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Bullock
4/8/14

CS FOR HOUSE BILL NO. 282(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE ISAACSON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the rights and obligations of residential landlords and tenants; and
2 relating to the taking of a permanent fund dividend for rent and damages owed to a
3 residential landlord."

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

5 * **Section 1.** AS 34.03.020(e) is amended to read:

6 (e) If required by the landlord, the landlord and the tenant shall include within
7 the rental agreement, incorporate by reference in the rental agreement, or add as a
8 separate attachment to the rental agreement a premises condition statement, setting out
9 the condition of the premises, including fixtures but excluding reference to any of the
10 other contents of the premises, and, if applicable, a contents inventory itemizing or
11 describing all of the furnishings and other contents of the premises and specifying the
12 condition of each of them. In the premises condition statement and contents inventory,
13 the landlord and tenant [PARTIES] shall describe the premises and its contents at
14 the commencement of the term of the period of the occupancy covered by the rental

1 agreement. When signed by the **landlord and tenant** [PARTIES], the premises
2 condition statement and contents inventory completed under this subsection become
3 part of the rental agreement.

4 * **Sec. 2.** AS 34.03.070(a) is amended to read:

5 (a) **Except as provided in (h) of this section, a** [A] landlord may not demand
6 or receive prepaid rent or a security deposit, however denominated, in an amount or
7 value in excess of two months' periodic rent. This section does not apply to rental units
8 where the rent exceeds \$2,000 a month.

9 * **Sec. 3.** AS 34.03.070(b) is amended to read:

10 (b) Upon termination of the tenancy, property or money held by the landlord
11 as prepaid rent or as a security deposit may be applied to the payment of accrued rent
12 and the amount of damages that the landlord has suffered by reason of the tenant's
13 noncompliance with AS 34.03.120. The accrued rent and damages must be itemized
14 by the landlord in a written notice mailed to the tenant's last known address within the
15 time limit prescribed by (g) of this section, together with the amount due the tenant. In
16 this subsection, "damages"

17 (1) means deterioration of the premises and, if applicable, of the
18 contents of the premises;

19 (2) does not include deterioration

20 (A) that is the result of **normal wear and tear** [THE
21 TENANT'S USE OF THE PREMISES BY NORMAL, NONABUSIVE
22 LIVING];

23 (B) caused by the landlord's failure to prepare for expected
24 conditions or by the landlord's failure to comply with an obligation of the
25 landlord imposed by this chapter.

26 * **Sec. 4.** AS 34.03.070(c) is amended to read:

27 (c) All money paid to the landlord by the tenant as prepaid rent or as a security
28 deposit in a lease or rental agreement shall be promptly deposited by the landlord,
29 wherever practicable, in a trust account in a bank, savings and loan association, or
30 licensed escrow agent, and the landlord shall provide to the tenant the terms and
31 conditions under which the prepaid rent or security deposit or portions of them may be

withheld by the landlord. **Nothing** [; NOTHING] in this chapter prohibits the landlord from commingling prepaid rents and security deposits in a single financial account; **however, the landlord shall separately account for prepaid rent and security deposits received from each tenant. The landlord may not commingle prepaid rent and security deposits with other funds. The landlord may not use money held for one tenant in a trust account to**

(1) refund the security deposit of another tenant;

(2) apply to the payment of another tenant's accrued rent;

(3) apply to damages suffered by the landlord because of another tenant's noncompliance with AS 34.03.120.

* **Sec. 5.** AS 34.03.070(g) is amended to read:

(g) If the landlord or tenant gives notice that complies with AS 34.03.290, the landlord shall mail the written notice and refund required by (b) of this section within 14 days after the tenancy is terminated and possession is delivered by the tenant, **except the landlord shall have 30 days after the tenancy is terminated to mail the refund if costs are deducted for damages that the landlord has suffered because of the tenant's noncompliance with AS 34.03.120.** If the tenant does not give notice that complies with AS 34.03.290, the landlord shall mail the written notice and refund required by (b) of this section within 30 days after the tenancy is terminated, possession is delivered by the tenant, or the landlord becomes aware that the dwelling unit is abandoned. If the landlord does not know the mailing address of the tenant, but knows or has reason to know how to contact the tenant to give the notice required by (b) of this section, the landlord shall make a reasonable effort to deliver the notice and refund to the tenant.

* **Sec. 6.** AS 34.03.070 is amended by adding new subsections to read:

(h) Notwithstanding the limitation on the amount of prepaid rent or security deposit in (a) of this section, a landlord may demand or receive an additional security deposit from a tenant who has a pet on the premises that is not a service animal. The additional security deposit

(1) may not exceed the periodic rent for one month; and

(2) shall be accounted for separately from prepaid rent or a security

deposit received under (a) of this section and may be applied only to the amount of damages that are directly related to the pet of the tenant.

(i) In this section,

(1) "normal wear and tear" means deterioration that occurs from the intended use of the rental unit and without negligence, carelessness, accident, misuse, or abuse of the premises or contents by the tenant, members of the household of the tenant, or the invitees or guests of the tenant;

(2) "service animal" means an animal that is individually trained to do work or perform tasks that are directly related to and for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

* **Sec. 7.** AS 34.03.090(b) is amended to read:

(b) **The tenant shall** [AS A CONDITION OF DELIVERY OF POSSESSION OF THE PREMISES TO THE TENANT, THE LANDLORD MAY REQUIRE THE TENANT TO] acknowledge or verify by the tenant's signature the accuracy of the premises condition statement and contents inventory prepared under AS 34.03.020(e). **The** [BEFORE REQUIRING THE TENANT'S SIGNATURE, THE LANDLORD SHALL FIRST ADVISE THE TENANT THAT THE] premises condition statement and contents inventory

(1) may be used by the landlord **or tenant** as the basis

(A) to determine whether prepaid rent or a security deposit shall be applied to the payment of damages to the premises when authorized by AS 34.03.070(b); and

(B) to compute the recovery of other damages to which the parties may be entitled under this chapter; and

(2) is, in an action initiated by a party to recover damages or to obtain other relief to which a party may be entitled under this chapter, presumptive evidence of the condition of the premises and its contents at the commencement of the term of the period of occupancy covered by the rental agreement.

* **Sec. 8.** AS 34.03.100(a) is amended to read:

(a) The landlord shall

(1) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(2) keep all common areas of the premises in a clean and safe condition;

(3) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;

(4) provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

(5) supply running water and reasonable amounts of hot water and heat at all times, insofar as energy conditions permit, except where

(A) the building that includes the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection; or

(B) the premises does not have a well or water provided by a direct public utility connection and the rental agreement specifically states that the duty of the landlord to supply running water or hot water to the premises is waived by the tenant;

(6) if requested by the tenant, provide and maintain locks and furnish keys reasonably adequate to ensure safety to the tenant's person and property; and

(7) provide smoke detection devices and carbon monoxide detection devices as required under AS 18.70.095.

* **Sec. 9.** AS 34.03.120(a) is amended to read:

(a) The tenant

(1) shall keep that part of the premises occupied and used by the tenant as clean and safe as the condition of the premises permit;

(2) shall dispose all ashes, rubbish, garbage, and other waste from the dwelling unit in a clean and safe manner;

(3) shall keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(4) shall use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen, and other facilities and appliances, including elevators, in the premises;

(5) may not deliberately or negligently destroy, deface, damage, impair, or remove a part of the premises or knowingly permit any person to do so;

(6) may not unreasonably disturb, or permit others on the premises with the tenant's consent to unreasonably disturb, a neighbor's peaceful enjoyment of the premises;

(7) shall maintain smoke detection devices and carbon monoxide detection devices as required under AS 18.70.095;

(8) may not, except in an emergency when the landlord cannot be contacted after reasonable effort to do so, change the locks on doors of the premises without first securing the written agreement of the landlord and, immediately after changing the locks, providing the landlord a set of keys to all doors for which locks have been changed; in an emergency, the tenant may change the locks and shall, within five days, provide the landlord a set of keys to all doors for which locks have been changed and written notice of the change; [AND]

(9) may not unreasonably engage in conduct, or permit others on the premises to engage in conduct, that results in the imposition of a fee under a municipal ordinance adopted under AS 29.35.125; and

(10) may not allow the number of individuals occupying the premises to exceed the number allowed by applicable law, by a covenant limiting the landlord's use of the premises, or the rental agreement.

* **Sec. 10.** AS 34.03.120 is amended by adding a new subsection to read:

(c) When terminating the tenancy, the tenant shall leave the premises in substantially the same condition, except for normal wear and tear, as the condition of the premises at the beginning of the tenancy, including, in the landlord's discretion, professionally cleaning the carpets if the carpets were professionally cleaned immediately before the tenancy began. In this subsection, "normal wear and tear" has

the meaning given in AS 34.03.070.

* **Sec. 11.** AS 34.03.220(a) is amended to read:

(a) Except as provided in this chapter,

(1) if the tenant or someone in the tenant's control deliberately inflicts substantial damage to the premises in breach of AS 34.03.120(a)(5) or the tenant engages in or permits another to engage in prostitution or another illegal activity at the premises in breach of AS 34.03.120(b), the landlord may deliver a written notice to quit to the tenant under AS 09.45.100 - 09.45.105 specifying the act or activity constituting the breach and specifying that the rental agreement will terminate on [UPON] a date that is not less than 24 hours or more than five days after service of the notice; for purposes of this paragraph, damage to premises is "substantial" if the loss, destruction, or defacement of property attributable to the deliberate infliction of damage to the premises exceeds \$400;

(2) if there is a material noncompliance by the tenant with the rental agreement, or if there is noncompliance with AS 34.03.120, other than deliberate infliction of substantial damage to the premises or other than noncompliance as to a utility service for which the provisions of (e) of this section apply, materially affecting health and safety, the landlord may deliver a written notice to quit to the tenant under AS 09.45.100 - 09.45.110 specifying the acts and omissions constituting the breach and specifying that the rental agreement will terminate on [UPON] a date not less than 10 days after service of the notice; if the breach is not remedied, the rental agreement terminates as provided in the notice subject to the provisions of this section; if the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement will not terminate; in the absence of due care by the tenant, if substantially the same act or omission that constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least five days' [DAYS] written notice to quit specifying the breach and the date of termination of the rental agreement.

* **Sec. 12.** AS 43.23.065(b) is amended to read:

(b) An exemption is not available under this section for permanent fund

dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support services agency under AS 25.27.140 - 25.27.220;

(2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100, or AS 47.12.120(b)(4);

(3) claims on defaulted education loans under AS 43.23.067;

(4) court ordered fines;

(5) writs of execution under AS 09.35 of a judgment that is entered

(A) against a minor in a civil action to recover damages and court costs;

(B) under AS 09.65.255 against the parent, parents, or legal guardian of an unemancipated minor;

(6) a debt owed by an eligible individual to an agency of the state, including the University of Alaska, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;

(7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2);

(8) a judgment for unpaid rent or damage owed to a landlord by an eligible individual that was a tenant of the landlord; in this paragraph, "tenant" has the meaning given in AS 34.03.360.

* **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. Sections 1 - 11 of this Act apply to a residential rental agreement for a period beginning on or after the effective date of this Act.