

CS FOR SENATE BILL NO. 207(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS BJORKMAN, Rauscher, Cronk, Myers

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the removal of unlawful occupants from residential real property;**
2 **and relating to the crimes of forgery and deceptive business practices."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 09.45 is amended by adding a new section to article 12 to read:

5 **Sec. 09.45.950. Removal of unauthorized occupant from residential real**
6 **property.** (a) Notwithstanding AS 09.45.060 - 09.45.160, a person who is the owner
7 of residential real property or an agent of the owner of the property may file a request
8 with a peace officer to remove a person who is unlawfully occupying a dwelling unit
9 located on the property if

10 (1) the occupant entered the dwelling unit when the dwelling unit was
11 not open to the public or when the occupant was not otherwise privileged to do so;

12 (2) the occupant continues to occupy the dwelling unit;

13 (3) the owner or an agent of the owner of the property has directed the
14 occupant to leave the dwelling unit;

1 (4) the occupant does not have, and has not had, a rental agreement
2 entitling the occupant to occupy a dwelling unit located on the property;

3 (5) the occupant is not an immediate family member of the property
4 owner; and

5 (6) no litigation related to the property is pending between the property
6 owner and the occupant.

7 (b) A request submitted under (a) of this section must be made under oath and
8 be in substantially the following form:

9 REQUEST TO REMOVE AN UNLAWFUL
10 OCCUPANT OF RESIDENTIAL REAL PROPERTY.

11 I, _____, am the (check one) owner,
12 or agent of _____, who is the owner, of the
13 residential real property located at _____,
14 and I declare under the penalty of perjury that (initial each box):

15 1. I am the owner or an agent of the owner of the property.

16 2. The owner purchased the property on _____.

17 3. The property is residential real property and has a
18 dwelling unit located on the property.

19 4. A person entered the dwelling unit when the dwelling
20 unit was not open to the public or when the person was not otherwise
21 privileged to do so.

22 5. The occupant continues to occupy the dwelling unit.

23 6. _____, who is the owner or an
24 agent of the owner of the property, has directed the occupant to leave
25 the dwelling unit.

26 7. The occupant does not have, and has not had, a rental
27 agreement entitling the occupant to occupy a dwelling unit located on
28 the property.

29 8. The occupant is not an owner of the property.

30 9. The occupant is not an immediate family member of the
31 property owner.

1 10. [] No litigation related to the property is pending between
2 the property owner and the occupant.

3 11. [] I understand that an occupant removed from the
4 property under AS 09.45.950 may file an action against me for any
5 false statements made in this request or for wrongfully using this
6 procedure and that I may be held liable for actual damages, penalties,
7 costs, and attorney fees as allowed by law.

8 12. [] A copy of my valid government-issued identification is
9 attached, or I am an agent of the property owner and have attached
10 evidence of my authority to act on the owner's behalf.

11 I HAVE READ EVERY STATEMENT MADE IN THIS REQUEST
12 AND EACH STATEMENT IS TRUE AND CORRECT. I
13 UNDERSTAND THAT A PERSON WHO MAKES A FALSE
14 SWORN STATEMENT IN CONNECTION WITH A REQUEST
15 MADE UNDER AS 09.45.950 IS SUBJECT TO CRIMINAL
16 PROSECUTION FOR PERJURY AS PROVIDED IN AS 11.56.200.

17 Signature: _____

18 Date of Signature: _____

19 (c) A person filing a request under this section shall file the request with a
20 peace officer of the municipality or unincorporated community in which the property
21 is located. If the property is located outside of a municipality or unincorporated
22 community, the person shall file the request with the nearest available peace officer.

23 (d) A peace officer receiving a request under this section shall verify that the
24 requester is the record owner of the residential real property or an agent of the record
25 owner of the property and appears entitled to relief under this section. The peace
26 officer shall notify the requester of whether the request is verified.

27 (e) After a request has been verified under (d) of this section, the owner of the
28 residential real property, an agent of the owner of the property, or, at the request of the
29 owner or agent, a peace officer shall serve the occupant with notice to vacate and
30 deliver possession of the dwelling unit to the owner within 48 hours. Service may be
31 accomplished by hand delivery of the notice to an occupant or by posting the notice on

1 the front door or entrance of the dwelling unit. The person serving the notice shall
2 attempt to verify the identity of each occupant of the dwelling unit and note the
3 identities of each occupant on the return of service.

4 (f) Once the required 48-hour period has elapsed following service under (e)
5 of this section, the owner or an agent of the owner of the property may request that the
6 peace officer go to the property to keep the peace while the owner or agent changes
7 the locks and removes the personal property of the occupant from the dwelling unit to
8 or near the property line.

9 (g) A peace officer shall attempt to assist an occupant in finding another place
10 to stay or provide information to the occupant on available shelters.

11 (h) Except when an occupant is removed from the property wrongfully under
12 this section, the owner or an agent of the owner of the property is not liable to an
13 occupant or another person for the loss, destruction, or damage of personal property
14 resulting from the removal of the occupant and the occupant's property from a
15 dwelling unit under this section.

16 (i) Notwithstanding AS 34.03.210, an occupant who has been wrongfully
17 removed from a dwelling unit under this section may bring an action against the
18 person who requested the removal of the occupant to restore possession of the
19 property under AS 09.45.060 - 09.45.160 and may recover

20 (1) actual damages; and

21 (2) an amount not to exceed three times the value of one month of fair
22 market rent for the dwelling unit.

23 (j) This section does not limit the rights of property owners or prohibit a peace
24 officer from arresting an occupant for criminal trespass or another legal cause.

25 (k) In this section,

26 (1) "dwelling unit" has the meaning given in AS 34.03.360;

27 (2) "immediate family member" means a spouse, domestic partner,
28 child, sibling, parent, grandparent, grandchild, aunt, uncle, niece, nephew, stepparent,
29 stepchild, or stepsibling;

30 (3) "rental agreement" has the meaning given in AS 34.03.360.

31 * **Sec. 2.** AS 11.46.505(a) is amended to read:

1 (a) A person commits the crime of forgery in the second degree if the person
2 violates AS 11.46.510 and the instrument is or purports to be

3 (1) a deed, will, codicil, contract, assignment, negotiable or other
4 commercial instrument, **rental agreement**, or other document which does or may
5 evidence, create, transfer, alter, terminate, or otherwise affect a legal right, interest,
6 obligation, or status; or

7 (2) a public record.

8 * **Sec. 3.** AS 11.46.710(a) is amended to read:

9 (a) A person commits the crime of deceptive business practices if, in the
10 course of engaging in a business, occupation, or profession, the person

11 (1) makes a false statement in an advertisement or communication
12 addressed to the public or to a substantial number of persons in connection with the
13 promotion of the sale of property or services or to increase the consumption of
14 property or services;

15 (2) uses or possesses for use a false weight or measure or any other
16 device for falsely determining or recording any quality or quantity;

17 (3) sells, offers for sale, exposes for sale, or delivers less than the
18 represented quantity of a commodity or service;

19 (4) sells, offers for sale, or exposes for sale adulterated commodities;

20 [OR]

21 (5) sells, offers for sale, or exposes for sale mislabeled commodities;

22 **or**

23 **(6) sells, leases, or advertises for sale or lease a dwelling that the**
24 **person does not have the right to sell, lease, or advertise.**

25 * **Sec. 4.** AS 11.46.710(c) is amended to read:

26 (c) Except as provided in (d) **and (e)** of this section, deceptive business
27 practices is a class A misdemeanor.

28 * **Sec. 5.** AS 11.46.710(d) is amended to read:

29 (d) Deceptive business practices is a class C felony if the person **violates**
30 **(a)(1), (2), (3), (4), or (5) of this section and** uses the Internet or a computer network
31 to commit the offense. In this subsection, "Internet" means the combination of

1 computer systems or networks that make up the international network for interactive
2 communications services, including remote logins, file transfer, electronic mail, and
3 newsgroups.

4 * **Sec. 6.** AS 11.46.710 is amended by adding a new subsection to read:

5 (e) Deceptive business practices is a class C felony if the person violates (a)(6)
6 of this section.