

HOUSE BILL NO. 159

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES RAUSCHER, Moore, Costello, Tomaszewski

Introduced: 3/26/25

Referred: Judiciary, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the removal of unlawful occupants from residential real property;
2 relating to the crimes of trespass, forgery, and deceptive business practices; and
3 amending Rules 82 and 85(a), Alaska Rules of Civil Procedure."

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

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

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

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

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

14 (3) the owner or an agent of the owner of the property has directed the

1 occupant to leave the dwelling unit;

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

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

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

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

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

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

16 1. ☐ I am the owner or an agent of the owner of the property.

17 2. ☐ The owner purchased the property on _____.

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

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

23 5. ☐ The occupant continues to occupy the dwelling unit.

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

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

30 8. ☐ The occupant is not an owner of the property.

1 9. [] The occupant is not an immediate family member of the
2 property owner.

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

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

10 12. [] I am requesting that a peace officer immediately
11 remove the occupant from the property.

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

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

21 Signature: _____

22 Date of Signature: _____

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

27 (d) A peace officer receiving a request under this section shall verify that the
28 requester is the record owner of the residential real property or an agent of the record
29 owner of the property and appears entitled to relief under this section. If the request is
30 verified, the peace officer shall timely serve the occupant with notice to immediately
31 vacate and deliver possession of the dwelling unit to the owner. Service may be

1 accomplished by hand delivery of the notice to an occupant or by posting the notice on
 2 the front door or entrance of the dwelling unit. The peace officer shall attempt to
 3 verify the identity of each occupant of the dwelling unit and note the identities of each
 4 occupant on the return of service. A requester shall pay a fee for service of a notice
 5 under this subsection that is equivalent to the fee for service of process of a summons
 6 listed under Rule 11(a), Alaska Rules of Administration.

7 (e) After notice is served under (d) of this section, the owner or an agent of the
 8 owner of the property may request that the peace officer remain on the property to
 9 keep the peace while the owner or agent changes the locks and removes the personal
 10 property of the occupant from the dwelling unit to or near the property line. The peace
 11 officer may require the requester to pay a reasonable hourly rate to the government
 12 agency employing the peace officer.

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

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

21 (1) actual damages;

22 (2) three times the value of one month of fair market rent for the
 23 dwelling unit; and

24 (3) full reasonable attorney fees.

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

27 (i) In this section,

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

29 (2) "immediate family member" means a spouse, child, sibling, parent,
 30 grandparent, grandchild, stepparent, stepchild, or stepsibling;

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

1 * **Sec. 2.** AS 11.46.320(b) is amended to read:

2 (b) Criminal trespass in the first degree is a

3 **(1) class A misdemeanor; or**

4 **(2) class B felony if the person violates (a)(2) of this section and**

5 **causes \$1,000 or more in damages.**

6 * **Sec. 3.** AS 11.46.505(a) is amended to read:

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

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

13 (2) a public record.

14 * **Sec. 4.** AS 11.46.710(a) is amended to read:

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

17 (1) makes a false statement in an advertisement or communication
18 addressed to the public or to a substantial number of persons in connection with the
19 promotion of the sale of property or services or to increase the consumption of
20 property or services;

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

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

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

26 [OR]

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

28 **or**

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

31 * **Sec. 5.** AS 11.46.710(c) is amended to read:

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

* **Sec. 6.** AS 11.46.710(d) is amended to read:

(d) Deceptive business practices is a class C felony if the person **violates (a)(1), (2), (3), (4), or (5) of this section and** uses the Internet or a computer network to commit the offense. In this subsection, "Internet" means the combination of computer systems or networks that make up the international network for interactive communications services, including remote logins, file transfer, electronic mail, and newsgroups.

* **Sec. 7.** AS 11.46.710 is amended by adding a new subsection to read:

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

* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 85(a), Alaska Rules of Civil Procedure, is amended to read:

(a) **Practice and Procedure.** In an action for the possession of any land, tenement or other real property brought under the forcible entry and detainer provisions of law, the practice and procedure shall be as in other civil actions, subject to the following:

(1) Complaint. The premises claimed shall be described in the complaint with such certainty that the defendant will be distinctly advised of their location so that possession thereof may be delivered according to that description. The complaint must contain a notice describing the circumstances under which the clerk may dismiss the case under subsection (a)(6) of this rule. This notice will be printed in the forcible entry and detainer complaint forms approved by the administrative director. If the plaintiff files an action without using the court form, the complaint must nonetheless contain a notice that is identical to that which appears in the court form. The notice shall serve as the actual notice to all parties that is required by paragraph (a)(6) of this rule.

(2) Summons. Summons shall be served not less than two days before

1 the day of the eviction hearing. The date set for the eviction hearing shall be not more
 2 than 7 [15] days from the date of filing of the complaint unless otherwise ordered by
 3 the court.

4 (3) Continuances. No continuance shall be granted for a longer period
 5 than 2 days, unless the defendant applying therefor shall give an undertaking to the
 6 adverse party, with sureties approved by the court, conditioned to the payment of the
 7 rent that may accrue if judgment is rendered against defendant.

8 (4) Appearance by Defendant. An appearance by a defendant at the
 9 eviction hearing is an appearance in the entire matter for purposes of Civil Rule 55(a).

10 (5) Service - How Made. A defendant cannot be served under Civil
 11 Rule 5 by mailing a copy of the document to the address from which the defendant
 12 was evicted unless the defendants current mailing address and whereabouts are not
 13 readily ascertainable.

14 (6) Dismissal of Action for Want of Prosecution.

15 (A) By Clerk - Additional Notice to Parties Not Required. A
 16 forcible entry and detainer case may be dismissed by the clerk for want of
 17 prosecution without further notice to the parties and without further order if

18 (i) the case has been pending for more than 180 days
 19 from the date the complaint was filed;

20 (ii) no trial or hearing is scheduled;

21 (iii) no application for default judgment has been filed;

22 and

23 (iv) the parties had actual notice that the case could be
 24 dismissed under this paragraph; actual notice of the procedure for
 25 dismissal of a forcible entry and detainer case shall be provided in all
 26 forcible entry and detainer complaints as provided in subsection (a)(1)
 27 of this rule.

28 (B) By Order of Court. The court on its own motion or on
 29 motion of a party to the action may enter a judgment of dismissal if the
 30 plaintiff fails to appear for a scheduled trial or hearing.

31 (C) Dismissal Without Prejudice. A case dismissed for want of

1 prosecution under this rule is dismissed without prejudice unless otherwise
2 ordered by the court. Any party may, as a matter of right, reopen a case that
3 was dismissed for want of prosecution without refiling the action by making a
4 request in writing to the clerk of court no later than one year after dismissal.

5 * **Sec. 9.** The uncoded law of the State of Alaska is amended by adding a new section to
6 read:

7 INDIRECT COURT RULE AMENDMENT. AS 09.45.950(g)(3), enacted by sec. 1 of
8 this Act, has the effect of changing Rule 82, Alaska Rules of Civil Procedure, by allowing the
9 recovery of full reasonable attorney fees to an occupant who has been wrongfully removed
10 from a dwelling unit under AS 09.45.950, enacted by sec. 1 of this Act.

11 * **Sec. 10.** The uncoded law of the State of Alaska is amended by adding a new section to
12 read:

13 CONDITIONAL EFFECT. AS 09.45.950(g)(3), enacted by sec. 1 of this Act, takes
14 effect only if sec. 9 of this Act receives the two-thirds majority vote of each house required by
15 art. IV, sec. 15, Constitution of the State of Alaska.