

HOUSE CS FOR CS FOR SENATE BILL NO. 35 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/20/91

Referred: Judiciary, Finance

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 eight 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 eight [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 eight 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; or

7 (2) left at the premises and [IN CASE OF ABSENCE FROM THE PREMISES,
8 OR THE NOTICE MAY BE] sent by [REGISTERED OR] certified mail, return receipt
9 requested [IN WHICH CASE AN ADDITIONAL THREE DAYS SHALL BE ADDED TO THE
10 10 DAYS].

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

12 (b) If notice is provided by mail under (a)(2) of this section, an additional three days
13 shall be added

14 (1) to the eight days' notice if,

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

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

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

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

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

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

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

1 a certified copy of the order of abatement is prima facie evidence of unlawful holding of the
2 premises by force by a person who remains on the premises.

3 * Sec. 7. AS 09.50.170 is amended to read:

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

12 (1) prostitution; or

13 (2) an illegal activity involving

14 (A) alcoholic beverages;

15 (B) a controlled substance; or

16 (C) an imitation controlled substance.

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

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

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

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

25 * Sec. 10. AS 09.50.210 is amended to read:

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

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

1 (2) [BE ENTERED DIRECTING] the removal from the building or place of the
2 fixtures, furniture, and movable property used in the nuisance and their sale in the manner
3 provided for the sale of chattels under execution;

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

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

9 * Sec. 11. AS 09.50.230 is amended to read:

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

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

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

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

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

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

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

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

31 (1) make a reasonable attempt to discover the identity of the owner of the

1 premises; and

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

3 (A) in person; or

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

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

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

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

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

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

30 (b) If rent is unpaid when due and the tenant fails to pay rent within eight [10] days after
31 written notice by the landlord of nonpayment and the intention to terminate the rental agreement

1 if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees
2 to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement
3 and immediately recover possession of the rental unit; only one written notice of default need be
4 given the tenant by the landlord as to any one default.

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

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

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

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

13 (20) "illegal activity involving a controlled substance" means a violation of
14 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),
15 or 11.71.040(a)(5);

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

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

19 ARTICLE 3. ILLEGAL ACTIVITIES IN NONRESIDENTIAL PREMISES.

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

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

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

30 (d) In this section, "dwelling unit," "illegal activity involving alcoholic beverages,"
31 "illegal activity involving a controlled substance," and "illegal activity involving an imitation

1 controlled substance" have the meanings given in AS 34.03.360.

2 * **Sec. 19. APPLICABILITY.** To the extent required by the state or federal constitutions, this Act
3 does not apply to leases or rental agreements entered into before the effective date of this Act.