

**CS FOR SENATE BILL NO. 35 (JUDICIARY)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 3/13/91**  
**Referred: Rules**

**Sponsor(s): SENATORS POURCHOT, Halford**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to termination of tenancies and recovery of rental premises for  
 2 nonpayment of rent and certain illegal activities, to tenant responsibilities, to the civil  
 3 remedies of forcible entry and detainer and nuisance abatement, and to the duties of peace  
 4 officers to notify landlords of arrests involving certain illegal activity on rental premises."

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

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

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

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

12                   (2) notify the owner of the person's arrest

13                           (A) in person; or

14                           (B) in writing, at the last address listed on the assessment roll maintained

1 by the municipality under AS 29.45.160 if the premises are located within a municipality  
2 that levies and collects a property tax; if an address is not available, notice of the person's  
3 arrest may be sent to the property owner at any other address known to the peace officer.

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

6 \* **Sec. 2.** AS 09.45.090 is amended to read:

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

9 (1) when the tenant or person in possession of a premises

10 (A) fails or refuses to pay within five days the rent due on the lease or  
11 agreement under which the tenant or person holds, or fails to deliver up the possession  
12 of the premises within five [FOR 10] days after demand made in writing for the  
13 possession; for premises to which the provisions of AS 34.03 (Uniform Residential  
14 Landlord and Tenant Act) apply, notice provided under AS 34.03.220(b) by the  
15 person seeking to recover possession of the premises satisfies the notice requirements  
16 of this subparagraph; or

17 (B) violates AS 34.03.120(b) or AS 34.05.100(a) and, after a notice to  
18 quit as provided in AS 09.45.100, the tenant or person in possession of the premises  
19 fails or refuses to deliver up the possession of the premises within five days after  
20 demand made in writing for the possession;

21 (2) when, after a notice to quit as provided in AS 09.45.100 [AS 09.45.060 -  
22 09.45.160], a person continues in the possession of the premises

23 (A) at the expiration of the time limited in the lease or agreement under  
24 which that person holds;

25 (B) [, OR] contrary to a condition or covenant in the lease or agreement,  
26 including the breach of a condition or covenant set out in AS 34.03.120(a) but not  
27 including a condition or covenant relating to nonpayment of rent, or the prohibition  
28 set out in AS 34.03.120(b) or AS 34.05.100(a); or

29 (C) without a written lease or agreement;

30 (3) when, after a notice to terminate the tenancy as provided in this title with  
31 reference to termination of estate at will or by sufferance or after receipt of an order of

1 abatement under AS 09.50.210(a), a person continues in possession of the premises after  
2 expiration of the time for determining the tenancy.

3 \* **Sec. 3.** AS 09.45.100 is amended to read:

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

6 (1) delivered to the tenant or person;

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

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

10 \* **Sec. 4.** AS 09.45.100 is amended by adding a new subsection to read:

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

13 (1) to the five days' notice if,

14 (A) under AS 09.45.090(1)(A), the tenant or person in possession of the  
15 premises fails or refuses to pay the rent due on the lease or agreement under which the  
16 tenant holds or deliver up the possession of the premises; or

17 (B) under AS 09.45.090(1)(B), the tenant or person in possession of the  
18 premises fails or refuses to deliver up the possession of the premises; or

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

21 \* **Sec. 5.** AS 09.45 is amended by adding a new section to read:

22 Sec. 09.45.125. ORDER. If, after trial, the court finds and enters judgment against the  
23 tenant or person in possession, the court shall enter an order to vacate directed to the tenant or  
24 person in possession and, at the request of the person recovering possession of the premises, at  
25 the same time or at any later date may issue a writ of assistance to a peace officer to secure that  
26 officer's assistance in serving and enforcing the order to vacate.

27 \* **Sec. 6.** AS 09.45 is amended by adding a new section to read:

28 Sec. 09.45.135. ACTION AGAINST TENANT OCCUPYING PREMISES ABATED AS  
29 NUISANCE. In an action under AS 09.45.060 - 09.45.160 against a tenant or person in  
30 possession of premises for which an order of abatement has been entered under AS 09.50.210(a),  
31 a certified copy of the order of abatement is prima facie evidence of unlawful holding of the

1 premises by force by a person who remains on the premises.

2 \* **Sec. 7.** AS 09.50.170 is amended to read:

3 Sec. 09.50.170. ABATEMENT OF PLACES USED FOR CERTAIN ACTS [IMMORAL  
4 ACT]. A person who erects, establishes, continues, maintains, uses, owns, or leases a building,  
5 structure, or other place used for one of the following activities [THE PURPOSES OF  
6 LEWDNESS, ASSIGNATION, OR PROSTITUTION OR ANY OTHER IMMORAL ACT] is  
7 guilty of maintaining a nuisance, and the building, structure, or place, or the ground itself in or  
8 upon which or in any part of which the activity [LEWDNESS, ASSIGNATION, OR  
9 PROSTITUTION] is conducted, permitted, [OR] carried on, continues, or exists, and its [THE]  
10 furniture, fixtures, and other contents, constitute a nuisance and may be enjoined and abated;

11 (1) prostitution; or

12 (2) an illegal activity involving

13 (A) alcoholic beverages;

14 (B) a controlled substance; or

15 (C) an imitation controlled substance.

16 \* **Sec. 8.** AS 09.50.170 is amended by adding a new subsection to read:

17 (b) In this section, "illegal activity involving alcoholic beverages," "illegal activity  
18 involving a controlled substance," and "illegal activity involving an imitation controlled  
19 substance" have the meaning given in AS 34.03.360.

20 \* **Sec. 9.** AS 09.50 is amended by adding a new section to read:

21 Sec. 09.50.175. ADMISSIBILITY OF EVIDENCE TO PROVE NUISANCE. In an  
22 action brought under AS 09.50.170(a), the court may consider evidence of reputation within a  
23 community to prove the existence of a nuisance.

24 \* **Sec. 10.** AS 09.50.210 is amended to read:

25 Sec. 09.50.210. ORDER OF ABATEMENT. (a) If the court finds and enters [UPON]  
26 judgment that a nuisance exists, the court shall enter an order of abatement. The order of  
27 abatement shall direct

28 (1) termination of the lease or rental agreement, if any, on the premises  
29 subject to the order of abatement, if the tenant who occupies under the lease or rental  
30 agreement has been given notice of the proceedings under AS 09.50.170 - 09.50.240;

31 (2) [BE ENTERED DIRECTING] the removal from the building or place of the

1 fixtures, furniture, and movable property used in the nuisance and their sale in the manner  
2 provided for the sale of chattels under execution;

3 (3) [. THE ORDER SHALL ALSO DIRECT] the closing of the building or place  
4 against its use for any purpose for a period of one year unless sooner released.

5 (b) A person who breaks and enters or uses a building, structure, or other place [SO]  
6 directed to be closed by an order entered under (a)(3) of this section is guilty of contempt and  
7 shall be punished for contempt as provided in AS 09.50.200.

8 \* **Sec. 11.** AS 09.50.230 is amended to read:

9 Sec. 09.50.230. RELEASE OF PREMISES TO OWNER. (a) The court may order  
10 premises abated under AS 09.50.210 delivered to the owner and cancel the order of  
11 abatement if [IF] the owner of the premises

12 (1) has not been guilty of a contempt in the proceedings;

13 (2) [, AND] appears and pays all costs, fees, and allowances that [WHICH] are  
14 a lien on the premises; [,] and

15 (3) files a bond with sureties approved by the court in an amount [THE FULL  
16 VALUE OF THE PROPERTY AS] determined by the court to the effect that the owner will  
17 abate the nuisance that exists at the building or place and prevent the nuisance from being  
18 established within a period of one year thereafter [, THE COURT MAY ORDER THE  
19 PREMISES TO BE DELIVERED TO THE OWNER AND CANCEL THE ORDER OF  
20 ABATEMENT].

21 (b) The lease of the property does not release it from a judgment, lien, penalty, or  
22 liability to which it may be subject by law.

23 (c) A cancellation of the order of abatement does not affect a termination of a lease  
24 or rental agreement made under AS 09.50.210(a)(1).

25 \* **Sec. 12.** AS 17.30 is amended by adding a new section to read:

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

30 (1) make a reasonable attempt to discover the identity of the owner of the  
31 premises; and

1 (2) notify the owner of the person's arrest

2 (A) in person; or

3 (B) in writing, at the last address listed on the assessment roll maintained  
4 by the municipality under AS 29.45.160 if the premises are located within a municipality  
5 that levies and collects a property tax; if an address is not available, notice of the person's  
6 arrest may be sent to the property owner at any other address known to the peace officer.

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

9 \* **Sec. 13.** AS 34.03.120 is amended by adding a new subsection to read:

10 (b) The tenant may not knowingly engage at the premises in an illegal activity involving  
11 alcoholic beverages, an illegal activity involving a controlled substance, or an illegal activity  
12 involving an imitation controlled substance, or knowingly permit others in the premises to engage  
13 in one or more of those activities at the rental premises.

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

15 (a) Except as provided in this chapter, if there is a material noncompliance by the tenant  
16 with the rental agreement or noncompliance with AS 34.03.120(a) [AS 34.03.120] materially  
17 affecting health and safety, the landlord may deliver a written notice to the tenant specifying the  
18 acts and omissions constituting the breach and specifying that the rental agreement will terminate  
19 upon a date not less than 20 days after receipt of the notice. If the breach is not remedied in 10  
20 days, the rental agreement terminates as provided in the notice subject to the provisions of this  
21 section, and at that time the landlord may serve a notice under AS 09.45.100 to quit the  
22 premises. If the breach is remediable by repairs or the payment of damages or otherwise and  
23 the tenant adequately remedies the breach before the date specified in the notice, the rental  
24 agreement will not terminate. In the absence of due care by the tenant, if substantially the same  
25 act or omission that constituted a prior noncompliance of which notice was given recurs within  
26 six months, the landlord may terminate the rental agreement upon at least 10 days written notice  
27 specifying the breach and the date of termination of the rental agreement.

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

29 (b) If rent is unpaid when due and the tenant fails to pay rent within five [10] days after  
30 written notice by the landlord of nonpayment and the intention to terminate the rental agreement  
31 if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees

1 to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement  
2 and immediately recover possession of the rental unit; only one written notice of default need be  
3 given the tenant by the landlord as to any one default.

4 \* **Sec. 16.** AS 34.03.220 is amended by adding a new subsection to read:

5 (d) An order of abatement entered by a court under AS 09.50.170 terminates a rental  
6 agreement on the premises subject to the order of abatement.

7 \* **Sec. 17.** AS 34.03.360 is amended by adding new paragraphs to read:

8 (19) "illegal activity involving alcoholic beverages" means a person's delivery of  
9 an alcoholic beverage in violation of AS 04.11.010(b) in an area where the results of a local  
10 option election have, under AS 04.11.490 - 04.11.500, prohibited the Alcoholic Beverage Control  
11 Board from issuing, renewing, or transferring a liquor license or permit under AS 04;

12 (20) "illegal activity involving a controlled substance" means a violation of  
13 AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1), 11.71.030(a)(2), 11.71.040(a)(1), 11.71.040(a)(2),  
14 or 11.71.040(a)(5);

15 (21) "illegal activity involving an imitation controlled substance" means a  
16 violation of AS 11.73.010 - 11.73.030.

17 \* **Sec. 18.** AS 34.05 is amended by adding a new section to read:

18 **ARTICLE 3. ILLEGAL ACTIVITIES IN NONRESIDENTIAL PREMISES.**

19 **Sec. 34.05.100. TENANT RESPONSIBILITIES IN PREMISES OTHER THAN**  
20 **DWELLING UNITS.** (a) In rented premises other than premises to which the provisions of  
21 AS 34.03 apply, the tenant may not knowingly engage at the premises in an illegal activity  
22 involving alcoholic beverages, an illegal activity involving a controlled substance, or an illegal  
23 activity involving an imitation controlled substance, or knowingly permit others in the premises  
24 to engage in one or more of those activities at the rental premises.

25 (b) If there is noncompliance with (a) of this section, a person may seek relief under  
26 AS 09.50.170 - 09.50.240.

27 (c) An order of abatement entered by a court under AS 09.50.170 against premises under  
28 this section terminates a rental agreement on the premises subject to the order of abatement.

29 (d) In this section, "dwelling unit," "illegal activity involving alcoholic beverages,"  
30 "illegal activity involving a controlled substance," and "illegal activity involving an imitation  
31 controlled substance" have the meanings given in AS 34.03.360.