

Introduced: 3/19/75  
Referred: Commerce

1 IN THE SENATE

BY MILLER AND HUBER

2 *FCCS HCS* SENATE BILL NO. 290

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to rent regulation and control in  
7 emergency situations; and providing for an effective  
8 date."

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

10 \* Section 1. AS 34.06 is amended by adding a new section to read:

11 Sec. 34.06.035. INVESTIGATIONS. (a) The commissioner of commerce  
12 may make studies, conduct investigations and hearings, and obtain what-  
13 ever information he considers necessary or proper to prepare a regulation  
14 promulgated or order issued under this chapter, or to administer or  
15 enforce the provisions of this chapter.

16 (b) The commissioner may administer oaths and affirmations, and,  
17 whenever necessary, may issue subpoenas and require a person to appear  
18 and testify, or appear and produce documents, at any designated place.  
19 If a person refuses to obey a subpoena served upon him by the commis-  
20 sioner, the superior court of the judicial district in which that person  
21 is found, resides or transacts business, may issue an order requiring  
22 that person to appear and testify, produce documents, or both. Failure  
23 to obey an order of the superior court may be punished by the court as  
24 contempt.

25 \* Sec. 2. AS 34.06 is amended by adding new sections to read:

26 Sec. 34.06.042. PROHIBITIONS. (a) During a proclaimed housing  
27 emergency, regardless of a contract, lease or other obligation entered  
28 into, no person may demand or receive rent for a residential housing  
29 accommodation in excess of the maximum rent established for that accom-

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1 modation by the commissioner by regulation, or to do or omit to perform  
2 an act in violation of a regulation, order or requirement of the commis-  
3 sioner or the department under this chapter. However, the commissioner  
4 may by regulation permit increases in the maximum rent established under  
5 this subsection to allow for increases in local property taxes or charges  
6 for utility services including but not limited to heat, water, electri-  
7 city, natural gas, garbage or other solid waste disposal services when  
8 supplied by the landlord.

9 (b) During a proclaimed housing emergency, no person may remove or  
10 attempt to remove from a residential housing accommodation the tenant or  
11 occupant of the accommodation or to refuse to renew the lease or agree-  
12 ment for the use of these accommodations because the tenant or occupant  
13 has taken, or proposes to take, action authorized or required by this  
14 chapter, or a regulation promulgated, or order or requirement issued,  
15 under it.

16 (c) During a proclaimed housing emergency, no landlord, or a person  
17 acting on his behalf, with intent to cause a tenant to vacate, may engage  
18 in a course of conduct, including but not limited to interruption or  
19 discontinuance of essential services, which interferes with or disturbs,  
20 or is intended to interfere with or disturb, the comfort, repose, peace  
21 or quiet of the tenant in his use or occupancy of a residential housing  
22 accommodation.

23 (d) No officer or employee of the department, or an agent of, or  
24 consultant to, the department may disclose, other than in the course of  
25 his official duty under this chapter, information obtained under this  
26 chapter, or use any of that information for his personal benefit.

27 Sec. 34.06.044. INJUNCTIVE RELIEF. When, in the judgment of the  
28 department, a person has engaged, or is about to engage, in acts or  
29 practices which constitute, or will constitute, a violation of this

1 chapter, or the regulations promulgated, or an order or requirement  
2 issued, under it, the department may apply to the superior court in the  
3 judicial district where the alleged violation has occurred, or is about  
4 to occur, for an order enjoining these acts or practices, or for an order  
5 enforcing compliance with this chapter, or the regulations promulgated,  
6 or orders or requirements issued, under it, or for an order directing  
7 the landlord to correct the violation. Upon a showing that this person  
8 has engaged in, or is about to engage in, any of these acts or practices,  
9 a permanent injunction, temporary restraining order, or other order as  
10 is appropriate, shall be granted without bond.

11 Sec. 34.06.046. CRIMINAL PENALTIES. A person who wilfully violates  
12 a provision of this chapter, or the regulations promulgated, or orders  
13 issued, under it, or who makes a statement or falsifies a document,  
14 record or report required to be kept or filed under this chapter, or the  
15 regulations promulgated or orders issued under it, or who wilfully omits  
16 or neglects to make a material statement or entry required to be made  
17 in that document, record or report, is upon conviction guilty of a mis-  
18 demeanor and punishable by a fine of not more than \$1,000, or by impris-  
19 onment for not more than one year, or by both.

20 Sec. 34.06.048. ACTION FOR DAMAGES. (a) If a landlord who re-  
21 ceives rent from a tenant violates a provision of this chapter, or a  
22 regulation promulgated or an order issued under it, that prescribes the  
23 maximum rent with respect to residential housing accommodations for which  
24 rent is received from the tenant, the tenant paying the rent, within one  
25 year from the date of the occurrence of the violation, except as provided  
26 in this section, may bring an action against the landlord on account of  
27 the overcharge. In that action, the landlord is liable for reasonable  
28 attorney fees and costs as determined by the court, plus whichever of the  
29 following sums is the greater:

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

4 (2) an amount not less than \$25 nor more than \$50, as the  
5 court in its discretion may determine; however, that amount shall be the  
6 amount of the overcharge or \$25, whichever is the greater, if the defen-  
7 dant proves that the violation of the regulation or order in question was  
8 neither wilful nor the result of failure to take practicable precautions  
9 against the occurrence of the violation.

10 (b) If a landlord who receives rent from a tenant violates a regu-  
11 lation or order of the department prescribing maximum rent with respect  
12 to the residential housing accommodations for which rent is received  
13 from the tenant, and the tenant fails to institute an action under (a)  
14 of this section within 30 days from the date of the occurrence of the  
15 violation or is not entitled for any reason to bring the action, the de-  
16 partment may bring an action under this section within the one-year  
17 period prescribed in (a) of this section. If the department brings the  
18 action, the tenant affected is thereafter barred from bringing an action  
19 for the same violation.

20 (c) A judgment in an action for damages under (a) and (b) of this  
21 section is a bar to the recovery either by the tenant or the department  
22 under this section of damages in any other action against the same land-  
23 lord on account of the same overcharge before the bringing of the action  
24 in which the judgment was rendered. When judgment is rendered in favor  
25 of the department, there shall be paid to the tenant from the sum  
26 recovered one-third of the recovery, exclusive of costs and other dis-  
27 bursements.

28 (d) If a landlord who receives rent from a tenant violates an  
29 order of the department containing a directive that rent collected in

1 excess of the maximum rent to be refunded to the tenant within 30 days,  
2 the department may, within one year after the expiration of the 30-day  
3 period, or after the order becomes final, bring an action against the  
4 landlord on account of the landlord's failure to make the prescribed  
5 refund. In that action, the landlord is liable for reasonable attorney  
6 fees and costs as determined by the court, plus whichever of the follow-  
7 ing sums is the greater:

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

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

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

22 (f) An action brought under (d) or (e) of this section either by  
23 the department or the tenant, as the case may be, bars recovery under  
24 this section for damages in any other action against the same landlord on  
25 account of the same violation before the bringing of the action in which  
26 the judgment was rendered. When an action is brought by the tenant, the  
27 damages which shall be awarded to the tenant shall be the same as if the  
28 action were brought by the department. When judgment is rendered in  
29 favor of the department in the action, there shall be paid to the tenant

1 from the sum recovered one-third of the recovery, exclusive of the costs  
2 and other disbursements.

3 (g) When, after the department has granted a certificate of evic-  
4 tion certifying that the landlord may pursue his legal remedies to  
5 acquire possession, and a tenant voluntarily removes from a residential  
6 housing accommodation or has been removed from it by action or proceeding  
7 to evict from or recover possession of that accommodation upon the  
8 ground that the landlord seeks in good faith to recover possession of the  
9 accommodation for any purpose specified under law, and the landlord  
10 leases or sells the housing accommodation or the space previously  
11 occupied by it, or permits use of it in any manner other than contem-  
12 plated in the eviction certificate, unless good cause is shown, the land-  
13 lord is liable to the tenant for three times the damages sustained on  
14 account of the removal plus reasonable attorney fees and costs as deter-  
15 mined by the court. In addition to any other damage, the cost of re-  
16 moval of property is a lawful measure of damage.

17 (h) A tenant who has vacated his residential housing accommodation  
18 because the landlord, or a person acting on his behalf, with intent to  
19 cause the tenant to vacate, engaged in a course of conduct, including  
20 but not limited to interruption or discontinuance of essential services,  
21 which interfered with or disturbed, or was intended to interfere with or  
22 disturb, the comfort, repose, peace or quiet of the tenant in his use or  
23 occupancy of the residential housing accommodation may, within 90 days  
24 after vacating, apply for a determination from the department that the  
25 housing accommodation was vacated as a result of that conduct, and may  
26 within one year after the determination, bring an action against the  
27 landlord by reason of his misconduct under this subsection. In this  
28 action the landlord is liable to the tenant for three times the damages  
29 sustained on account of the landlord's misconduct plus reasonable

1 attorney fees and costs as determined by the court. In addition to any  
2 other damages the cost of removal of property is a lawful measure of  
3 damages.

4 \* Sec. 3. AS 34.06.050 is amended by adding new paragraphs to read:

5 (4) "essential services" means running water, hot water, heat,  
6 sanitary facilities, or the supply of other like services; and electri-  
7 city and garbage or other solid waste disposal services when supplied  
8 by the landlord;

9 (5) "overcharge" means the amount by which the consideration  
10 paid by a tenant to a landlord exceeds the applicable maximum rent.

11 \* Sec. 4. Section 3, ch. 128, SLA 1974, is amended to read:

12 Sec. 3. This Act expires July 1, 1976 [1975].

13 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-  
14 070(c).