	\$670.00
10" X 6"	60	\$169.00	24" X 12"	288	\$800.00
10" X 8"	80	\$223.00	24" X 16"	384	\$1,066.00
10" X 10"	100	\$280.00	24" X 24"	576	\$1,601.00
12" X 6"	72	\$201.00	28" X 18"	504	\$1,410.00
12" X 8"	96	\$269.00	30" X 24"	720	\$2,014.00
12" X 10"	120	\$335.00	30" X 30"	900	\$2,501.00
14" X 6"	84	\$234.00	36" X 24"	864	\$2,400.00
14" X 10"	140	\$390.00	36" X 36"	1296	\$3,758.00
14" X 12"	168	\$467.00	42" X 36"	1512	\$4,201.00
16" X 10"	160	\$447.00	48" X 36"	1728	\$4,831.00

We can cast any size. If you don't see it here please call for a price quote.

ROADSIDE MARKERS

Roadside markers are free-standing bronze or aluminum plaques, single or double sided, cast with a cap that fits over the top of a standard size pole or pipe. They can be rectangular, square or have a rounded, contoured top.

Sizes and Prices:

		Single sided		Double sided	
Size		BRONZE	ALUMINUM	BRONZE	ALUMINUM
18" X 24"		\$1,772.00	\$1,418.00	\$2,458.00	\$1,966.00
24" X 24"		\$2,162.00	\$1,730.00	\$3,155.00	\$2,524.00
36" X 24"		\$3,185.00	\$2,548.00	\$4,414.00	\$3,531.00
36" X 36"		\$4,544.00	\$3,635.00	\$6,630.00	\$5,304.00

Pole: \$256.00 Six foot length, galvanized steel, finished to match your choice of background finishes.

Options, Pricing and Shipping Information

Options (circle one):

Background finish: brown, black, dark green, natural - other colors and patina finish are additional charges

Border Style: single line, double line, beveled edge, straight edge, intertwined

Mounting Method: front (painted screws provided), rear (bolts provided), front with rosettes (\$13/pair extra, not recommended for small plqs.), 18" stake (add \$52), 24" stake (add \$75), 36" stake (add \$97). 15" x 12" largest size for 1 stake.

Please call for added shipping charges on stakes.

Typestyle: _____

Logos, graphics or sculpted or etched bas-reliefs: call or fax for price quote

Payment

Plaque (from price list - include any extra charges) _____

Rosettes - \$13.00 per pair _____

PA Sales Tax (6%) (PA residents only) _____

Minimum Shipping: up to 39 sq. inches: \$15.00
 40 - 89 sq. inches: \$23.00
 90 - 200 sq. inches: \$31.00

(For larger plaques or multiple orders please call for shipping charge.)

Total enclosed _____

Or payable by credit card: VISA MASTERCARD

Card # _____ Exp. Date _____

Cardholder signature _____

Ship my plaque to _____

UPS Address _____

City _____ State _____ ZIP _____

Telephone _____ Fax _____

Email _____

Please let us know if the billing or mailing address is different than the shipping address.

ERIE LANDMARK PLAQUES MODELS A & E**BRONZE – 11" X 8" \$206 EACH****COST FOR 53 - \$10,918 SHIPPING INC.***\$9 per plaque***TAX ???****ALUMINUM – 11" X 8" \$145 EACH****COST FOR 53 - \$7,685 SHIPPING INC.***\$9 per plaque***BRONZE 10" X 7" \$169 EACH SHIPPING INC.****COST FOR 53 - \$8957 SHIPPING INC.***\$9 each***ALUMINUM 19" X 7" \$118 EACH****COST FOR 53 - \$6254 SHIPPING INC.***\$9 per plaque***TAX??? I don't know if tax is included.***NO TAX - UNLESS WE HAVE TO
PAY WISCO. TAX*

Weber Bowling & Awards

2021 Verlin Rd.

Green Bay, WI 54311

(920) 465-1766

weberawards@sbcglobal.net

December 12, 2015

QUOTE

De Pere Historical Preservation Commission

Mike Fleck

336-3766

Quantity	Item	Price	Total
53	8x11 Oval Bronze Castings	\$198.50	\$10,520.50
	Tax		\$ 526.03
	Total		\$11,046.53
53	8x11 Oval Aluminum Castings	\$138.25	\$ 7,327.25
	Tax		\$ 366.36
	Total		\$ 7,693.61

Notes:

If you are tax exempt that cost will be removed provided we receive the tax exempt form.

Price includes set up and shipping.

Price is limited to the limits of casting technology (ex. Amount of text and detail of any logo etc.).

If you have any questions please do not hesitate to contact me.

Thank You



Scott Weber

City of De Pere, Wisconsin

**Request For Historic Preservation Commission Action**

MEETING DATE: December 21, 2015

DEPARTMENT: Planning

FROM: Sarah Wallace

SUBJECT: Review proposed Wisconsin Legislation (Assembly Bill AB 568 and Senate Bill SB 445) and discuss passage impact on: 1. De Pere's Certified Local Government sub-grant application 2. Local government's preservation activities will become advisory only

Mr. Hackbarth requested the review and discussion on the attached proposed legislation.

ATTACHMENTS:

- AB_568 (PDF)
- SB_445 (PDF)



2015 ASSEMBLY BILL 568

December 4, 2015 - Introduced by Representatives R. BROOKS and ALLEN, cosponsored by Senators LASEE and STROEBEL. Referred to Committee on Housing and Real Estate.

1 **AN ACT** *to repeal* 66.1019 (3) (b) and 101.975 (3); *to renumber* 706.22 (2) (a) 1.,
2 706.22 (2) (a) 2. and 706.22 (2) (a) 3.; *to renumber and amend* 66.1019 (3) (a),
3 704.17 (5), 706.22 (2) (b), 706.22 (3) and 943.14; *to amend* 20.505 (7) (h), 59.69
4 (4m), 60.64, 62.23 (7) (em), 66.0418 (title), 66.0809 (9), 101.02 (7m), 349.13 (3m)
5 (dr) 2., 349.13 (3m) (e) 1., 349.13 (3m) (e) 3., 704.17 (1) (b), 704.17 (2) (b), 704.19
6 (2) (b) 2., 706.22 (title), 706.22 (2) (title), 706.22 (2) (a) (intro.) and 800.035 (1);
7 and *to create* 66.0104 (2) (e), 66.0104 (2) (f), 66.0104 (2) (g), 66.0104 (3) (c),
8 66.0418 (3), 175.403, 704.055, 704.17 (3m), 704.17 (5) (b), 706.22 (2) (a) 2m.,
9 706.22 (2) (a) 3m., 706.22 (2) (b) 2., 706.22 (3) (b) and 943.14 (1) of the statutes;
10 **relating to:** terminating a tenancy for criminal activity or drug-related
11 criminal activity; disposition of personal property left in rental property by a
12 trespasser; preexisting sprinkler ordinances that are stricter than the
13 multifamily dwelling code; towing vehicles illegally parked on private property;
14 terminating certain tenancies for breaches other than failure to pay rent;

ASSEMBLY BILL 568

- 1 limitations on the authority of political subdivisions to regulate rental units,
- 2 historic properties, and signs; prohibiting local governmental units from
- 3 imposing real property purchase or residential real property occupancy
- 4 requirements; creating a criminal penalty; and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a right-to-cure for certain tenants for certain breaches; makes remaining on property without consent criminal trespass and provides for the disposition of personal property left in rental property by a trespasser; authorizes a landlord to terminate the tenancy of a tenant based on criminal activity committed by the tenant or a member of the tenant's household; limits the authority of political subdivisions to regulate rental units, historic properties, and signs; prohibits a local governmental unit from making the purchase or transfer of real property or the occupancy of residential real property contingent on whether a purchaser or other transferee takes certain actions with respect to the property; eliminates a statutory exception for certain local ordinances having automatic sprinkler requirements that are stricter than the state multifamily dwelling code; and allows a towing company to collect charges if it makes a good faith effort to notify law enforcement.

Local government

Under current law, a city, village, town, or county (political subdivision) may regulate places, structures, or objects with special character, historic interest, aesthetic interest, or other significant value. A political subdivision may also designate historic landmarks and establish historic districts and may regulate the historic landmarks or the properties within a historic district for historic preservation purposes.

Under this bill, a political subdivision may not designate a property as a historic landmark without the consent of the owner. Also under this bill, a political subdivision may not require or prohibit any action by an owner of a property related to preservation of the historic or aesthetic value of the property without the consent of the owner.

This bill also limits the authority of political subdivisions in several respects, including:

1. Political subdivisions may not enact an ordinance that requires that a rental unit be inspected without a showing of good cause or be certified or registered
2. Political subdivisions may not charge a fee for an inspection other than an inspection based on a complaint from a tenant alleging a violation of the local housing code.
3. Political subdivisions may not impose an occupancy or transfer of tenancy fee on a rental unit.
4. Political subdivisions may not impose a requirement or restriction based on the informational content of a sign that is not imposed on all signs.

ASSEMBLY BILL 568

5. Political subdivisions may not enact an ordinance that requires a landlord to obtain a license, certification, or registration in order to own, manage, or operate a residential rental property unless the ordinance applies uniformly to all residential properties, including owner-occupied properties.

Under current law, a local governmental unit is prohibited from requiring a real property owner to take certain actions with respect to the property or pay a related fee; to show compliance with taking certain actions with respect to the property; or to pay a fee for failing to take certain actions with respect to the property before the owner may sell, refinance, or transfer title to the property; at the time of selling, refinancing, or transferring title to the property; or within a certain period of time after selling, refinancing, or transferring title to the property. A local governmental unit may, however, require a real property owner to take certain actions with respect to the property not in connection with selling, refinancing, or transferring title to the property. The definition of "actions with respect to the property" includes such actions as having an inspection made by an employee or agent of the local governmental unit; making improvements or repairs; removing junk or debris; paving or painting; and installing fixtures or other items.

This bill does all of the following:

1. Prohibits a local governmental unit from requiring a person who is a prospective purchaser of, or person who will take title to, real property to take certain actions with respect to the property, as defined under current law, or pay a related fee; to show compliance with taking certain actions with respect to the property; or to pay a fee for failing to take certain actions with respect to the property before the person may complete the purchase of, or take title to, the property; at the time of completing the purchase of, or taking title to, the property; or within a certain time after completing the purchase of, or taking title to, the property.

2. Prohibits a local governmental unit from requiring a purchaser of, or transferee of title to, residential real property to take certain actions with respect to the property, as defined under current law, or pay a related fee; to show compliance with taking certain actions with respect to the property; or to pay a fee for failing to take certain actions with respect to the property before the purchaser or transferee may take occupancy of the property; at the time of taking occupancy of the property; or within a certain time after taking occupancy of the property.

3. Provides that a local governmental unit may require a real property owner to take certain actions with respect to the property not in connection with purchasing or taking occupancy of the property.

4. Provides that any ordinance, resolution, or policy currently in effect that is inconsistent with the prohibitions in the bill does not apply and is unenforceable.

5. Provides that the prohibitions in the bill and under current law on local governmental units do not affect a local governmental unit's responsibility, authority, or ability to enforce a state or federal requirement that does any of the things that a local governmental unit is prohibited from doing in the bill or under current law.

ASSEMBLY BILL 568***Automatic sprinklers in multifamily dwellings***

Under current law, the Department of Safety and Professional Services (DSPS) administers the multifamily dwelling code, including requirements concerning automatic sprinklers. Currently, a city, village, or town generally may not enact or enforce an ordinance that does not conform to the multifamily dwelling code or that is contrary to an order of DSPS enforcing the multifamily dwelling code, except that certain preexisting sprinkler ordinances that are stricter than the multifamily dwelling code may remain in effect.

This bill repeals that exception for preexisting stricter sprinkler ordinances. The bill also provides that any contract between a city, village, or town pursuant to such an ordinance is unenforceable.

Towing vehicles from private property

Under current law, before any vehicle is removed from private property by a towing service, the towing service must notify a local law enforcement agency of the make, model, vehicle identification number, and registration plate number of the vehicle and the location to which the vehicle will be removed. A towing service that fails to comply with this requirement may not collect any charges for the removal and storage of the vehicle. Under this bill, a towing service that makes a good faith effort to comply with the notification requirement may collect charges for the removal and storage of the vehicle.

Under current law, the Department of Transportation is required to promulgate rules establishing reasonable charges for removal of vehicles from private property and guidelines for notifying law enforcement. Under this bill, these charges and guidelines apply only when no citation was issued.

Terminating tenancies

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, except for a tenant who is the victim of the criminal activity, a landlord may terminate the tenancy of a tenant, without giving the tenant an opportunity to remedy the default, by giving the tenant notice if the tenant, a member of the tenant's household, or a guest or other invitee of the tenant or of a member of the tenant's household does any of the following: 1) engages in criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants; 2) engages in criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; 3) engages in criminal activity that threatens the health or safety of the landlord or an agent or employee of the landlord; or 4) engages in drug-related criminal activity on or near the premises. It is not necessary that the individual committing the criminal activity or drug-related criminal activity has been arrested for or convicted of the criminal activity or drug-related criminal activity.

ASSEMBLY BILL 568

The notice that the landlord gives the tenant must require the tenant to vacate on or before a date at least five days after the giving of the notice and must state the basis for the notice and that the tenant may contest the termination of tenancy in an eviction action. If the tenant does contest the termination of tenancy, the landlord must prove the allegation in the notice by the greater preponderance of the credible evidence. The bill defines drug-related criminal activity as criminal activity that involves the manufacture, possession, use, or distribution of a controlled substance, which is defined in current law.

Under current law, a landlord may terminate the tenancy of a month-to-month tenant who commits waste, violates certain statutory tenant duties, or breaches a condition of the lease, other than by failing to pay rent (commits a qualifying breach) by providing the tenant with a notice that requires the tenant to vacate the premises within 14 days. Current law does not provide a landlord of a month-to-month tenant the option to terminate such a tenancy by providing a notice that requires the tenant to cure the qualifying breach or vacate the premises.

Under the bill, a month-to-month tenancy is terminated if 1) a tenant commits a qualifying breach and 2) the landlord provides the tenant with a notice that requires the tenant to cure the qualifying breach or vacate the premises and the tenant fails to comply with the notice. The procedure is identical to the procedure described below for a landlord of a year-to-year tenant.

Under current law, a landlord may terminate the tenancy of a year-to-year tenant or a tenant under a lease for a term of one year or less if 1) the tenant commits a qualifying breach and 2) the landlord provides the tenant with a notice that requires the tenant to cure the qualifying breach or vacate the premises and the tenant fails to comply with the notice. Current law specifies that a tenant may comply with the landlord's notice by taking reasonable steps to remedy the qualifying breach or by making a bona fide reasonable offer to pay the landlord all damages associated with the qualifying breach. Current law also provides that if the tenant commits another qualifying breach within one year of receiving such a notice, the landlord may terminate the tenant's tenancy by providing the tenant with a notice to vacate the premises within 14 days if the landlord provides the notice before the tenant cures the qualifying breach. This bill eliminates the condition that the landlord provide the subsequent notice to vacate before the tenant remedies the qualifying breach.

Trespass

Under current law, a person who enters into the dwelling of another without the permission of a person who is lawfully on the premises may be guilty of criminal trespass to a dwelling, a Class A misdemeanor. Under the bill, a person may be guilty of criminal trespass to a dwelling if he or she enters or remains in a dwelling without the permission of a person who is lawfully on the premises, or of the owner of the property if no one is lawfully present there, regardless of whether the dwelling is currently occupied. The bill requires law enforcement agencies to establish policies that require officers to remove trespassers from dwellings.

ASSEMBLY BILL 568***Disposing of personal property left by trespasser***

Current law does not address what happens to the personal property of a trespasser that is left behind after the trespasser leaves or is removed from residential rental property. This bill provides that, after a trespasser leaves or is removed from residential rental property, a landlord must hold any personal property left by the trespasser for seven days, during which time the trespasser may request its return. After that time, the landlord may dispose of the personal property in any manner that the landlord determines is appropriate.

For further information see the **local** 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:

1 **SECTION 1.** 20.505 (7) (h) of the statutes is amended to read:

2 20.505 (7) (h) *Funding for the homeless.* All moneys received from interest on
3 real estate trust accounts under s. 452.13 for grants under s. 16.307, and all moneys
4 received under s. ~~ss.~~ 704.05 (5) (a) 2. and 704.055 (2) (b), for grants to agencies and
5 shelter facilities for homeless individuals and families under s. 16.308 (2) (a) and (b).

6 **SECTION 2.** 59.69 (4m) of the statutes is amended to read:

7 59.69 (4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and
8 police powers for the purpose of promoting the health, safety and general welfare of
9 the community and of the state, may regulate by ordinance any place, structure or
10 object with a special character, historic interest, aesthetic interest or other
11 significant value, for the purpose of preserving the place, structure or object and its
12 significant characteristics. The county may create a landmarks commission to
13 designate historic landmarks and establish historic districts. The county may
14 regulate all historic landmarks and all property within each historic district to
15 preserve the historic landmarks and property within the district and the character
16 of the district. A county may not designate a property as a historic landmark without

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1 the consent of the owner. A county may not require or prohibit any action by an owner
2 of a property related to the preservation of special character, historic or aesthetic
3 interest, or any other significant value of the property without the consent of the
4 owner.

5 **SECTION 3.** 60.64 of the statutes is amended to read:

6 **60.64 Historic preservation.** The town board, in the exercise of its zoning
7 and police powers for the purpose of promoting the health, safety and general welfare
8 of the community and of the state, may regulate any place, structure or object with
9 a special character, historic interest, aesthetic interest or other significant value for
10 the purpose of preserving the place, structure or object and its significant
11 characteristics. The town board may create a landmarks commission to designate
12 historic landmarks and establish historic districts. The board may regulate all
13 historic landmarks and all property within each historic district to preserve the
14 historic landmarks and property within the district and the character of the district.
15 The town board may not designate a property as a historic landmark without the
16 consent of the owner. The town board may not require or prohibit any action by an
17 owner of a property related to the preservation of special character, historic or
18 aesthetic interest, or any other significant value of the property without the consent
19 of the owner.

20 **SECTION 4.** 62.23 (7) (em) of the statutes is amended to read:

21 **62.23 (7) (em) Historic preservation.** A city, as an exercise of its zoning and
22 police powers for the purpose of promoting the health, safety and general welfare of
23 the community and of the state, may regulate by ordinance, or if a city contains any
24 property that is listed on the national register of historic places in Wisconsin or the
25 state register of historic places shall, not later than 1995, enact an ordinance to

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1 regulate, any place, structure or object with a special character, historic,
2 archaeological or aesthetic interest, or other significant value, for the purpose of
3 preserving the place, structure or object and its significant characteristics. A city
4 may create a landmarks commission to designate historic or archaeological
5 landmarks and establish historic districts. The city may regulate, or if the city
6 contains any property that is listed on the national register of historic places in
7 Wisconsin or the state register of historic places shall regulate, all historic or
8 archaeological landmarks and all property within each historic district to preserve
9 the historic or archaeological landmarks and property within the district and the
10 character of the district. A city may not designate a property as a historic landmark
11 without the consent of the owner. A city may not require or prohibit any action by
12 an owner of a property related to the preservation of special character, historic or
13 aesthetic interest, or any other significant value of the property without the consent
14 of the owner.

15 **SECTION 5.** 66.0104 (2) (e) of the statutes is created to read:

16 66.0104 (2) (e) No city, village, town, or county may enact an ordinance that
17 does any of the following:

18 1. Requires that a rental unit be inspected without a showing of good cause or
19 be certified or registered.

20 2. Charges a fee for conducting an inspection other than an inspection based
21 on a complaint from a tenant alleging a violation of the local housing code of the city,
22 village, town, or county or an inspection required for all properties and for which a
23 uniform fee is charged.

24 **SECTION 6.** 66.0104 (2) (f) of the statutes is created to read:

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1 66.0104 (2) (f) No city, village, town, or county may impose an occupancy or
2 transfer of tenancy fee on a rental unit.

3 **SECTION 7.** 66.0104 (2) (g) of the statutes is created to read:

4 66.0104 (2) (g) 1. No city, village, town, or county may enact an ordinance that
5 requires a property owner to obtain a license, certification, or registration in order
6 to do any of the following:

7 a. Own a residential rental property.

8 b. Manage or operate a residential rental property.

9 2. Subdivision 1. does not apply to an ordinance that applies uniformly to all
10 residential properties, including owner-occupied properties.

11 **SECTION 8.** 66.0104 (3) (c) of the statutes is created to read:

12 66.0104 (3) (c) If a city, village, town, or county has in effect on the effective date
13 of this paragraph [LRB inserts date], an ordinance that is inconsistent with sub.
14 (2) (e), (f), or (g), the ordinance does not apply and may not be enforced.

15 **SECTION 9.** 66.0418 (title) of the statutes is amended to read:

16 **66.0418 (title) ~~Prohibition of~~ Miscellaneous limitations on local**
17 **~~regulation of certain foods, beverages.~~**

18 **SECTION 10.** 66.0418 (3) of the statutes is created to read:

19 66.0418 (3) No political subdivision may impose a restriction or requirement
20 on a sign based on the sign's informational content that it does not impose on all
21 signs.

22 **SECTION 11.** 66.0809 (9) of the statutes is amended to read:

23 66.0809 (9) A municipal utility is not required to offer a customer who is a
24 tenant at a rental dwelling unit a deferred payment agreement. Notwithstanding.
25 ss. 196.03, 196.19, 196.20, 196.22, 196.37, and 196.60, a determination by a

ASSEMBLY BILL 568**SECTION 11**

municipal utility to offer or not offer a deferred payment agreement does not require approval, and is not subject to disapproval, by the public service commission.

SECTION 12. 66.1019 (3) (a) of the statutes is renumbered 66.1019 (3) and amended to read:

66.1019 (3) ~~Except as provided in par. (b), any~~ Any ordinance enacted by a county, city, village or town relating to the construction or inspection of multifamily dwellings, as defined in s. 101.971 (2), shall conform to subch. VI of ch. 101 and s. 101.02 (7m).

SECTION 13. 66.1019 (3) (b) of the statutes is repealed.

SECTION 14. 101.02 (7m) of the statutes is amended to read:

101.02 (7m) Notwithstanding sub. (7) (a), no city, village, or town may make or enforce any ordinance that is applied to any multifamily dwelling, as defined in s. 101.971 (2), and that does not conform to subch. VI and this section or is contrary to an order of the department under this subchapter, ~~except that if a city, village or town has a preexisting stricter sprinkler ordinance, as defined in s. 101.975 (3) (a), that ordinance remains in effect, except that the city, village or town may take any action with regard to that ordinance that a political subdivision may take under s. 101.975 (3) (b).~~ Any contract between a city, village, or town and a property owner of a multifamily dwelling that requires the property owner to comply with an ordinance that does not conform to subch. VI and this section or is contrary to an order of the department under this subchapter is void and unenforceable.

SECTION 15. 101.975 (3) of the statutes is repealed.

SECTION 16. 175.403 of the statutes is created to read:

175.403 Trespassing; arrest and removal. (1) In this section:

(a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

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(b) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(2) Each law enforcement agency shall have a written policy regarding the investigation of complaints alleging a violation of s. 943.14. The policy shall require a law enforcement officer who has probable cause to arrest a person for a violation of s. 943.14 to remove the person from a dwelling.

SECTION 17. 349.13 (3m) (dr) 2. of the statutes is amended to read:

349.13 (3m) (dr) 2. A towing service may not collect any charges for the removal or storage of an illegally parked vehicle under this subsection if unless the towing service ~~has not complied~~ made a good faith effort to comply with par. (d) 2. with respect to the vehicle.

SECTION 18. 349.13 (3m) (e) 1. of the statutes is amended to read:

349.13 (3m) (e) 1. Reasonable charges for removal and storage of vehicles under this subsection when no citation has been issued.

SECTION 19. 349.13 (3m) (e) 3. of the statutes is amended to read:

349.13 (3m) (e) 3. Guidelines for towing services to notify law enforcement under par. (d) upon removal of a vehicle when no citation has been issued.

SECTION 20. 704.055 of the statutes is created to read:

704.055 Disposition of personalty left by trespasser. (1) DEFINITION. In this section, "trespasser" means a person who is not a tenant and who enters or remains in residential rental property without the consent of the landlord or another person lawfully on the property.

(2) AT THE LANDLORD'S DISCRETION. (a) If a trespasser is removed or otherwise removes from residential rental property and leaves personal property, the landlord shall hold the personal property for 7 days from the date on which the landlord discovers the personal property. After that time, the landlord may presume that the

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1 trespasser has abandoned the personal property and may dispose of the personal
2 property in any manner that the landlord, in the landlord's sole discretion,
3 determines is appropriate but shall promptly return the personal property to the
4 trespasser if the landlord receives a request for its return before the landlord
5 disposes of it.

6 (b) If the landlord disposes of the abandoned personal property by private or
7 public sale, the landlord may send the proceeds of the sale minus any costs of sale
8 and, if the landlord has first stored the personal property, minus any storage charges
9 to the department of administration for deposit in the appropriation under s. 20.505
10 (7) (h).

11 **(3) RIGHTS OF 3RD PERSONS.** The landlord's power to dispose as provided by this
12 section applies to any personal property left on the landlord's property by the
13 trespasser, whether owned by the trespasser or by others. The power to dispose
14 under this section applies notwithstanding any rights of others existing under any
15 claim of ownership or security interest. The trespasser, other owner, or any secured
16 party has the right to redeem the personal property at any time before the landlord
17 has disposed of it or entered into a contract for its disposition by payment of any
18 expenses that the landlord has incurred with respect to the disposition of the
19 personal property.

20 **SECTION 21.** 704.17 (1) (b) of the statutes is amended to read:

21 704.17 **(1)** (b) If a month-to-month tenant commits waste or a material
22 violation of s. 704.07 (3) or breaches any covenant or condition of the tenant's
23 agreement, other than for payment of rent, the tenancy ~~can be~~ is terminated if the
24 landlord gives the tenant a notice that requires the tenant to either remedy the
25 default or vacate the premises no later than a date at least 5 days after the giving

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1 of the notice, and the tenant fails to comply with the notice. A tenant is considered
2 to be complying with the notice if promptly upon receipt of the notice the tenant takes
3 reasonable steps to remedy the default and proceeds with reasonable diligence, or if
4 damages are adequate protection for the landlord and the tenant makes a bona fide
5 and reasonable offer to pay the landlord all damages for the tenant's breach. If,
6 within one year from receiving a notice under this paragraph, the tenant again
7 commits waste or breaches the same or any other covenant or condition of the
8 tenant's rental agreement, other than for payment of rent, the tenant's tenancy is
9 terminated if the landlord gives the tenant notice requiring the tenant to vacate on
10 or before a date at least 14 days after the giving of the notice.

11 **SECTION 22.** 704.17 (2) (b) of the statutes is amended to read:

12 704.17 (2) (b) If a tenant under a lease for a term of one year or less, or a
13 year-to-year tenant, commits waste or a material violation of s. 704.07 (3) or
14 breaches any covenant or condition of the tenant's lease, other than for payment of
15 rent, the tenant's tenancy is terminated if the landlord gives the tenant a notice
16 requiring the tenant to remedy the default or vacate the premises on or before a date
17 at least 5 days after the giving of the notice, and if the tenant fails to comply with such
18 notice. A tenant is deemed to be complying with the notice if promptly upon receipt
19 of such notice the tenant takes reasonable steps to remedy the default and proceeds
20 with reasonable diligence, or if damages are adequate protection for the landlord and
21 the tenant makes a bona fide and reasonable offer to pay the landlord all damages
22 for the tenant's breach. If within one year from the giving of any such notice, the
23 tenant again commits waste or breaches the same or any other covenant or condition
24 of the tenant's lease, other than for payment of rent, the tenant's tenancy is
25 terminated if the landlord, ~~prior to the tenant's remedying the waste or breach,~~ gives

1 the tenant notice to vacate on or before a date at least 14 days after the giving of the
2 notice.

3 **SECTION 23.** 704.17 (3m) of the statutes is created to read:

4 704.17 (3m) CRIMINAL ACTIVITY. (a) In this subsection, “drug-related criminal
5 activity” means criminal activity that involves the manufacture, possession, use, or
6 distribution of a controlled substance, as defined in s. 961.01 (4).

7 (b) 1. Notwithstanding subs. (1) (b), (2) (b), and (3) (a), and except as provided
8 in par. (c), a landlord may, upon notice to the tenant, terminate the tenancy of a
9 tenant, without giving the tenant an opportunity to remedy the default, if the tenant,
10 a member of the tenant’s household, or a guest or other invitee of the tenant or of a
11 member of the tenant’s household engages in any criminal activity that threatens the
12 health or safety of, or right to peaceful enjoyment of the premises by, other tenants;
13 engages in any criminal activity that threatens the health or safety of, or right to
14 peaceful enjoyment of their residences by, persons residing in the immediate vicinity
15 of the premises; engages in any criminal activity that threatens the health or safety
16 of the landlord or an agent or employee of the landlord; or engages in any
17 drug-related criminal activity on or near the premises. The notice shall require the
18 tenant to vacate on or before a date at least 5 days after the giving of the notice. The
19 notice shall state the basis for its issuance and the right of the tenant to contest the
20 termination of the tenancy in an eviction action under ch. 799. If the tenant contests
21 the termination of tenancy, the tenancy may not be terminated without proof by the
22 landlord by the greater preponderance of the credible evidence of the allegation in
23 the notice.

24 2. To terminate a tenancy under this subsection, it is not necessary that the
25 individual committing the criminal activity or drug-related criminal activity has

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1 been arrested for or convicted of the criminal activity or drug-related criminal
2 activity.

3 (c) Paragraph (b) does not apply to a tenant who is the victim, as defined in s.
4 950.02 (4), of the criminal activity.

5 **SECTION 24.** 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and
6 amended to read:

7 704.17 (5) (a) Provisions in the lease or rental agreement for termination
8 contrary to this section sub. (1), (2), or (3) are invalid except in leases for more than
9 one year.

10 **SECTION 25.** 704.17 (5) (b) of the statutes is created to read:

11 704.17 (5) (b) Provisions in the lease or rental agreement for termination
12 contrary to sub. (3m) are invalid.

13 **SECTION 26.** 704.19 (2) (b) 2. of the statutes is amended to read:

14 704.19 (2) (b) 2. Notwithstanding subd. 1., nothing in this section prevents
15 termination of a tenancy before the end of a rental period because of an imminent
16 threat of serious physical harm, as provided in s. 704.16, or for criminal activity or
17 drug-related criminal activity, nonpayment of rent, or breach of any other condition
18 of the tenancy, as provided in s. 704.17.

19 **SECTION 27.** 706.22 (title) of the statutes, as created by 2015 Wisconsin Act 55,
20 is amended to read:

21 **706.22 (title) Prohibition on imposing time-of-sale, purchase, or**
22 **occupancy requirements.**

23 **SECTION 28.** 706.22 (2) (title) of the statutes, as created by 2015 Wisconsin Act
24 55, is amended to read:

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1 706.22 (2) (title) REQUIREMENTS TIED TO SALE, PURCHASE, OR TAKING OCCUPANCY
2 OF PROPERTY PROHIBITED.

3 **SECTION 29.** 706.22 (2) (a) (intro.) of the statutes, as created by 2015 Wisconsin
4 Act 55, is amended to read:

5 706.22 (2) (a) (intro.) Except as provided in par. (b), no local governmental unit
6 may by ordinance, resolution, or any other means restrict do any of the following:

7 1m. Restrict the ability of an owner of real property to sell or otherwise transfer
8 title to or refinance the property by requiring the owner or an agent of the owner to
9 take certain actions with respect to the property or pay a related fee, to show
10 compliance with taking certain actions with respect to the property, or to pay a fee
11 for failing to take certain actions with respect to the property, at any of the following
12 times:

13 **SECTION 30.** 706.22 (2) (a) 1. of the statutes, as created by 2015 Wisconsin Act
14 55, is renumbered 706.22 (2) (a) 1m. a.

15 **SECTION 31.** 706.22 (2) (a) 2. of the statutes, as created by 2015 Wisconsin Act
16 55, is renumbered 706.22 (2) (a) 1m. b.

17 **SECTION 32.** 706.22 (2) (a) 2m. of the statutes is created to read:

18 706.22 (2) (a) 2m. Restrict the ability of a person to purchase or take title to real
19 property by requiring the person or an agent of the person to take certain actions with
20 respect to the property or pay a related fee, to show compliance with taking certain
21 actions with respect to the property, or to pay a fee for failing to take certain actions
22 with respect to the property, at any of the following times:

23 a. Before the person may complete the purchase of or take title to the property.

24 b. At the time of completing the purchase of or taking title to the property.

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1 c. Within a certain period of time after completing the purchase of or taking title
2 to the property.

3 **SECTION 33.** 706.22 (2) (a) 3. of the statutes, as created by 2015 Wisconsin Act
4 55, is renumbered 706.22 (2) (a) 1m. c.

5 **SECTION 34.** 706.22 (2) (a) 3m. of the statutes is created to read:

6 706.22 (2) (a) 3m. Restrict the ability of a purchaser of or transferee of title to
7 residential real property to take occupancy of the property by requiring the
8 purchaser or transferee or an agent of the purchaser or transferee to take certain
9 actions with respect to the property or pay a related fee, to show compliance with
10 taking certain actions with respect to the property, or to pay a fee for failing to take
11 certain actions with respect to the property, at any of the following times:

12 a. Before the purchaser or transferee may take occupancy of the property.

13 b. At the time of taking occupancy of the property.

14 c. Within a certain period of time after taking occupancy of the property.

15 **SECTION 35.** 706.22 (2) (b) of the statutes, as created by 2015 Wisconsin Act 55,
16 is renumbered 706.22 (2) (b) (intro.) and amended to read:

17 706.22 (2) (b) (intro.) Paragraph (a) does not prohibit do any of the following:

18 1. Prohibit a local governmental unit from requiring a real property owner or
19 the owner's agent to take certain actions with respect to the property not in
20 connection with the purchase, sale or, refinancing, or taking occupancy of, or the
21 transfer of title to, the property.

22 **SECTION 36.** 706.22 (2) (b) 2. of the statutes is created to read:

23 706.22 (2) (b) 2. Prohibit a local governmental unit from enforcing, or otherwise
24 affect the responsibility, authority, or ability of a local governmental unit to enforce,

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1 a federal or state requirement that does any of the things a local governmental unit
2 is prohibited from doing under par. (a).

3 **SECTION 37.** 706.22 (3) of the statutes, as created by 2015 Wisconsin Act 55, is
4 renumbered 706.22 (3) (a) and amended to read:

5 706.22 (3) (a) If a local governmental unit has in effect on July 14, 2015, an
6 ordinance, resolution, or policy that is inconsistent with sub. (2) (a) 1m., the
7 ordinance, resolution, or policy does not apply and may not be enforced.

8 **SECTION 38.** 706.22 (3) (b) of the statutes is created to read:

9 706.22 (3) (b) If a local governmental unit has in effect on the effective date of
10 this paragraph [LRB inserts date], an ordinance, resolution, or policy that is
11 inconsistent with sub. (2) (a) 2m. or 3m., the ordinance, resolution, or policy does not
12 apply and may not be enforced.

13 **SECTION 39.** 800.035 (1) of the statutes is amended to read:

14 800.035 (1) A defendant may make an initial appearance in person or by
15 submitting a written response to the citation or complaint except when the judge has
16 required an appearance under s. 800.02 (2) (ag) 4. For the purposes of this section,
17 if a defendant is a limited liability company, the defendant appears in person if the
18 appearance is by a member, as defined in s. 183.0102 (15), by an agent or authorized
19 employee of the defendant, or by an agent of the member or an authorized employee
20 of the agent.

21 **SECTION 40.** 943.14 of the statutes is renumbered 943.14 (2) and amended to
22 read:

23 943.14 (2) Whoever intentionally enters or remains in the dwelling of another
24 without the consent of some person lawfully upon the premises or, if no person is
25 lawfully upon the premises, without the consent of the owner of the property that

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1 includes the dwelling, under circumstances tending to create or provoke a breach of
2 the peace, is guilty of a Class A misdemeanor.

3 **SECTION 41.** 943.14 (1) of the statutes is created to read:

4 943.14 (1) In this section, “dwelling” has the meaning given in s. 30.1335 (1)
5 (h). For the purposes of this section, a dwelling meets that definition regardless of
6 whether the dwelling is currently occupied by a resident.

7 **SECTION 42. Initial applicability.**

8 (1) The treatment of sections 704.17 (3m) and 704.19 (2) (b) 2. of the statutes
9 first applies to criminal activities or drug-related criminal activities that are
10 committed on the effective date of this subsection.

11 (2) The creation of section 704.17 (5) (b) of the statutes first applies to leases
12 and rental agreements that are entered into or renewed on the effective date of this
13 subsection.

14 (END)

Attachment: AB_568 (4244 : Bill AB 568 SB 445)



2015 SENATE BILL 445

December 10, 2015 - Introduced by Senators LASEE and STROEBEL, cosponsored by Representatives R. BROOKS and ALLEN. Referred to Committee on Government Operations and Consumer Protection.

1 **AN ACT** *to repeal* 66.1019 (3) (b) and 101.975 (3); *to renumber* 706.22 (2) (a) 1.,
2 706.22 (2) (a) 2. and 706.22 (2) (a) 3.; *to renumber and amend* 66.1019 (3) (a),
3 704.17 (5), 706.22 (2) (b), 706.22 (3) and 943.14; *to amend* 20.505 (7) (h), 59.69
4 (4m), 60.64, 62.23 (7) (em), 66.0418 (title), 66.0809 (9), 101.02 (7m), 349.13 (3m)
5 (dr) 2., 349.13 (3m) (e) 1., 349.13 (3m) (e) 3., 704.17 (1) (b), 704.17 (2) (b), 704.19
6 (2) (b) 2., 706.22 (title), 706.22 (2) (title), 706.22 (2) (a) (intro.) and 800.035 (1);
7 and *to create* 66.0104 (2) (e), 66.0104 (2) (f), 66.0104 (2) (g), 66.0104 (3) (c),
8 66.0418 (3), 175.403, 704.055, 704.17 (3m), 704.17 (5) (b), 706.22 (2) (a) 2m.,
9 706.22 (2) (a) 3m., 706.22 (2) (b) 2., 706.22 (3) (b) and 943.14 (1) of the statutes;
10 **relating to:** terminating a tenancy for criminal activity or drug-related
11 criminal activity; disposition of personal property left in rental property by a
12 trespasser; preexisting sprinkler ordinances that are stricter than the
13 multifamily dwelling code; towing vehicles illegally parked on private property;
14 terminating certain tenancies for breaches other than failure to pay rent;

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- 1 limitations on the authority of political subdivisions to regulate rental units,
- 2 historic properties, and signs; prohibiting local governmental units from
- 3 imposing real property purchase or residential real property occupancy
- 4 requirements; creating a criminal penalty; and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a right-to-cure for certain tenants for certain breaches; makes remaining on property without consent criminal trespass and provides for the disposition of personal property left in rental property by a trespasser; authorizes a landlord to terminate the tenancy of a tenant based on criminal activity committed by the tenant or a member of the tenant's household; limits the authority of political subdivisions to regulate rental units, historic properties, and signs; prohibits a local governmental unit from making the purchase or transfer of real property or the occupancy of residential real property contingent on whether a purchaser or other transferee takes certain actions with respect to the property; eliminates a statutory exception for certain local ordinances having automatic sprinkler requirements that are stricter than the state multifamily dwelling code; and allows a towing company to collect charges if it makes a good faith effort to notify law enforcement.

Local government

Under current law, a city, village, town, or county (political subdivision) may regulate places, structures, or objects with special character, historic interest, aesthetic interest, or other significant value. A political subdivision may also designate historic landmarks and establish historic districts and may regulate the historic landmarks or the properties within a historic district for historic preservation purposes.

Under this bill, a political subdivision may not designate a property as a historic landmark without the consent of the owner. Also under this bill, a political subdivision may not require or prohibit any action by an owner of a property related to preservation of the historic or aesthetic value of the property without the consent of the owner.

This bill also limits the authority of political subdivisions in several respects, including:

1. Political subdivisions may not enact an ordinance that requires that a rental unit be inspected without a showing of good cause or be certified or registered
2. Political subdivisions may not charge a fee for an inspection other than an inspection based on a complaint from a tenant alleging a violation of the local housing code.
3. Political subdivisions may not impose an occupancy or transfer of tenancy fee on a rental unit.
4. Political subdivisions may not impose a requirement or restriction based on the informational content of a sign that is not imposed on all signs.

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5. Political subdivisions may not enact an ordinance that requires a landlord to obtain a license, certification, or registration in order to own, manage, or operate a residential rental property unless the ordinance applies uniformly to all residential properties, including owner-occupied properties.

Under current law, a local governmental unit is prohibited from requiring a real property owner to take certain actions with respect to the property or pay a related fee; to show compliance with taking certain actions with respect to the property; or to pay a fee for failing to take certain actions with respect to the property before the owner may sell, refinance, or transfer title to the property; at the time of selling, refinancing, or transferring title to the property; or within a certain period of time after selling, refinancing, or transferring title to the property. A local governmental unit may, however, require a real property owner to take certain actions with respect to the property not in connection with selling, refinancing, or transferring title to the property. The definition of "actions with respect to the property" includes such actions as having an inspection made by an employee or agent of the local governmental unit; making improvements or repairs; removing junk or debris; paving or painting; and installing fixtures or other items.

This bill does all of the following:

1. Prohibits a local governmental unit from requiring a person who is a prospective purchaser of, or person who will take title to, real property to take certain actions with respect to the property, as defined under current law, or pay a related fee; to show compliance with taking certain actions with respect to the property; or to pay a fee for failing to take certain actions with respect to the property before the person may complete the purchase of, or take title to, the property; at the time of completing the purchase of, or taking title to, the property; or within a certain time after completing the purchase of, or taking title to, the property.

2. Prohibits a local governmental unit from requiring a purchaser of, or transferee of title to, residential real property to take certain actions with respect to the property, as defined under current law, or pay a related fee; to show compliance with taking certain actions with respect to the property; or to pay a fee for failing to take certain actions with respect to the property before the purchaser or transferee may take occupancy of the property; at the time of taking occupancy of the property; or within a certain time after taking occupancy of the property.

3. Provides that a local governmental unit may require a real property owner to take certain actions with respect to the property not in connection with purchasing or taking occupancy of the property.

4. Provides that any ordinance, resolution, or policy currently in effect that is inconsistent with the prohibitions in the bill does not apply and is unenforceable.

5. Provides that the prohibitions in the bill and under current law on local governmental units do not affect a local governmental unit's responsibility, authority, or ability to enforce a state or federal requirement that does any of the things that a local governmental unit is prohibited from doing in the bill or under current law.

SENATE BILL 445***Automatic sprinklers in multifamily dwellings***

Under current law, the Department of Safety and Professional Services (DSPS) administers the multifamily dwelling code, including requirements concerning automatic sprinklers. Currently, a city, village, or town generally may not enact or enforce an ordinance that does not conform to the multifamily dwelling code or that is contrary to an order of DSPS enforcing the multifamily dwelling code, except that certain preexisting sprinkler ordinances that are stricter than the multifamily dwelling code may remain in effect.

This bill repeals that exception for preexisting stricter sprinkler ordinances. The bill also provides that any contract between a city, village, or town pursuant to such an ordinance is unenforceable.

Towing vehicles from private property

Under current law, before any vehicle is removed from private property by a towing service, the towing service must notify a local law enforcement agency of the make, model, vehicle identification number, and registration plate number of the vehicle and the location to which the vehicle will be removed. A towing service that fails to comply with this requirement may not collect any charges for the removal and storage of the vehicle. Under this bill, a towing service that makes a good faith effort to comply with the notification requirement may collect charges for the removal and storage of the vehicle.

Under current law, the Department of Transportation is required to promulgate rules establishing reasonable charges for removal of vehicles from private property and guidelines for notifying law enforcement. Under this bill, these charges and guidelines apply only when no citation was issued.

Terminating tenancies

Under current law, a tenant's tenancy may be terminated by the landlord for, among other things, nonpayment of rent, committing waste, or breaching a covenant or condition of the tenant's rental agreement, or if the property owner receives notice from a law enforcement agency or the office of the district attorney that a nuisance exists in the rental unit because the property is being used for drug-related purposes or criminal gang-related purposes. Under this bill, except for a tenant who is the victim of the criminal activity, a landlord may terminate the tenancy of a tenant, without giving the tenant an opportunity to remedy the default, by giving the tenant notice if the tenant, a member of the tenant's household, or a guest or other invitee of the tenant or of a member of the tenant's household does any of the following: 1) engages in criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants; 2) engages in criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; 3) engages in criminal activity that threatens the health or safety of the landlord or an agent or employee of the landlord; or 4) engages in drug-related criminal activity on or near the premises. It is not necessary that the individual committing the criminal activity or drug-related criminal activity has been arrested for or convicted of the criminal activity or drug-related criminal activity.

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The notice that the landlord gives the tenant must require the tenant to vacate on or before a date at least five days after the giving of the notice and must state the basis for the notice and that the tenant may contest the termination of tenancy in an eviction action. If the tenant does contest the termination of tenancy, the landlord must prove the allegation in the notice by the greater preponderance of the credible evidence. The bill defines drug-related criminal activity as criminal activity that involves the manufacture, possession, use, or distribution of a controlled substance, which is defined in current law.

Under current law, a landlord may terminate the tenancy of a month-to-month tenant who commits waste, violates certain statutory tenant duties, or breaches a condition of the lease, other than by failing to pay rent (commits a qualifying breach) by providing the tenant with a notice that requires the tenant to vacate the premises within 14 days. Current law does not provide a landlord of a month-to-month tenant the option to terminate such a tenancy by providing a notice that requires the tenant to cure the qualifying breach or vacate the premises.

Under the bill, a month-to-month tenancy is terminated if 1) a tenant commits a qualifying breach and 2) the landlord provides the tenant with a notice that requires the tenant to cure the qualifying breach or vacate the premises and the tenant fails to comply with the notice. The procedure is identical to the procedure described below for a landlord of a year-to-year tenant.

Under current law, a landlord may terminate the tenancy of a year-to-year tenant or a tenant under a lease for a term of one year or less if 1) the tenant commits a qualifying breach and 2) the landlord provides the tenant with a notice that requires the tenant to cure the qualifying breach or vacate the premises and the tenant fails to comply with the notice. Current law specifies that a tenant may comply with the landlord's notice by taking reasonable steps to remedy the qualifying breach or by making a bona fide reasonable offer to pay the landlord all damages associated with the qualifying breach. Current law also provides that if the tenant commits another qualifying breach within one year of receiving such a notice, the landlord may terminate the tenant's tenancy by providing the tenant with a notice to vacate the premises within 14 days if the landlord provides the notice before the tenant cures the qualifying breach. This bill eliminates the condition that the landlord provide the subsequent notice to vacate before the tenant remedies the qualifying breach.

Trespass

Under current law, a person who enters into the dwelling of another without the permission of a person who is lawfully on the premises may be guilty of criminal trespass to a dwelling, a Class A misdemeanor. Under the bill, a person may be guilty of criminal trespass to a dwelling if he or she enters or remains in a dwelling without the permission of a person who is lawfully on the premises, or of the owner of the property if no one is lawfully present there, regardless of whether the dwelling is currently occupied. The bill requires law enforcement agencies to establish policies that require officers to remove trespassers from dwellings.

SENATE BILL 445***Disposing of personal property left by trespasser***

Current law does not address what happens to the personal property of a trespasser that is left behind after the trespasser leaves or is removed from residential rental property. This bill provides that, after a trespasser leaves or is removed from residential rental property, a landlord must hold any personal property left by the trespasser for seven days, during which time the trespasser may request its return. After that time, the landlord may dispose of the personal property in any manner that the landlord determines is appropriate.

For further information see the **local** 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. 20.505 (7) (h) of the statutes is amended to read:

20.505 (7) (h) *Funding for the homeless.* All moneys received from interest on real estate trust accounts under s. 452.13 for grants under s. 16.307, and all moneys received under s. ss. 704.05 (5) (a) 2. and 704.055 (2) (b), for grants to agencies and shelter facilities for homeless individuals and families under s. 16.308 (2) (a) and (b).

SECTION 2. 59.69 (4m) of the statutes is amended to read:

59.69 (4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, may regulate by ordinance any place, structure or object with a special character, historic interest, aesthetic interest or other significant value, for the purpose of preserving the place, structure or object and its significant characteristics. The county may create a landmarks commission to designate historic landmarks and establish historic districts. The county may regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district. A county may not designate a property as a historic landmark without

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1 the consent of the owner. A county may not require or prohibit any action by an owner
2 of a property related to the preservation of special character, historic or aesthetic
3 interest, or any other significant value of the property without the consent of the
4 owner.

5 **SECTION 3.** 60.64 of the statutes is amended to read:

6 **60.64 Historic preservation.** The town board, in the exercise of its zoning
7 and police powers for the purpose of promoting the health, safety and general welfare
8 of the community and of the state, may regulate any place, structure or object with
9 a special character, historic interest, aesthetic interest or other significant value for
10 the purpose of preserving the place, structure or object and its significant
11 characteristics. The town board may create a landmarks commission to designate
12 historic landmarks and establish historic districts. The board may regulate all
13 historic landmarks and all property within each historic district to preserve the
14 historic landmarks and property within the district and the character of the district.
15 The town board may not designate a property as a historic landmark without the
16 consent of the owner. The town board may not require or prohibit any action by an
17 owner of a property related to the preservation of special character, historic or
18 aesthetic interest, or any other significant value of the property without the consent
19 of the owner.

20 **SECTION 4.** 62.23 (7) (em) of the statutes is amended to read:

21 **62.23 (7) (em) Historic preservation.** A city, as an exercise of its zoning and
22 police powers for the purpose of promoting the health, safety and general welfare of
23 the community and of the state, may regulate by ordinance, or if a city contains any
24 property that is listed on the national register of historic places in Wisconsin or the
25 state register of historic places shall, not later than 1995, enact an ordinance to

SENATE BILL 445**SECTION 4**

1 regulate, any place, structure or object with a special character, historic,
2 archaeological or aesthetic interest, or other significant value, for the purpose of
3 preserving the place, structure or object and its significant characteristics. A city
4 may create a landmarks commission to designate historic or archaeological
5 landmarks and establish historic districts. The city may regulate, or if the city
6 contains any property that is listed on the national register of historic places in
7 Wisconsin or the state register of historic places shall regulate, all historic or
8 archaeological landmarks and all property within each historic district to preserve
9 the historic or archaeological landmarks and property within the district and the
10 character of the district. A city may not designate a property as a historic landmark
11 without the consent of the owner. A city may not require or prohibit any action by
12 an owner of a property related to the preservation of special character, historic or
13 aesthetic interest, or any other significant value of the property without the consent
14 of the owner.

15 **SECTION 5.** 66.0104 (2) (e) of the statutes is created to read:

16 66.0104 (2) (e) No city, village, town, or county may enact an ordinance that
17 does any of the following:

18 1. Requires that a rental unit be inspected without a showing of good cause or
19 be certified or registered.

20 2. Charges a fee for conducting an inspection other than an inspection based
21 on a complaint from a tenant alleging a violation of the local housing code of the city,
22 village, town, or county or an inspection required for all properties and for which a
23 uniform fee is charged.

24 **SECTION 6.** 66.0104 (2) (f) of the statutes is created to read:

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1 66.0104 (2) (f) No city, village, town, or county may impose an occupancy or
2 transfer of tenancy fee on a rental unit.

3 **SECTION 7.** 66.0104 (2) (g) of the statutes is created to read:

4 66.0104 (2) (g) 1. No city, village, town, or county may enact an ordinance that
5 requires a property owner to obtain a license, certification, or registration in order
6 to do any of the following:

7 a. Own a residential rental property.

8 b. Manage or operate a residential rental property.

9 2. Subdivision 1. does not apply to an ordinance that applies uniformly to all
10 residential properties, including owner-occupied properties.

11 **SECTION 8.** 66.0104 (3) (c) of the statutes is created to read:

12 66.0104 (3) (c) If a city, village, town, or county has in effect on the effective date
13 of this paragraph [LRB inserts date], an ordinance that is inconsistent with sub.
14 (2) (e), (f), or (g), the ordinance does not apply and may not be enforced.

15 **SECTION 9.** 66.0418 (title) of the statutes is amended to read:

16 **66.0418 (title) ~~Prohibition of~~ Miscellaneous limitations on local**
17 **regulation of certain foods, beverages.**

18 **SECTION 10.** 66.0418 (3) of the statutes is created to read:

19 66.0418 (3) No political subdivision may impose a restriction or requirement
20 on a sign based on the sign's informational content that it does not impose on all
21 signs.

22 **SECTION 11.** 66.0809 (9) of the statutes is amended to read:

23 66.0809 (9) A municipal utility is not required to offer a customer who is a
24 tenant at a rental dwelling unit a deferred payment agreement. Notwithstanding
25 ss. 196.03, 196.19, 196.20, 196.22, 196.37, and 196.60, a determination by a

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SENATE BILL 445**SECTION 11**

1 municipal utility to offer or not offer a deferred payment agreement does not require
2 approval, and is not subject to disapproval, by the public service commission.

3 **SECTION 12.** 66.1019 (3) (a) of the statutes is renumbered 66.1019 (3) and
4 amended to read:

5 66.1019 (3) ~~Except as provided in par. (b), any~~ Any ordinance enacted by a
6 county, city, village or town relating to the construction or inspection of multifamily
7 dwellings, as defined in s. 101.971 (2), shall conform to subch. VI of ch. 101 and s.
8 101.02 (7m).

9 **SECTION 13.** 66.1019 (3) (b) of the statutes is repealed.

10 **SECTION 14.** 101.02 (7m) of the statutes is amended to read:

11 101.02 (7m) Notwithstanding sub. (7) (a), no city, village, or town may make
12 or enforce any ordinance that is applied to any multifamily dwelling, as defined in
13 s. 101.971 (2), and that does not conform to subch. VI and this section or is contrary
14 to an order of the department under this subchapter, ~~except that if a city, village or~~
15 ~~town has a preexisting stricter sprinkler ordinance, as defined in s. 101.975 (3) (a),~~
16 ~~that ordinance remains in effect, except that the city, village or town may take any~~
17 ~~action with regard to that ordinance that a political subdivision may take under s.~~
18 ~~101.975 (3) (b).~~ Any contract between a city, village, or town and a property owner
19 of a multifamily dwelling that requires the property owner to comply with an
20 ordinance that does not conform to subch. VI and this section or is contrary to an
21 order of the department under this subchapter is void and unenforceable.

22 **SECTION 15.** 101.975 (3) of the statutes is repealed.

23 **SECTION 16.** 175.403 of the statutes is created to read:

24 **175.403 Trespassing; arrest and removal.** (1) In this section:

25 (a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

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1 (b) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

2 (2) Each law enforcement agency shall have a written policy regarding the
3 investigation of complaints alleging a violation of s. 943.14. The policy shall require
4 a law enforcement officer who has probable cause to arrest a person for a violation
5 of s. 943.14 to remove the person from a dwelling.

6 **SECTION 17.** 349.13 (3m) (dr) 2. of the statutes is amended to read:

7 349.13 (3m) (dr) 2. A towing service may not collect any charges for the removal
8 or storage of an illegally parked vehicle under this subsection if unless the towing
9 service ~~has not complied~~ made a good faith effort to comply with par. (d) 2. with
10 respect to the vehicle.

11 **SECTION 18.** 349.13 (3m) (e) 1. of the statutes is amended to read:

12 349.13 (3m) (e) 1. Reasonable charges for removal and storage of vehicles
13 under this subsection when no citation has been issued.

14 **SECTION 19.** 349.13 (3m) (e) 3. of the statutes is amended to read:

15 349.13 (3m) (e) 3. Guidelines for towing services to notify law enforcement
16 under par. (d) upon removal of a vehicle when no citation has been issued.

17 **SECTION 20.** 704.055 of the statutes is created to read:

18 **704.055 Disposition of personalty left by trespasser. (1) DEFINITION.** In
19 this section, "trespasser" means a person who is not a tenant and who enters or
20 remains in residential rental property without the consent of the landlord or another
21 person lawfully on the property.

22 (2) AT THE LANDLORD'S DISCRETION. (a) If a trespasser is removed or otherwise
23 removes from residential rental property and leaves personal property, the landlord
24 shall hold the personal property for 7 days from the date on which the landlord
25 discovers the personal property. After that time, the landlord may presume that the

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1 trespasser has abandoned the personal property and may dispose of the personal
2 property in any manner that the landlord, in the landlord's sole discretion,
3 determines is appropriate but shall promptly return the personal property to the
4 trespasser if the landlord receives a request for its return before the landlord
5 disposes of it.

6 (b) If the landlord disposes of the abandoned personal property by private or
7 public sale, the landlord may send the proceeds of the sale minus any costs of sale
8 and, if the landlord has first stored the personal property, minus any storage charges
9 to the department of administration for deposit in the appropriation under s. 20.505
10 (7) (h).

11 **(3) RIGHTS OF 3RD PERSONS.** The landlord's power to dispose as provided by this
12 section applies to any personal property left on the landlord's property by the
13 trespasser, whether owned by the trespasser or by others. The power to dispose
14 under this section applies notwithstanding any rights of others existing under any
15 claim of ownership or security interest. The trespasser, other owner, or any secured
16 party has the right to redeem the personal property at any time before the landlord
17 has disposed of it or entered into a contract for its disposition by payment of any
18 expenses that the landlord has incurred with respect to the disposition of the
19 personal property.

20 **SECTION 21.** 704.17 (1) (b) of the statutes is amended to read:

21 704.17 **(1)** (b) If a month-to-month tenant commits waste or a material
22 violation of s. 704.07 (3) or breaches any covenant or condition of the tenant's
23 agreement, other than for payment of rent, the tenancy ~~can be~~ is terminated if the
24 landlord gives the tenant a notice that requires the tenant to either remedy the
25 default or vacate the premises no later than a date at least 5 days after the giving

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1 of the notice, and the tenant fails to comply with the notice. A tenant is considered
2 to be complying with the notice if promptly upon receipt of the notice the tenant takes
3 reasonable steps to remedy the default and proceeds with reasonable diligence, or if
4 damages are adequate protection for the landlord and the tenant makes a bona fide
5 and reasonable offer to pay the landlord all damages for the tenant's breach. If,
6 within one year from receiving a notice under this paragraph, the tenant again
7 commits waste or breaches the same or any other covenant or condition of the
8 tenant's rental agreement, other than for payment of rent, the tenant's tenancy is
9 terminated if the landlord gives the tenant notice requiring the tenant to vacate on
10 or before a date at least 14 days after the giving of the notice.

11 **SECTION 22.** 704.17 (2) (b) of the statutes is amended to read:

12 704.17 (2) (b) If a tenant under a lease for a term of one year or less, or a
13 year-to-year tenant, commits waste or a material violation of s. 704.07 (3) or
14 breaches any covenant or condition of the tenant's lease, other than for payment of
15 rent, the tenant's tenancy is terminated if the landlord gives the tenant a notice
16 requiring the tenant to remedy the default or vacate the premises on or before a date
17 at least 5 days after the giving of the notice, and if the tenant fails to comply with such
18 notice. A tenant is deemed to be complying with the notice if promptly upon receipt
19 of such notice the tenant takes reasonable steps to remedy the default and proceeds
20 with reasonable diligence, or if damages are adequate protection for the landlord and
21 the tenant makes a bona fide and reasonable offer to pay the landlord all damages
22 for the tenant's breach. If within one year from the giving of any such notice, the
23 tenant again commits waste or breaches the same or any other covenant or condition
24 of the tenant's lease, other than for payment of rent, the tenant's tenancy is
25 terminated if the landlord, ~~prior to the tenant's remedying the waste or breach,~~ gives

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1 the tenant notice to vacate on or before a date at least 14 days after the giving of the
2 notice.

3 **SECTION 23.** 704.17 (3m) of the statutes is created to read:

4 704.17 **(3m)** CRIMINAL ACTIVITY. (a) In this subsection, “drug-related criminal
5 activity” means criminal activity that involves the manufacture, possession, use, or
6 distribution of a controlled substance, as defined in s. 961.01 (4).

7 (b) 1. Notwithstanding subs. (1) (b), (2) (b), and (3) (a), and except as provided
8 in par. (c), a landlord may, upon notice to the tenant, terminate the tenancy of a
9 tenant, without giving the tenant an opportunity to remedy the default, if the tenant,
10 a member of the tenant’s household, or a guest or other invitee of the tenant or of a
11 member of the tenant’s household engages in any criminal activity that threatens the
12 health or safety of, or right to peaceful enjoyment of the premises by, other tenants;
13 engages in any criminal activity that threatens the health or safety of, or right to
14 peaceful enjoyment of their residences by, persons residing in the immediate vicinity
15 of the premises; engages in any criminal activity that threatens the health or safety
16 of the landlord or an agent or employee of the landlord; or engages in any
17 drug-related criminal activity on or near the premises. The notice shall require the
18 tenant to vacate on or before a date at least 5 days after the giving of the notice. The
19 notice shall state the basis for its issuance and the right of the tenant to contest the
20 termination of the tenancy in an eviction action under ch. 799. If the tenant contests
21 the termination of tenancy, the tenancy may not be terminated without proof by the
22 landlord by the greater preponderance of the credible evidence of the allegation in
23 the notice.

24 2. To terminate a tenancy under this subsection, it is not necessary that the
25 individual committing the criminal activity or drug-related criminal activity has

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1 been arrested for or convicted of the criminal activity or drug-related criminal
2 activity.

3 (c) Paragraph (b) does not apply to a tenant who is the victim, as defined in s.
4 950.02 (4), of the criminal activity.

5 **SECTION 24.** 704.17 (5) of the statutes is renumbered 704.17 (5) (a) and
6 amended to read:

7 704.17 (5) (a) Provisions in the lease or rental agreement for termination
8 contrary to this section sub. (1), (2), or (3) are invalid except in leases for more than
9 one year.

10 **SECTION 25.** 704.17 (5) (b) of the statutes is created to read:

11 704.17 (5) (b) Provisions in the lease or rental agreement for termination
12 contrary to sub. (3m) are invalid.

13 **SECTION 26.** 704.19 (2) (b) 2. of the statutes is amended to read:

14 704.19 (2) (b) 2. Notwithstanding subd. 1., nothing in this section prevents
15 termination of a tenancy before the end of a rental period because of an imminent
16 threat of serious physical harm, as provided in s. 704.16, or for criminal activity or
17 drug-related criminal activity, nonpayment of rent, or breach of any other condition
18 of the tenancy, as provided in s. 704.17.

19 **SECTION 27.** 706.22 (title) of the statutes, as created by 2015 Wisconsin Act 55,
20 is amended to read:

21 **706.22 (title) Prohibition on imposing time-of-sale, purchase, or**
22 **occupancy requirements.**

23 **SECTION 28.** 706.22 (2) (title) of the statutes, as created by 2015 Wisconsin Act
24 55, is amended to read:

SENATE BILL 445**SECTION 28**

1 706.22 (2) (title) REQUIREMENTS TIED TO SALE, PURCHASE, OR TAKING OCCUPANCY
2 OF PROPERTY PROHIBITED.

3 **SECTION 29.** 706.22 (2) (a) (intro.) of the statutes, as created by 2015 Wisconsin
4 Act 55, is amended to read:

5 706.22 (2) (a) (intro.) Except as provided in par. (b), no local governmental unit
6 may by ordinance, resolution, or any other means restrict do any of the following:

7 1m. Restrict the ability of an owner of real property to sell or otherwise transfer
8 title to or refinance the property by requiring the owner or an agent of the owner to
9 take certain actions with respect to the property or pay a related fee, to show
10 compliance with taking certain actions with respect to the property, or to pay a fee
11 for failing to take certain actions with respect to the property, at any of the following
12 times:

13 **SECTION 30.** 706.22 (2) (a) 1. of the statutes, as created by 2015 Wisconsin Act
14 55, is renumbered 706.22 (2) (a) 1m. a.

15 **SECTION 31.** 706.22 (2) (a) 2. of the statutes, as created by 2015 Wisconsin Act
16 55, is renumbered 706.22 (2) (a) 1m. b.

17 **SECTION 32.** 706.22 (2) (a) 2m. of the statutes is created to read:

18 706.22 (2) (a) 2m. Restrict the ability of a person to purchase or take title to real
19 property by requiring the person or an agent of the person to take certain actions with
20 respect to the property or pay a related fee, to show compliance with taking certain
21 actions with respect to the property, or to pay a fee for failing to take certain actions
22 with respect to the property, at any of the following times:

23 a. Before the person may complete the purchase of or take title to the property.

24 b. At the time of completing the purchase of or taking title to the property.

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1 c. Within a certain period of time after completing the purchase of or taking title
2 to the property.

3 **SECTION 33.** 706.22 (2) (a) 3. of the statutes, as created by 2015 Wisconsin Act
4 55, is renumbered 706.22 (2) (a) 1m. c.

5 **SECTION 34.** 706.22 (2) (a) 3m. of the statutes is created to read:

6 706.22 (2) (a) 3m. Restrict the ability of a purchaser of or transferee of title to
7 residential real property to take occupancy of the property by requiring the
8 purchaser or transferee or an agent of the purchaser or transferee to take certain
9 actions with respect to the property or pay a related fee, to show compliance with
10 taking certain actions with respect to the property, or to pay a fee for failing to take
11 certain actions with respect to the property, at any of the following times:

12 a. Before the purchaser or transferee may take occupancy of the property.

13 b. At the time of taking occupancy of the property.

14 c. Within a certain period of time after taking occupancy of the property.

15 **SECTION 35.** 706.22 (2) (b) of the statutes, as created by 2015 Wisconsin Act 55,
16 is renumbered 706.22 (2) (b) (intro.) and amended to read:

17 706.22 (2) (b) (intro.) Paragraph (a) does not prohibit do any of the following:

18 1. Prohibit a local governmental unit from requiring a real property owner or
19 the owner's agent to take certain actions with respect to the property not in
20 connection with the purchase, sale or, refinancing, or taking occupancy of, or the
21 transfer of title to, the property.

22 **SECTION 36.** 706.22 (2) (b) 2. of the statutes is created to read:

23 706.22 (2) (b) 2. Prohibit a local governmental unit from enforcing, or otherwise
24 affect the responsibility, authority, or ability of a local governmental unit to enforce,

SENATE BILL 445**SECTION 36**

1 a federal or state requirement that does any of the things a local governmental unit
2 is prohibited from doing under par. (a).

3 **SECTION 37.** 706.22 (3) of the statutes, as created by 2015 Wisconsin Act 55, is
4 renumbered 706.22 (3) (a) and amended to read:

5 706.22 (3) (a) If a local governmental unit has in effect on July 14, 2015, an
6 ordinance, resolution, or policy that is inconsistent with sub. (2) (a) 1m., the
7 ordinance, resolution, or policy does not apply and may not be enforced.

8 **SECTION 38.** 706.22 (3) (b) of the statutes is created to read:

9 706.22 (3) (b) If a local governmental unit has in effect on the effective date of
10 this paragraph [LRB inserts date], an ordinance, resolution, or policy that is
11 inconsistent with sub. (2) (a) 2m. or 3m., the ordinance, resolution, or policy does not
12 apply and may not be enforced.

13 **SECTION 39.** 800.035 (1) of the statutes is amended to read:

14 800.035 (1) A defendant may make an initial appearance in person or by
15 submitting a written response to the citation or complaint except when the judge has
16 required an appearance under s. 800.02 (2) (ag) 4. For the purposes of this section,
17 if a defendant is a limited liability company, the defendant appears in person if the
18 appearance is by a member, as defined in s. 183.0102 (15), by an agent or authorized
19 employee of the defendant, or by an agent of the member or an authorized employee
20 of the agent.

21 **SECTION 40.** 943.14 of the statutes is renumbered 943.14 (2) and amended to
22 read:

23 943.14 (2) Whoever intentionally enters or remains in the dwelling of another
24 without the consent of some person lawfully upon the premises or, if no person is
25 lawfully upon the premises, without the consent of the owner of the property that

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1 includes the dwelling, under circumstances tending to create or provoke a breach of
2 the peace, is guilty of a Class A misdemeanor.

3 **SECTION 41.** 943.14 (1) of the statutes is created to read:

4 943.14 (1) In this section, “dwelling” has the meaning given in s. 30.1335 (1)
5 (h). For the purposes of this section, a dwelling meets that definition regardless of
6 whether the dwelling is currently occupied by a resident.

7 **SECTION 42. Initial applicability.**

8 (1) The treatment of sections 704.17 (3m) and 704.19 (2) (b) 2. of the statutes
9 first applies to criminal activities or drug-related criminal activities that are
10 committed on the effective date of this subsection.

11 (2) The creation of section 704.17 (5) (b) of the statutes first applies to leases
12 and rental agreements that are entered into or renewed on the effective date of this
13 subsection.

14 (END)

Attachment: SB_445 (4244 : Bill AB 568 SB 445)

City of De Pere, Wisconsin

**Request For Historic Preservation Commission Action**

MEETING DATE: December 21, 2015
DEPARTMENT: Planning
FROM: Sarah Wallace
SUBJECT: Discuss Federal Bill H. R. 3846

See attached Federal Bill for review, information and discussion.

ATTACHMENTS:

- [BILLS-114hr3846ih](#) (PDF)

114TH CONGRESS
1ST SESSION

H. R. 3846

To amend the Internal Revenue Code of 1986 to improve the Historic Rehabilitation Tax Credit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2015

Mr. KELLY of Pennsylvania (for himself, Mr. BLUMENAUER, Mr. TIBERI, Mr. NEAL, Mr. BOUSTANY, Mr. LARSON of Connecticut, Mr. TURNER, Mr. KIND, Mr. RANGEL, and Mr. REED) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to improve the Historic Rehabilitation Tax Credit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Historic Tax Credit
5 Improvement Act of 2015”.

6 **SEC. 2. INCREASE IN THE REHABILITATION CREDIT FOR** 7 **CERTAIN SMALL PROJECTS.**

8 (a) IN GENERAL.—Section 47 of the Internal Rev-
9 enue Code of 1986 (relating to rehabilitation credit) is

1 amended by adding at the end the following new sub-
2 section:

3 “(e) SPECIAL RULE REGARDING CERTAIN SMALLER
4 PROJECTS.—

5 “(1) IN GENERAL.—In the case of any qualified
6 rehabilitated building or portion thereof—

7 “(A) which is placed in service after the
8 date of the enactment of this subsection, and

9 “(B) which is a smaller project,
10 subsection (a)(2) shall be applied by substituting ‘30
11 percent’ for ‘20 percent’.

12 “(2) MAXIMUM CREDIT.—The credit deter-
13 mined under this subsection with respect to any
14 smaller project for all taxable years shall not exceed
15 \$750,000.

16 “(3) SMALLER PROJECT DEFINED.—

17 “(A) IN GENERAL.—For purposes of this
18 subsection, the term ‘smaller project’ means
19 any qualified rehabilitated building or portion
20 thereof if—

21 “(i) the qualified rehabilitation ex-
22 penditures taken into account for purposes
23 of this section (or would have been so
24 taken into account if this subsection had
25 been in effect for all prior periods) with re-

1 spect to the rehabilitation are not over
2 \$3,750,000, and

3 “(ii) no credit was allowed under this
4 section for either of the 2 prior taxable
5 years with respect to such building.

6 “(B) PROGRESS EXPENDITURES.—Credit
7 allowable by reason of subsection (d) shall not
8 be taken into account under subparagraph
9 (A)(ii).”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to periods after the date of the
12 enactment of this Act, under rules similar to the rules of
13 section 48(m) of the Internal Revenue Code of 1986 (as
14 in effect on the day before the date of the enactment of
15 the Revenue Reconciliation Act of 1990).

16 **SEC. 3. ALLOWANCE FOR THE TRANSFER OF CREDITS FOR**
17 **CERTAIN SMALL PROJECTS.**

18 (a) IN GENERAL.—Section 47(e) of the Internal Rev-
19 enue Code of 1986, as amended by section 2, is amended
20 by adding at the end the following new subsection:

21 “(4) TRANSFER OF SMALLER PROJECT CRED-
22 IT.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B) and such regulations or other guid-
25 ance as the Secretary may provide, the taxpayer

1 may transfer all or a portion of the credit allow-
2 able to the taxpayer under subsection (a) for a
3 smaller project.

4 “(B) CERTIFICATION.—

5 “(i) IN GENERAL.—A transfer under
6 subparagraph (A) shall be accompanied by
7 a certificate which includes—

8 “(I) the certification for the cer-
9 tified historic structure referred to in
10 subsection (c)(3),

11 “(II) the taxpayer’s name, ad-
12 dress, tax identification number, date
13 of project completion, and the amount
14 of credit being transferred,

15 “(III) the transferee’s name, ad-
16 dress, tax identification number, and
17 the amount of credit being trans-
18 ferred, and

19 “(IV) such other information as
20 may be required by the Secretary.

21 “(ii) TRANSFERABILITY OF CERTIFI-
22 CATE.—A certificate issued under this sec-
23 tion to a taxpayer shall be transferable to
24 any other taxpayer, except that a certifi-

1 cate may not be transferred more than
2 once.

3 “(C) TAX TREATMENT RELATING TO CER-
4 TIFICATE.—

5 “(i) DISALLOWANCE OF DEDUC-
6 TION.—No deduction shall be allowed for
7 the amount of consideration paid or in-
8 curred by the transferee.

9 “(ii) ALLOWANCE OF CREDIT.—The
10 amount of credit transferred under sub-
11 paragraph (A)—

12 “(I) shall not be allowed to the
13 transferor for any taxable year, and

14 “(II) shall be allowable to the
15 transferee as a credit under this sec-
16 tion for the taxable year of the trans-
17 feree in which such credit is trans-
18 ferred.

19 “(D) RECAPTURE AND OTHER SPECIAL
20 RULES.—The taxpayer who claims a credit
21 under this section by reason of a transfer of an
22 amount of credit under subparagraph (A) with
23 respect to a smaller project shall be treated as
24 the taxpayer with respect to the smaller project
25 for purposes of section 50.

1 “(E) INFORMATION REPORTING.—The
2 transferor and the transferee shall each make
3 such reports regarding the transfer of an
4 amount of credit under paragraph (A) and con-
5 taining such information as the Secretary may
6 require. The reports required by this subsection
7 shall be filed at such time and in such manner
8 as may be required by the Secretary.

9 “(F) REGULATIONS.—The Secretary shall
10 prescribe regulations or other guidance to carry
11 out this paragraph.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to periods after the date of the
14 enactment of this Act.

15 **SEC. 4. INCREASING THE TYPE OF BUILDINGS ELIGIBLE**
16 **FOR REHABILITATION.**

17 (a) IN GENERAL.—Section 47(c)(1)(C)(i)(I) of the
18 Internal Revenue Code of 1986 is amended by inserting
19 “50 percent of” before “the adjusted basis”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to taxable years beginning after
22 the date of the enactment of this Act.

1 **SEC. 5. REDUCTION OF BASIS ADJUSTMENT FOR REHABILI-**
2 **TATION PROPERTY.**

3 (a) IN GENERAL.—Section 50(c) of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end the
5 following:

6 “(6) SPECIAL RULE RELATING TO THE REHA-
7 BILITATION CREDIT.—In the case of any rehabilita-
8 tion credit—

9 “(A) only 50 percent of such credit shall
10 be taken into account under paragraph (1), and

11 “(B) only 50 percent of any recapture
12 amount attributable to such credit shall be
13 taken into account under paragraph (2).”.

14 (b) COORDINATION WITH BASIS ADJUSTMENT.—
15 Section 50 of such Code is amended by adding at the end
16 the following:

17 “(e) COORDINATION WITH BASIS ADJUSTMENT.—In
18 applying the provisions of former section 48(d)(5)(B) pur-
19 suant to subsection (d)(5) to a lease of property eligible
20 for the rehabilitation tax credit, the lessee of such property
21 shall include ratably in gross income over the shortest re-
22 covery period that could be applicable under section 168
23 with respect to such property an amount equal to 50 per-
24 cent of the amount of the credit allowable under section
25 38 to the lessee with respect to such property.”.

1 **SEC. 6. SPECIAL RULES FOR DISPOSITIONS OF STATE HIS-**
 2 **TORIC TAX CREDITS.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 items specifically excluded from gross income) is amended
 6 by inserting after section 139E the following new section:

7 **“SEC. 139F. DISPOSITIONS OF STATE HISTORIC TAX CRED-**
 8 **ITS.**

9 “(a) EXCLUSION FROM INCOME; BASIS REDUC-
 10 TION.—

11 “(1) IN GENERAL.—In the case of a taxpayer
 12 who receives a State historic tax credit and transfers
 13 such credit by sale, allocation, or otherwise, or re-
 14 ceives a refund of all or a portion of such credit—

15 “(A) no portion of the net proceeds of such
 16 allocation, disposition, or refund of such credit
 17 shall constitute income to such taxpayer under
 18 section 61(a), and

19 “(B) the taxpayer’s basis in the property
 20 with respect to which the State historic tax
 21 credit is allowed shall be reduced as determined
 22 under paragraph (2).

23 “(2) DETERMINATION OF REDUCTION IN
 24 BASIS.—The reduction in basis under paragraph (1)
 25 shall be applied—

26 “(A) first, against the basis in the land,

1 “(B) second, against so much of the basis
2 of any building or interest therein as was not
3 treated as a qualified rehabilitation expenditure
4 by reason of clause (ii) or (iii) of section
5 47(c)(2)(B), and

6 “(C) third, against the remaining basis in
7 the property.

8 “(D) ADJUSTMENT IN BASIS OF INTEREST
9 IN PARTNERSHIP OR S CORPORATION.—The ad-
10 justed basis of—

11 “(i) a partner’s interest in a partner-
12 ship, or

13 “(ii) stock in an S corporation (as de-
14 fined in section 1361(a)(1)), shall be ap-
15 propriately adjusted to take into account
16 adjustments made under this subsection in
17 the basis of property held by the partner-
18 ship or S corporation (if any).

19 “(b) ELECTION TO INCLUDE IN INCOME.—

20 “(1) IN GENERAL.—In the case of a taxpayer
21 who elects to have this subsection apply—

22 “(A) the net proceeds of the allocation, dis-
23 position, or refund described in subsection (a)
24 received by such taxpayer shall constitute in-
25 come to such taxpayer under section 61(a), and

1 “(B) subsection (a)(1)(B) shall not apply.

2 “(2) MAKING OF ELECTION.—An election under
3 this subsection shall be made at such time and in
4 such manner as the Secretary may by regulation
5 prescribe. Such election shall apply for the taxable
6 year for which it is made and for all subsequent tax-
7 able years and may be revoked only with the consent
8 of the Secretary of the Treasury.

9 “(c) EFFECT ON QUALIFIED REHABILITATION EX-
10 PENDITURES AND REHABILITATION CREDITS.—For pur-
11 poses of determining the rehabilitation credit allowable to
12 a taxpayer under section 47, the transfer or allocation of
13 State historic tax credits with respect to any property by
14 a taxpayer shall not affect or reduce the amount of quali-
15 fied rehabilitation expenditures (as defined in section
16 47(c)(2)) incurred in connection with such property, nor
17 shall such transfer or disposition, nor any basis adjust-
18 ments under subsection (a), be treated as an early disposi-
19 tion of investment credit property for purposes of the re-
20 capture provisions of section 50, notwithstanding any re-
21 duction in basis pursuant to paragraph (a)(2)(C).

22 “(d) STATE HISTORIC TAX CREDITS DEFINED.—For
23 purposes of this section, the term ‘State historic tax credit’
24 means any credit against State or local tax liabilities
25 which—

1 “(1) is allowable under the laws of any State or
 2 political subdivision thereof to a taxpayer with re-
 3 spect to expenditures made for the rehabilitation of
 4 property identified by such laws, and

5 “(2) can be allocated, disposed, or refunded
 6 under such laws.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
 8 for such part III is amended by inserting after the item
 9 relating to section 139E the following new item:

“Sec. 139F. Dispositions of State historic tax credits.”.

10 (c) EFFECTIVE DATE.—This section shall apply to
 11 transfers or dispositions made, or refunds received, after
 12 the date of the enactment of this Act.

13 **SEC. 7. MODIFICATIONS REGARDING CERTAIN TAX-EXEMPT**
 14 **USE PROPERTY.**

15 (a) IN GENERAL.—Section 47(c)(2)(B)(v)(I) of the
 16 Internal Revenue Code of 1986 (relating to tax-exempt
 17 use property) is amended by inserting “and subclauses (I),
 18 (II), and (III) of section 168(h)(1)(B)(ii) shall not apply”
 19 after “thereof”.

20 (b) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to property placed in service after
 22 the date of the enactment of this Act.

1 **SEC. 8. ELIMINATING FUNCTIONALLY RELATED PROP-**
2 **ERTIES.**

3 (a) IN GENERAL.—Section 47 of the Internal Rev-
4 enue Code of 1986 (relating to rehabilitation credit), as
5 amended by sections 2 and 3, is amended by adding at
6 the end the following new subsection:

7 “(g) RELATED BUILDINGS.—Buildings that are func-
8 tionally related (as defined in Part 67.6(b)(4) of title 36,
9 Code of Federal Regulations) shall be treated as separate
10 certified historic structures for purposes of the credit al-
11 lowed under this section.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to any application to the Na-
14 tional Park Service received after the date of the enact-
15 ment of this Act.

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City of De Pere, Wisconsin**Request For Historic Preservation Commission Action**

MEETING DATE: December 21, 2015

DEPARTMENT: Planning

FROM: Sarah Wallace

SUBJECT: Future Agenda Items
