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**CS FOR HOUSE BILL NO. 104( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-NINTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVE TILTON**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to immunity for a fire department and employees or members of a fire**  
2 **department."**

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

4 **\* Section 1.** AS 09.65.070(c) is repealed and reenacted to read:

5 (c) An action for tort or breach of a contractual duty based on the act or  
6 omission of an employee or member of a fire department in the execution of a function  
7 for which the department is established may not be maintained against an employee or  
8 member of a fire department. An action for tort or breach of a contractual duty based  
9 on the act or omission of an employee or member of a fire department in the execution  
10 of a function for which the department is established may not be maintained against a  
11 fire department unless the action alleges intentional misconduct or gross negligence.  
12 This subsection does not apply to an action for tort or breach of a contractual duty  
13 based on the act or omission of an employee or member of a fire department in the  
14 execution of a duty under contract with a private entity. In this subsection, "fire

department" means a fire department that is

(1) operated and maintained by a municipality or village; or

(2) registered with the state fire marshal and provides services under contract or agreement with a municipality or village.

\* Sec. 2. AS 09.65.070(d) is amended to read:

(d) Notwithstanding (c) of this section, an [AN] action for damages may not be brought against a municipality or any of its agents, officers, or employees if the claim

(1) is based on a failure of the municipality, or its agents, officers, or employees, when the municipality is neither owner nor lessee of the property involved,

(A) to inspect property for a violation of any statute, regulation, or ordinance, or a hazard to health or safety;

(B) to discover a violation of any statute, regulation, or ordinance, or a hazard to health or safety if an inspection of property is made; or

(C) to abate a violation of any statute, regulation, or ordinance, or a hazard to health or safety discovered on property inspected;

(2) is based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty by a municipality or its agents, officers, or employees, whether or not the discretion involved is abused;

(3) is based upon the grant, issuance, refusal, suspension, delay, or denial of a license, permit, appeal, approval, exception, variance, or other entitlement, or a rezoning;

(4) is based on the exercise or performance during the course of gratuitous extension of municipal services on an extraterritorial basis;

(5) is based upon the exercise or performance of a duty or function upon the request of, or by the terms of an agreement or contract with, the state to meet emergency public safety requirements; or

(6) is based on the exercise or performance of a duty in connection with an enhanced 911 emergency system and is not based on an intentional act of

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misconduct or on an act of gross negligence.