

HOUSE BILL NO. 487

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES ROBINSON, Elton, Brown

Introduced: 2/9/96

Referred: Labor and Commerce, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the Uniform Residential Landlord and Tenant Act and the**
2 **civil remedy of forcible entry and detainer as they relate to mobile home park**
3 **operators and mobile home park dwellers and tenants."**

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

5 * **Section 1.** FINDINGS AND PURPOSE. The legislature finds that the position of the
6 two dissenting justices in Sharpe v. Trail, 902 P.2d 304 (Alaska 1995), has merit, and it is the
7 purpose of this Act to give effect to that position.

8 * **Sec. 2.** AS 09.45 is amended by adding a new section to read:

9 Sec. 09.45.145. ACTION AFFECTING MOBILE HOME DWELLER OR
10 TENANT. (a) When an action to recover possession is brought and maintained under
11 AS 09.45.060 - 09.45.160 by a mobile home park operator against a mobile home park
12 dweller or tenant for a reason set out in AS 34.03.225(a), the court shall,
13 notwithstanding any statutory provision to the contrary,

14 (1) inquire into whether the plaintiff acted in good faith, as that term

1 is defined in AS 34.03.360, in the conduct giving rise to the action to recover
2 possession; under this paragraph, the court's inquiry is not limited to a determination
3 of whether the plaintiff was objectively honest in fact in the plaintiff's conduct but
4 may also consider whether the plaintiff was motivated to act by a dishonest purpose,
5 by a reason different than one expressed, or by a reason not related to the conduct or
6 circumstances on which the action for recovery is allegedly based; the existence of a
7 motive based on a dishonest purpose, different reason, or unrelated reason would
8 permit the finding by the court that the plaintiff was not acting in good faith; if, under
9 this paragraph, the court determines that the plaintiff breached the obligation to
10 perform in good faith established by AS 34.03.320, the court may deny the plaintiff
11 recovery of possession;

12 (2) before granting or denying the plaintiff recovery of possession,
13 consider whether plaintiff's recovery of possession is equitable to the parties in view
14 of all the circumstances under which relief by the action to recover possession is
15 sought.

16 (b) A judgment issued under AS 09.45.060 - 09.45.160 giving a mobile home
17 park operator possession of space in a mobile home park must contain a provision that
18 the person being evicted from that space has 120 days from the date of judgment to
19 vacate the space, so long as the person being evicted pays when it is due the rent for
20 the space that was in effect on the date the action under AS 09.45.060 - 09.45.160 was
21 filed.

22 * **Sec. 3.** AS 34.03.225(c) is amended to read:

23 (c) When [, UNDER (a) OF THIS SECTION,] a mobile home park owner is
24 required to give notice to evict a mobile home owner or a mobile home park dweller
25 or tenant,

26 (1) except as provided in (2) of this subsection, provision of notice
27 to quit under AS 09.45.100 - 09.45.105 satisfies the requirement of notice; **and**

28 (2) the notice shall be in writing and, notwithstanding
29 AS 09.45.100(c)(1) - (3), shall be served only in person upon the mobile home
30 dweller or tenant or upon a member of the dweller's or tenant's household who
31 resides in the mobile home and who is not a minor.

1 * **Sec. 4.** APPLICABILITY. The provisions of this Act apply to a rental agreement under
2 AS 34.03 between a mobile home park operator and a mobile home park dweller or tenant
3 (1) entered into on or after the effective date of this Act; or
4 (2) in effect on the effective date of this Act, to the extent constitutionally
5 permissible.