

Introduced: 4/4/74  
Referred: State Affairs

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 HCS CS SENATE BILL NO. 520 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the establishment of rent  
7 regulation and control in emergency situations."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 34 is amended by adding a new chapter to read:

10 CHAPTER 06. EMERGENCY RESIDENTIAL RENT

11 REGULATION AND CONTROL.

12 ARTICLE 1. POLICY.

13 Sec. 34.06.010. LEGISLATIVE FINDINGS, PURPOSE. The legislature  
14 finds and declares that

15 (1) a serious public emergency may exist in the housing  
16 of a considerable number of persons in Alaska as the result of sudden  
17 economic development and uneven population growth;

18 (2) as a result of this emergency, the intervention of the  
19 state may be necessary to prevent speculative, unwarranted and abnormal  
20 increases in rents because there may continue to be, in some parts  
21 or all of the state, an acute shortage of dwellings;

22 (3) unless residential rents and evictions are regulated  
23 and controlled, disruptive practices and other abnormal housing  
24 conditions may produce serious threats to the public health, safety  
25 and general welfare and, to prevent these perils, preventative  
26 measures that may be invoked in the event of an emergency are  
27 imperative;

28 (4) legislative action is necessary to prevent exaction  
29 of unjust, unreasonable and oppressive rents and rental agreements,

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1 to forestall profiteering, speculation and other disruptive practices,  
2 and to prevent uncertainty, hardship and dislocation, all of which  
3 produce threats to the public peace, health and safety.

4 ARTICLE 2. ADMINISTRATION.

5 Sec. 34.06.020. DECLARATION OF HOUSING EMERGENCY. (a) When  
6 the governor finds that emergency conditions exist with regard to  
7 residential housing as described in sec. 10 of this chapter, he may  
8 by written proclamation declare that a state of housing emergency  
9 exists. The proclamation shall state the nature of the housing  
10 emergency, designate the area, or areas, affected and be published  
11 generally through the state in the manner provided by law. When the  
12 state of emergency no longer exists, the governor shall issue a  
13 written proclamation stating this fact and publish it generally  
14 throughout the state in the manner provided by law.

15 (b) On issuing a proclamation of a housing emergency, the  
16 governor may invoke the provisions of this chapter to regulate and  
17 control residential rents and evictions in some parts or all of the  
18 state.

19 Sec. 34.06.030. SCOPE OF EMERGENCY HOUSING REGULATIONS. Subject  
20 to the Administrative Procedure Act (AS 44.62), on recommendation of  
21 the commissioner of commerce who is charged with the administration of  
22 this chapter, the governor shall promulgate regulations concerning the  
23 control of residential rents, including but not limited to provision  
24 for the establishment and adjustment of maximum rents, the classifi-  
25 cation of residential housing accommodations and the regulation of  
26 evictions.

27 Sec. 34.06.040. INVESTIGATIONS. (a) The commissioner of  
28 commerce may make studies, conduct investigations and hearings, and  
29 obtain whatever information he considers necessary or proper to

1 prepare any regulation promulgated or order issued under this  
2 chapter, or to administer or enforce the provisions of this chapter.

3 (b) The commissioner may administer oaths and affirmations,  
4 and, whenever necessary, may issue subpoenas and require a person  
5 to appear and testify, or appear and produce documents, at any  
6 designated place. If a person refuses to obey a subpoena served  
7 upon him by the commissioner, the superior court of the judicial  
8 district in which that person is found, resides or transacts business,  
9 may issue an order requiring that person to appear and testify, pro-  
10 duce documents, or both. Any failure to obey an order of the superior  
11 court may be punished by the court as contempt.

12 (c) Administrative and adjudicative proceedings conducted under  
13 this chapter shall be conducted under the Administrative Procedure  
14 Act (AS 44.62).

15 Sec. 34.06.050. JUDICIAL REVIEW. A final determination or  
16 order issued, or a regulation promulgated, under this chapter is  
17 subject to judicial review under the Administrative Procedure Act  
18 (AS 44.62).

19 ARTICLE 3. PROHIBITIONS; ENFORCEMENT.

20 Sec. 34.06.060. PROHIBITIONS. (a) During a proclaimed housing  
21 emergency, regardless of any contract, lease or other obligation  
22 entered into, no person may demand or receive any rent for a residential  
23 housing accommodation in excess of the maximum rent established for  
24 that accommodation by the governor by regulation, or to do or omit  
25 to perform any act in violation of a regulation, order or requirement  
26 of the governor or the department under this chapter.

27 (b) During a proclaimed housing emergency, no person may remove  
28 or attempt to remove from any residential housing accommodation the  
29 tenant or occupant of the accommodation or to refuse to renew the lease

1 or agreement for the use of these accommodations because the tenant or  
2 occupant has taken, or proposes to take, action authorized or required  
3 by this chapter, or any regulation promulgated, or order or requirement  
4 issued, under it.

5 (c) During a proclaimed housing emergency, no landlord, or any  
6 person acting on his behalf, with intent to cause a tenant to vacate,  
7 may engage in any course of conduct, including but not limited to  
8 interruption or discontinuance of essential services, which inter-  
9 feres with or disturbs, or is intended to interfere with or disturb,  
10 the comfort, repose, peace or quiet of the tenant in his use or  
11 occupancy of a residential housing accommodation.

12 (d) No officer or employee of the department, or any agent of,  
13 or consultant to, the department may disclose, other than in the course  
14 of his official duty under this chapter, any information obtained under  
15 this chapter, or use any of that information for his personal benefit.

16 Sec. 34.06.070. INJUNCTIVE RELIEF. When, in the judgment of  
17 the department, a person has engaged, or is about to engage, in any  
18 acts or practices which constitute, or will constitute, a violation  
19 of this chapter, or the regulations promulgated, or an order or require-  
20 ment issued, under it, the department may apply to the superior court  
21 in the judicial district where the alleged violation has occurred,  
22 or is about to occur, for an order enjoining these acts or practices,  
23 or for an order enforcing compliance with this chapter, or the  
24 regulations promulgated, or orders or requirements issued, under it,  
25 or for an order directing the landlord to correct the violation. Upon  
26 a showing that this person has engaged in, or is about to engage in,  
27 any of these acts or practices, a permanent injunction, temporary  
28 restraining order, or other order as is appropriate, shall be granted  
29 without bond.

1           Sec. 34.06.080. CRIMINAL PENALTIES. A person who wilfully vio-  
2 lates any provision of this chapter, or the regulations promulgated,  
3 or orders issued, under it, or who makes any statement or falsifies any  
4 document, record or report required to be kept or filed under this  
5 chapter, or the regulations promulgated or orders issued under it, or  
6 who wilfully omits or neglects to make any material statement or entry  
7 required to be made in that document, record or report, is upon con-  
8 viction guilty of a misdemeanor and punishable by a fine of not more  
9 than \$1,000, or by imprisonment for not more than one year, or by both.

10           Sec. 34.06.090. ACTION FOR DAMAGES. (a) If a landlord who  
11 receives rent from a tenant violates a provision of this chapter, or  
12 a regulation promulgated or an order issued under it, that prescribes  
13 the maximum rent with respect to residential housing accommodations for  
14 which rent is received from the tenant, the tenant paying the rent may,  
15 within two years from the date of the occurrence of the violation, except  
16 as provided in this section, bring an action against the landlord on  
17 account of the overcharge. In that action, the landlord is liable for  
18 reasonable attorney fees and costs as determined by the court, plus  
19 whichever of the following sums is the greater:

20           (1) an amount not more than three times the amount of the  
21 overcharge, or overcharges, upon which the action is based, as the  
22 court in its discretion may determine; or

23           (2) an amount not less than \$25 nor more than \$50, as the  
24 court in its discretion may determine; however, that amount shall be  
25 the amount of the overcharge or overcharges or \$25, whichever is the  
26 greater, if the defendant proves that the violation of the regulation  
27 or order in question was neither wilful nor the result of failure to  
28 take practicable precautions against the occurrence of the violation.

29           (b) If a landlord who receives rent from a tenant violates a

1 regulation or order of the department prescribing maximum rent with  
2 respect to the residential housing accommodations for which rent is re-  
3 ceived from the tenant, and the tenant fails to institute an action under  
4 (a) of this section within 30 days from the date of the occurrence of the  
5 violation or is not entitled for any reason to bring the action, the  
6 department may bring an action under this section within the two-year  
7 period prescribed in (a) of this section. If the department brings the  
8 action, the tenant affected is thereafter barred from bringing an action  
9 for the same violation or violations.

10 (c) A judgment in an action for damages under (a) and (b) of  
11 this section is a bar to the recovery either by the tenant or the  
12 department under this section of any damages in any other action against  
13 the same landlord on account of the same overcharge before the bringing  
14 of the action in which the judgment was rendered. Where judgment is ren-  
15 dered in favor of the department, there shall be paid to the tenant from  
16 the sum recovered one-third of the recovery, exclusive of costs and other  
17 disbursements.

18 (d) If a landlord who receives rent from a tenant violates  
19 an order of the department containing a directive that rent collected  
20 in excess of the maximum rent to be refunded to the tenant within 30 days,  
21 the department may, within one year after the expiration of the 30-day  
22 period, or after the order becomes final, bring an action against the  
23 landlord on account of the landlord's failure to make the prescribed  
24 refund. In that action, the landlord is liable for reasonable attorney  
25 fees and costs as determined by the court, plus whichever of the  
26 following sums is the greater:

27 (1) an amount not more than three times the amount directed  
28 to be refunded, or the amount directed to be refunded, upon which the  
29 action is based, as the court in its discretion may determine; or

1 (2) an amount not less than \$25 nor more than \$50, as the  
2 court in its discretion may determine; however, that amount shall be  
3 the amount directed to be refunded or \$25, whichever is the greater, if  
4 the defendant proves that the violation of the order in question was  
5 neither wilful nor the result of failure to take practical precautions  
6 against the occurrence of the violation.

7 (e) The tenant paying the rent also may bring an action under  
8 (d) of this section if the department fails to bring an action within  
9 30 days from the date of the occurrence of the violation. If an action  
10 is brought by the department, the tenant affected is thereafter barred  
11 from bringing an action for the same violation.

12 (f) An action brought under (d) or (e) of this section either  
13 by the department or the tenant, as the case may be, bars recovery  
14 under this section for damages in any other action against the same  
15 landlord on account of the same violation before the bringing of the  
16 action in which the judgment was rendered. Where an action is brought  
17 by the tenant, the damages which shall be awarded to the tenant shall be  
18 the same as if the action were brought by the department. Where  
19 judgment is rendered in favor of the department in the action, there shall  
20 be paid to the tenant from the sum recovered one-third of the recovery,  
21 exclusive of the costs and other disbursements.

22 (g) Where, after the department has granted a certificate of  
23 eviction certifying that the landlord may pursue his legal remedies to  
24 acquire possession, and a tenant voluntarily removes from a residential  
25 housing accommodation or has been removed from it by action or pro-  
26 ceeding to evict from or recover possession of that accommodation upon  
27 the ground that the landlord seeks in good faith to recover possession  
28 of the accommodation for any purpose specified under law, and the  
29 landlord leases or sells the housing accommodation or the space

1 previously occupied by it, or permits use of it in any manner other  
2 than contemplated in the eviction certificate, the landlord shall,  
3 unless good cause is shown, be liable to the tenant for three times  
4 the damages sustained on account of the removal plus reasonable attorney  
5 fees and costs as determined by the court. In addition to any other  
6 damage, the cost of removal of property shall be a lawful measure of  
7 damage.

8 (h) A tenant who has vacated his residential housing accommodation  
9 because the landlord, or any person acting on his behalf, with intent  
10 to cause the tenant to vacate, engaged in a course of conduct, including  
11 but not limited to interruption or discontinuance of essential services,  
12 which interfered with or disturbed, or was intended to interfere with  
13 or disturb, the comfort, repose, peace or quiet of the tenant in his  
14 use or occupancy of the residential housing accommodation may, within  
15 90 days after vacating, apply for a determination from the department  
16 that the housing accommodation was vacated as a result of that conduct,  
17 and may within one year after the determination, bring an action against  
18 the landlord by reason of his misconduct under this subsection. In  
19 this action the landlord shall be liable to the tenant for three times  
20 the damages sustained on account of the landlord's misconduct plus  
21 reasonable attorney fees and costs as determined by the court. In  
22 addition to any other damages the cost of removal of property shall be  
23 a lawful measure of damages.

24 ARTICLE 4. MISCELLANEOUS.

25 Sec. 34.06.100. DEFINITIONS. In this chapter

- 26 (1) "commissioner" means the commissioner of commerce;  
27 (2) "department" means the Department of Commerce;  
28 (3) "essential services" means running water, hot water,  
29 heat, sanitary facilities or the supply of other like services;

1 (4) "overcharge" means the amount by which the consideration  
2 paid by a tenant to a landlord exceeds the applicable maximum rent;

3 (5) "residential housing accommodation" means any single  
4 or multiple unit private dwelling, including mobile homes, or any  
5 structure on the land that may be leased for any term of one week or  
6 longer, or other condition of tenancy, that is used for dwelling  
7 purposes.

8 Sec. 34.06.110. SHORT TITLE. This chapter may be cited as the  
9 "Emergency Residential Housing Rent Regulation and Control Act".

10 \* Sec. 2. AS 44.62.330 is amended by adding a new paragraph to read:

11 (37) Department of Commerce, under the Emergency Residential  
12 Housing Rent Regulation and Control Act (AS 34.06).