

**SENATE BILL NO. 35****IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SESSION****BY SENATOR POURCHOT**

Introduced: 1/21/91

Referred: C&amp;RA and Judiciary

**A BILL****FOR AN ACT ENTITLED**

1 "An Act amending the provisions establishing the civil remedy of forcible entry and  
2 detainer and amending the Uniform Residential Landlord and Tenant Act to reduce the  
3 time after giving written notice that a landlord must wait to terminate a tenancy for  
4 failure to pay rent when due; amending the Uniform Residential Landlord and Tenant Act  
5 with respect to illegal activities involving alcoholic beverages, controlled substances, and  
6 imitation controlled substances; relating to remedies for landlords to secure the possession  
7 of realty that is used for illegal activities involving alcoholic beverages, controlled  
8 substances, and imitation controlled substances; and relating to the duties of peace officers  
9 making arrests for activities involving alcoholic beverages, controlled substances, and  
10 imitation controlled substances in rental premises."

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

12 \* Section 1. AS 04.21 is amended by adding a new section to read:

1           Sec. 04.21.075. NOTICE TO LANDLORD FOLLOWING ARREST. (a) A peace officer  
2 who arrests a person for illegal activity involving alcoholic beverages on residential premises that  
3 the peace officer believes are occupied by a person who is not the owner of the premises shall

4                   (1) make a reasonable attempt to discover the identity of the owner of the  
5 premises;

6                   (2) notify the owner in writing, at the last address listed on the assessment roll  
7 maintained by the municipality under AS 29.45.160 if the premises are located within a  
8 municipality that levies and collects a property tax, and at any other address known to the peace  
9 officer, of the arrest.

10           (b) In this section, "illegal activity involving alcoholic beverages" has the meaning given  
11 in AS 34.03.360.

12 \* Sec. 2. AS 09.45.070 is repealed and reenacted to read:

13           Sec. 09.45.070. ACTION FOR FORCIBLE ENTRY AND DETAINER. (a) A person  
14 who owns premises may maintain an action to recover the possession of premises under  
15 AS 09.45.060 - 09.45.160

16                   (1) when a forcible entry ..... been made upon the premises;

17                   (2) when an entry is made in a peaceable manner and the possession is held by  
18 force; or

19                   (3) if illegal activity involving alcoholic beverages, illegal activity involving a  
20 controlled substance, or illegal activity involving an imitation controlled substance is the basis  
21 for termination of tenancy under AS 34.03.222.

22           (b) In this section, "illegal activity involving alcoholic beverages," "illegal activity  
23 involving a controlled substance," and "illegal activity involving an imitation controlled  
24 substance" have the meanings given in AS 34.03.360.

25 \* Sec. 3. AS 09.45.090 is amended to read:

26           Sec. 09.45.090. UNLAWFUL HOLDING BY FORCE. The following are cases of  
27 unlawful holding by force within the meaning of AS 09.45.060 - 09.45.160:

28                   (1) when the tenant or person in possession of a premises fails or refuses to pay  
29 the rent due on the lease or agreement under which the tenant or person holds [,] or deliver up  
30 the possession of the premises for more than five [10] days after demand made in writing for  
31 the possession;

1 (2) when, after a notice to quit as provided in AS 09.45.060 - 09.45.160, a person  
2 continues in the possession of the premises at the expiration of the time limited in the lease or  
3 agreement under which that person holds, or contrary to a condition or covenant in the lease or  
4 agreement, or without a written lease or agreement;

5 (3) when, after a notice to terminate the tenancy as provided in this title with  
6 reference to termination of estate at will or by sufferance, a person continues in possession of  
7 the premises after expiration of the time for determining the tenancy.

8 \* Sec. 4. AS 09.45.100 is amended to read:

9 Sec. 09.45.100. REQUISITES OF NOTICE TO QUIT. A notice to quit shall be in  
10 writing and shall be served upon the tenant or person in possession by being

11 (1) delivered to the tenant or person;

12 (2) [OR] left at the premises in case of absence from the premises; [,] or

13 (3) [THE NOTICE MAY BE] sent by registered or certified mail [, IN WHICH  
14 CASE AN ADDITIONAL THREE DAYS SHALL BE ADDED TO THE 10 DAYS].

15 \* Sec. 5. AS 09.45.100 is amended by adding a new subsection to read:

16 (b) If notice is provided by mail under (a)(3) of this section, an additional three days  
17 shall be added

18 (1) to the five days' notice if, under AS 09.45.090(1), the tenant or person in  
19 possession of the premises fails or refuses to pay the rent due on the lease or agreement under  
20 which the tenant holds or deliver up the possession of the premises; or

21 (2) to the required number of days of notice if notice to quit is given for a reason  
22 other than that set out in AS 09.45.090(1).

23 \* Sec. 6. AS 09.45.110 is amended to read:

24 Sec. 09.45.110. PERIOD BETWEEN SERVICE OF NOTICE AND ACTION  
25 BROUGHT. An action for the recovery of the possession of the premises may be maintained  
26 in the cases specified in AS 09.45.070(a)(3) and 09.45.090(2) when a [THE] notice to quit has  
27 been served upon the tenant or person in possession for the period of 10 days before the  
28 commencement of the action unless the leasing or occupation is for the purpose of farming or  
29 agriculture, in which case the notice shall be served 90 days before commencement of the action.

30 \* Sec. 7. AS 09.45.130 is amended by adding a new subsection to read:

31 (b) The provisions of (a) of this section do not apply to an action maintained against the

1 tenant or person in possession of the premises when the remedy provided by AS 09.45.060 -  
2 09.45.160 is used to seek that person's removal under circumstances described in  
3 AS 09.45.070(a)(3).

4 \* Sec. 8. AS 17.30 is amended by adding a new section to read:

5 Sec. 17.30.160. NOTICE TO LANDLORD FOLLOWING ARREST. (a) A peace  
6 officer who arrests a person for illegal activity involving a controlled substance or illegal activity  
7 involving an imitation controlled substance on residential premises that the peace officer believes  
8 are occupied by a person who is not the owner of the premises shall

9 (1) make a reasonable attempt to discover the identity of the owner of the  
10 premises;

11 (2) notify the owner in writing, at the last address listed on the assessment roll  
12 maintained by the municipality under AS 29.45.160 if the premises are located within a  
13 municipality that levies and collects a property tax, and at any other address known to the peace  
14 officer, of the arrest.

15 (b) In this section, "illegal activity involving a controlled substance" and "illegal activity  
16 involving an imitation controlled substance" have the meanings given in AS 34.03.360.

17 \* Sec. 9. AS 34.03.120 is amended to read:

18 Sec. 34.03.120. TENANT RESPONSIBILITIES [TO MAINTAIN DWELLING UNIT].

19 The tenant shall

20 (1) keep that part of the premises occupied and used by the tenant as clean and  
21 safe as the condition of the premises permit;

22 (2) dispose all ashes, rubbish, garbage, and other waste from the dwelling unit in  
23 a clean and safe manner;

24 (3) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean  
25 as their condition permits;

26 (4) use in a reasonable manner all electrical, plumbing, sanitary, heating,  
27 ventilating, air-conditioning, kitchen, and other facilities and appliances including elevators in the  
28 premises;

29 (5) not deliberately or negligently destroy, deface, damage, impair, or remove a  
30 part of the premises or knowingly permit any person to do so;

31 (6) not unreasonably disturb, or permit others on the premises with the tenant's

1 consent to unreasonably disturb, a neighbor's peaceful enjoyment of the premises; [AND]  
2 (7) maintain smoke detection devices as required under AS 18.70.095; and  
3 (8) not knowingly engage at the premises in an illegal activity involving  
4 alcoholic beverages, an illegal activity involving a controlled substance, or an illegal activity  
5 involving an imitation controlled substance, or knowingly permit others in the premises to  
6 engage in one or more of those activities at the rental premises.

7 \* Sec. 10. AS 34.03.220(a) is amended to read:

8 (a) Except as provided in this chapter, if there is a material noncompliance by the tenant  
9 with the rental agreement or noncompliance with AS 34.03.120(1) - (7) [AS 34.03.120] materially  
10 affecting health and safety, the landlord may deliver a written notice to the tenant specifying the  
11 acts and omissions constituting the breach and specifying that the rental agreement will terminate  
12 upon a date not less than 20 days after receipt of the notice. If the breach is not remedied in 10  
13 days, the rental agreement terminates as provided in the notice subject to the provisions of this  
14 section. If the breach is remediable by repairs or the payment of damages or otherwise and the  
15 tenant adequately remedies the breach before the date specified in the notice, the rental agreement  
16 will not terminate. In the absence of due care by the tenant, if substantially the same act or  
17 omission that constituted a prior noncompliance of which notice was given recurs within six  
18 months, the landlord may terminate the rental agreement upon at least 10 days written notice  
19 specifying the breach and the date of termination of the rental agreement.

20 \* Sec. 11. AS 34.03.220(b) is amended to read:

21 (b) If rent is unpaid when due and the tenant fails to pay rent within five [10] days after  
22 written notice by the landlord of nonpayment and the intention to terminate the rental agreement  
23 if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees  
24 to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement  
25 and immediately recover possession of the rental unit; only one written notice of default need be  
26 given the tenant by the landlord as to any one default.

27 \* Sec. 12. AS 34.03 is amended by adding a new section to read:

28 Sec. 34.03.222. NONCOMPLIANCE WITH RENTAL AGREEMENT: DRUG OR  
29 ILLEGAL ALCOHOL ACTIVITY ON PREMISES. (a) Except as provided in this chapter, if  
30 there is noncompliance with AS 34.03.120(8), the landlord  
31 (1) may terminate the rental agreement;

1 (2) shall, if the landlord terminates the rental agreement, deliver a written notice  
2 to the tenant advising of the termination of the rental agreement and specifying the acts  
3 constituting the breach; and

4 (3) may recover possession of the rental unit by giving notice under AS 09.45.100  
5 and 09.45.110 to the tenant specifying the breach and the date of the landlord's termination of  
6 the rental agreement.

7 (b) If the rental agreement is terminated under this section, the landlord shall return all  
8 prepaid rent and security deposits recoverable by the tenant under AS 34.03.070.

9 \* Sec. 13. AS 34.03.360 is amended by adding new paragraphs to read:

10 (19) "illegal activity involving alcoholic beverages" means an activity for which  
11 a peace officer has made an arrest for

12 (A) a violation of AS 04.11.010(a); or

13 (B) a person's delivery of an alcoholic beverage in violation of  
14 AS 04.11.010(b) in an area where the results of a local option election have, under  
15 AS 04.11.490 - 04.11.500, prohibited the Alcoholic Beverage Control Board from issuing,  
16 renewing, or transferring a liquor license or permit under AS 04;

17 (20) "illegal activity involving a controlled substance" means an activity for which  
18 a peace officer has made an arrest for a violation of AS 11.71.010(a), 11.71.020(a),  
19 11.71.030(a)(1), 11.71.030(a)(2), 11.71.040(a)(1), 11.71.040(a)(2), 11.71.050(a)(1), or  
20 11.71.050(a)(2);

21 (21) "illegal activity involving an imitation controlled substance" means an  
22 activity for which a peace officer has made an arrest for a violation of AS 11.73.010 - 11.73.030.