

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2

HOUSE BILL NO. 309

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the landlord and tenant relation-
7 ship; relating to tenancies in property secured by
8 financial obligations; relating to the information
9 pamphlet on landlord and tenant rights and its avail-
10 ability; and amending Rule 85 of the Alaska Rules of
11 Civil Procedure and Rule 8 of the Alaska District
12 Court Rules of Civil Procedure."

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

14 * Section 1. AS 09.45.070 is amended by adding a new subsection to
15 read:

16 (c) The court shall give priority on the calendar to an action
17 filed under AS 09.45.070 - 09.45.160.

18 * Sec. 2. AS 09.45.100 is amended to read:

19 Sec. 09.45.100. REQUISITES OF NOTICE TO QUIT. A notice to quit
20 shall be in writing and shall be served upon the tenant or person in
21 possession by being delivered to the tenant or person or left at the
22 premises in case of absence from the premises, or the notice may be
23 sent by registered or certified mail, in which case an additional
24 three days shall be added to the notice period required under AS 09.-
25 45.110 [10 DAYS].

26 * Sec. 3. AS 09.45.110 is amended to read:

27 Sec. 09.45.110. PERIOD BETWEEN SERVICE OF NOTICE AND ACTION
28 BROUGHT. An action for the recovery of the possession of the premises
29 may be maintained in the cases specified in AS 09.45.090(2) when the

1 notice to quit has been served upon the tenant or person in possession
2 for the period of seven [10] days before the commencement of the
3 action. If an action for the recovery of the premises was filed
4 against the tenant within the previous 12 months, the notice to quit
5 need be served upon the tenant or the person in possession only three
6 days before the commencement of the action. If [UNLESS] the leasing
7 or occupation is for the purpose of farming or agriculture, [IN WHICH
8 CASE] the notice shall be served 90 days before the commencement of
9 the action.

10 * Sec. 4. AS 09.45.120 is amended to read:

11 Sec. 09.45.120. SUMMONS AND CONTINUANCE. Summons in actions for
12 forcible entry and detainer shall be served not less than two [NOR
13 MORE THAN FOUR] days before the date of trial. A [NO] continuance may
14 not [SHALL] be granted for a longer period than two court days unless
15 the defendant applying for the continuance deposits with [GIVES AN
16 UNDERTAKING TO THE ADVERSE PARTY, WITH SURETIES APPROVED BY] the court
17 [CONDITIONED TO THE PAYMENT OF] the rent that will [MAY] accrue during
18 the next month if judgment is rendered against the defendant.

19 * Sec. 5. AS 09.45.130 is amended to read:

20 Sec. 09.45.130. ACTION AGAINST PERSONS PAYING RENT IN ADVANCE.
21 The service of a notice to quit upon a tenant or person in possession
22 does not authorize an action to be maintained against the tenant or
23 person for the possession of the premises until the expiration of the
24 period for which that tenant or person may have paid rent for the
25 premises in advance. To authorize the [AN] action against a tenant or
26 person in possession who has paid rent in advance, the [A] notice must
27 be given under AS 09.45.110 [AT LEAST 10 DAYS] before the date the
28 rent is due again [IN CASE OF A MONTH-TO-MONTH TENANCY OR AT LEAST
29 THREE DAYS BEFORE IN THE CASE OF A WEEK-TO-WEEK TENANCY].

1 * Sec. 6. AS 22.15.040(a) is amended to read:

2 (a) When a claim for relief does not exceed \$5,000 exclusive of
3 costs, interest, and attorney fees, and request is so made, the dis-
4 trict judge or magistrate shall hear the action as a small claim
5 unless important or unusual points of law are involved. When a claim
6 for possession under AS 22.15.030(a)(6) does not exceed \$5,000 exclu-
7 sive of costs, interest, and attorney fees, the district judge or
8 magistrate shall hear the action as a small claim unless important or
9 unusual points of law are involved. The supreme court shall prescribe
10 the procedural rules and standard forms to assure simplicity and the
11 expeditious handling of small claims.

12 * Sec. 7. AS 34.03.010 is amended by adding a new subsection to read:

13 (c) A person who has not paid rent in full for the first rental
14 period under a rental agreement does not acquire rights under this
15 chapter. A person whose right to the use of premises depends upon
16 rights acquired by another person does not acquire rights unless the
17 other person has acquired rights under this chapter.

18 * Sec. 8. AS 34.03.070(a) is amended to read:

19 (a) A landlord may not demand or receive prepaid rent or a
20 security deposit, however denominated, in an amount or value in excess
21 of three [TWO] months' periodic rent.

22 * Sec. 9. AS 34.03.070(g) is amended to read:

23 (g) If the landlord or tenant gives notice that complies with
24 AS 34.03.290, the landlord shall mail the written notice and refund
25 required by (b) of this section within 14 days after the tenancy is
26 terminated and possession is delivered by the tenant to the address
27 supplied by the tenant. If the tenant does not give notice that
28 complies with AS 34.03.290, the landlord shall mail the written notice
29 and refund required by (b) of this section within 30 days after the

1 tenancy is terminated, possession is delivered by the tenant, or the
2 landlord becomes aware that the dwelling unit is abandoned. If the
3 landlord does not know the mailing address of the tenant, but knows or
4 has reason to know how to contact the tenant to give the notice re-
5 quired by (b) of this section, the landlord shall make a reasonable
6 effort to deliver the notice and refund to the tenant. If the tenant
7 does not provide the landlord with an address within 90 days after the
8 tenancy is terminated and if the landlord is unable to contact the
9 tenant, the landlord may retain the amount not applied under (b) of
10 this section.

11 * Sec. 10. AS 34.03.100(c) is amended to read:

12 (c) The landlord and tenant of a one- or two-family residence
13 may agree in writing that the tenant perform the landlord's duties
14 specified in (a)(3), (4) [(a)(4)], (5), (6), and (7) of this section.
15 The tenant may not agree to maintain elevators in good and safe work-
16 ing order. They may also agree in writing that the tenant perform
17 specified repairs, maintenance tasks, alterations, and remodeling.
18 Agreements are allowed under this subsection only if the transaction
19 is entered into in good faith and not for the purpose of evading the
20 obligations of the landlord.

21 * Sec. 11. AS 34.03.140(a) is amended to read:

22 (a) The tenant may not unreasonably withhold consent to the
23 landlord to enter into the dwelling unit in order to inspect the
24 premises, make necessary or agreed repairs, decorations, alterations,
25 or improvements, supply necessary or agreed services, remove property
26 belonging to the landlord, or exhibit the dwelling unit to prospective
27 or actual purchasers, mortgagees, tenants, workers or contractors.

28 * Sec. 12. AS 34.03.140(c) is amended to read:

29 (c) A landlord may not abuse the right of access or use it to

1 harass the tenant. Except in case of emergency or if it is imprac-
2 ticable to do so, the landlord shall, when possible, give the tenant
3 at least 24 hours notice of intention to enter and may enter only at
4 reasonable times and with the tenant's consent.

5 * Sec. 13. AS 34.03 is amended by adding a new section to article 4 to
6 read:

7 Sec. 34.03.155. ADDITIONAL TENANT OBLIGATIONS. If a landlord
8 defaults on a financial obligation that secures property occupied by a
9 tenant of the landlord, the holder of the financial obligation may
10 advise the landlord and the tenant of the landlord to make payments
11 otherwise due to the landlord directly to the holder of the financial
12 obligation for the benefit of the landlord and holder. A payment made
13 under this section to the holder of the financial obligation dis-
14 charges to that extent the debt of tenant to the landlord.

15 * Sec. 14. AS 34.03.220(a) is amended to read:

16 (a) Except as provided in this chapter, if there is a material
17 noncompliance by the tenant with the rental agreement or noncompliance
18 with AS 34.03.120 materially affecting health and safety, the landlord
19 may deliver a written notice to the tenant specifying the acts and
20 omissions constituting the breach and specifying that the rental
21 agreement will terminate upon a date not less than 20 days after
22 receipt of the notice. If the breach is not remedied in 10 days, the
23 rental agreement terminates as provided in the notice subject to the
24 provisions of this section. If a public utility providing electric-
25 ity, natural gas, or water to the premises occupied by the tenant
26 discontinues the service to the premises for failure to pay for the
27 utility service, the landlord may deliver a written notice to the
28 tenant advising that the tenancy will terminate three days after the
29 delivery of the notice. If the breach is remediable by repairs or the

1 payment of damages or otherwise and the tenant adequately remedies the
2 breach before the date specified in the notice, the rental agreement
3 will not terminate. In the absence of due care by the tenant, if
4 substantially the same act or omission that constituted a prior non-
5 compliance of which notice was given recurs within six months, the
6 landlord may terminate the rental agreement upon at least 10 days
7 written notice specifying the breach and the date of termination of
8 the rental agreement.

9 * Sec. 15. AS 34.03.220(b) is amended to read:

10 (b) If rent is unpaid when due and the tenant fails to pay rent
11 in full within 10 days after written notice by the landlord of nonpay-
12 ment and the intention to terminate the rental agreement if the rent
13 is not paid within that period of time, the tenancy terminates unless
14 the landlord agrees to allow the tenant to remain in occupancy, and
15 the landlord may terminate the rental agreement and immediately re-
16 cover possession of the rental unit. Only [; ONLY] one written notice
17 of default need be given the tenant by the landlord as to any one
18 default. A landlord who has given written notice to the tenant under
19 this subsection may accept a partial payment of the rent due under the
20 rental agreement and extend the date for the eviction accordingly.

21 * Sec. 16. AS 34.03.230(b) is amended to read:

22 (b) During an absence of the tenant in excess of seven days, the
23 landlord may enter the dwelling unit at times reasonably necessary as
24 provided in AS 34.03.140. The landlord may reenter the dwelling unit
25 and terminate the rental agreement when the rent has not been paid,
26 the tenant failed to give the landlord notice of the absence, and the
27 tenant

28 (1) in a week-to-week tenancy has been absent for three
29 days;

1 (2) in a month-to-month tenancy has been absent for 10
2 days.

3 * Sec. 17. AS 34.03.260(a) is repealed and reenacted to read:

4 (a) Unless the tenant requests the landlord in writing to store
5 property owned by the tenant before termination of a tenancy including
6 but not limited to a termination after expiration of a lease or by
7 surrender or abandonment of the premises and the landlord agrees, the
8 landlord may consider personal property, including an automobile, left
9 on the premises to be abandoned and give notice to the tenant demand-
10 ing that the property be removed within the dates set out in the
11 notice but not less than 15 days after delivery or mailing of the
12 notice, and advising that if the property is not removed within the
13 time specified, it may be sold at a public sale. The landlord may
14 dispose of perishable commodities and personal property that is rea-
15 sonably determined by the landlord to be valueless or of such little
16 value that the cost of storing and conducting a public sale would
17 probably exceed the amount that would be realized from the sale in any
18 manner the landlord considers fit.

19 * Sec. 18. AS 34.03.260(b) is repealed and reenacted to read:

20 (b) A landlord who has agreed to store property of a tenant
21 under this section shall store the property in a place of safekeeping
22 and shall exercise reasonable care of the property, but is not respon-
23 sible to the tenant for loss not caused by the landlord's deliberate
24 or negligent act. If the landlord has agreed to store the property on
25 the premises previously demised, the storage cost may not exceed the
26 fair rental value of the premises. If the tenant's property is re-
27 moved to a commercial storage company, the storage cost includes the
28 actual charge for the storage and removal from the premises to the
29 place of storage.

1 * Sec. 19. AS 34.03.260(c) is repealed and reenacted to read:

2 (c) If the landlord has not agreed to store the personal proper-
3 ty of the tenant but the tenant makes response in writing that is
4 timely under (a) of this section of an intention to remove the per-
5 sonal property from the premises but does not remove the property
6 within the time specified in (a) of this section, it is conclusively
7 presumed that the tenant has abandoned the property. If the tenant
8 removes the property after the termination of the tenancy, the land-
9 lord is entitled to the cost of storage for the period the property
10 has remained in the landlord's safekeeping.

11 * Sec. 20. AS 34.03.260(d) is amended to read:

12 (d) The landlord is not liable [MAY NOT BE HELD TO RESPOND] in
13 damages in an action by a tenant claiming loss by reason of the land-
14 lord's storage [ELECTION, DESTRUCTION,] or disposition of property
15 under this section. A [, OR SALE. IF, HOWEVER, THE] landlord who
16 deliberately or negligently violates the provisions of this section [,
17 THE LANDLORD] is liable for actual damages and penal damages of an
18 amount not to exceed actual damages.

19 * Sec. 21. AS 34.20.090 is amended by adding a new subsection to read:

20 (d) A lease or a periodic tenancy created by the party or the
21 assigns of the party executing the deed of trust continue according to
22 the terms of the lease or periodic tenancy.

23 * Sec. 22. AS 42.30 is amended by adding a new section to read:

24 ARTICLE 6. RIGHTS OF LANDLORDS IN UTILITY SERVICE.

25 Sec. 42.30.400. RIGHTS OF LANDLORDS TO RECEIVE NOTICE OF THE
26 DISCONTINUANCE OF SERVICE. A public utility that provides electric-
27 ity, natural gas, or water to individual customers shall permit a
28 landlord to register as the owner of an improvement served by the
29 public utility. The public utility may not discontinue service to a

1 tenant of the improvement until 10 days after the public utility has
2 provided to the landlord written notice of an intention to discontinue
3 service.

4 * Sec. 23. AS 44.23.020(b)(8) is amended to read:

5 (8) prepare, publish and revise as it becomes useful or
6 necessary to do so an information pamphlet on landlord and tenant
7 rights and the means of making complaints to appropriate public agen-
8 cies concerning landlord and tenant rights [; THE CONTENTS OF THE
9 PAMPHLET AND ANY REVISION SHALL BE APPROVED BY THE DEPARTMENT OF LAW,
10 DIVISION OF CONSUMER PROTECTION, BEFORE PUBLICATION].

11 * Sec. 24. Rule 85(a)(3) of the Alaska Rules of Civil Procedure is
12 amended to read:

13 (3) Continuances. No continuance shall be granted for a
14 longer period than 2 days [,] unless the defendant applying for a
15 continuance deposits with [THEREFOR SHALL GIVE AN UNDERTAKING TO THE
16 ADVERSE PARTY, WITH SURETIES APPROVED BY] the court [, CONDITIONED TO
17 THE PAYMENT OF] the rent that will [MAY] accrue during the next month
18 if judgment is rendered against defendant.

19 * Sec. 25. Rule 85 of the Alaska Rules of Civil Procedure is amended by
20 adding a new paragraph to read:

21 (c) Priority on the Calendar. The trial court shall give pri-
22 ority on the calendar to an action brought under the forcible entry or
23 detainer provisions of law.

24 * Sec. 26. Rule 8 of the Alaska District Court Rules of Civil Procedure
25 is amended by adding a new paragraph to read:

26 (d) Notwithstanding (a) - (c) of this rule, when a claim for
27 possession under AS 22.15.030(a)(6) does not exceed \$5,000 exclusive
28 of costs, interest, and attorney fees, the district judge or magis-
29 trate shall hear the action as a small claim unless important or

1 unusual points of law are involved.

2 * Sec. 27. The Legislative Affairs Agency shall make copies of the
3 pamphlet prepared by the Department of Law under AS 44.23.020(b)(8), as
4 amended in sec. 23 of this Act, available to members of the public at
5 Legislative Information Offices throughout the state.

6