

## Governor Signs Law Preempting Municipal Landlord/Tenant Regulations Limiting Certain Landlord Rights

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On December 7, 2011, Governor Walker signed **Wisconsin Act 108**, creating **Wis. Stat. § 66.0104** preempting local ordinances that place certain limits or requirements on landlords. While the new law applies statewide, it has preempted a number of City of Madison ordinances in particular.

The new law preempts any local ordinance prohibiting or limiting a landlord from obtaining or using information regarding: monthly household income, occupation, rental history, credit information, publicly available court records (including arrest or conviction records), and social security number or other proof of identity. The statute also preempts any ordinance limiting how far back a landlord may look at credit information, conviction record, or housing history. For example, the law preempts several City of Madison ordinances prohibiting or limiting a landlord's inquiry regarding a tenant or prospective tenant including MGO 32.12(7)(a) (monthly household income), MGO 39.03(4)(d)(1) (arrest or conviction record) and MGO 32.12(7)(b), 39.03(4)(a),(d) (refusal to provide a social security number). In addition, the law preempts Madison's two year look back limit (preempting MGO 39.03(4)d2).

The new law also preempts any local ordinance regulating when a landlord can enter into a lease with a prospective tenant when the unit is still occupied by a current tenant. The law also preempts local ordinances limiting a landlord's ability to show rental units to prospective tenants during a pending tenancy. Thus, the new law preempts Madison's limits on when a landlord may enter into a new lease with a prospective tenant and when a landlord may show a residential unit to a prospective tenant (preempting MGO 32.12(9)a, which prohibits a landlord from entering into a subsequent lease with a prospective tenant until one fourth of the lease period with a current tenant has passed, and MGO 32.12(8) prohibiting a landlord from entering a unit to show to prospective tenants until one fourth of the lease period has passed). The Madison ordinance requiring landlords to provide 24 hours notice of entry for showings (MGO 32.05(1)(e)) has also been preempted in favor of the State law requiring 12 hours notice (Wis. Adm. Code ATCP 134.09(2)a2).

Finally, the new law preempts local ordinances imposing requirements in addition to those under the Wisconsin Administrative Code with respect to security deposits, earnest money, and pre-tenancy and post-tenancy inspections. The Madison ordinance requiring landlords to maintain photographic evidence for any security deposit withholdings for tenant damage, waste, or neglect of the premises (MGO 32.07(14)) has been preempted in favor of the check in and other Wisconsin Administrative Code requirements governing security deposits. The new law went into effect December 21, 2011.

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Article By  
[Michael Best & Friedrich](#)  
[Michael Best & Friedrich LLP](#)

[ADR / Arbitration / Mediation](#)  
[Real Estate](#)  
[Litigation / Trial Practice](#)  
[Administrative & Regulatory](#)  
[Wisconsin](#)