

**CS FOR SENATE BILL NO. 155(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION**

BY THE SENATE JUDICIARY COMMITTEE

**Offered: 4/15/93
Referred: FINANCE**

Sponsor(s): SENATORS FRANK, Leman, Pearce, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to landlords and tenants, to termination of tenancies and
2 recovery of rental premises, to tenant responsibilities, to the civil remedies of
3 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
5 premises; amending Alaska Rules of Civil Procedure 40(e)(1) and (2) and 85(a)(3);
6 and amending Rule 62(a) of the Alaska Rules of Civil Procedure and Rule 24(a)
7 of the Alaska District Court Rules of Civil Procedure."

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

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

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

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

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

4 (A) in person; or

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

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

12 * Sec. 2. AS 09.45.090 is amended to read:

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

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

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

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

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

31 (A) at the expiration of the time limited in the lease or

1 agreement under which that person holds;

2 (B) [, OR] contrary to a condition or covenant in the lease or
3 agreement, including the breach of a condition or covenant set out in
4 AS 34.03.120(a)(1) - (7) but not including the breach of a condition or
5 covenant to which (1) of this section applies; for premises to which the
6 provisions of AS 34.03 (Uniform Residential Landlord and Tenant Act)
7 apply, notwithstanding AS 09.45.110, the notice requirements of this
8 subparagraph are satisfied

9 (i) by the notice provided under AS 34.03.220(e) by
10 the person seeking to recover possession of the premises to a tenant
11 who has filed to pay utility services if the utility has discontinued
12 service;

13 (ii) by the notice provided under AS 34.03.220(f) by
14 the person seeking to recover possession of the premises to a tenant
15 who has breached the obligation imposed by AS 34.03.120(a)(8); or

16 (C) without a written lease or agreement:

17 (3) when, after a notice to terminate the tenancy as provided in this title
18 with reference to termination of estate at will or by sufferance or after receipt of an
19 order of abatement under AS 09.50.210(a), a person continues in possession of the
20 premises after expiration of the time for determining the tenancy.

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

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

24 (1) delivered to the tenant or person;

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

26 or

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

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

31 (b) If notice is provided by mail under (a)(3) of this section, an additional

1 three days shall be added

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

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

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

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

12 * Sec. 5. AS 09.45.110 is amended to read:

13 Sec. 09.45.110. PERIOD BETWEEN SERVICE OF NOTICE AND ACTION
14 BROUGHT. An action for the recovery of the possession of the premises may be
15 maintained

16 (1) in [THE] cases specified in AS 09.45.090(2)(A), [AS 09.45.090(2)]
17 when the notice to quit has been served upon the tenant or person in possession for the
18 period of five [10] days before the commencement of the action unless the leasing or
19 occupation is for the purpose of farming or agriculture, in which case the notice shall
20 be served 90 days before commencement of the action; and

21 (2) in cases specified in AS 09.45.090(2)(B) and (C), when the notice
22 to quit has been served upon the tenant or person in possession before the
23 commencement of the action.

24 * Sec. 6. AS 09.45.120 is amended to read:

25 Sec. 09.45.120. SUMMONS AND CONTINUANCE. Summons in actions for
26 forcible entry and detainer shall be served not less than two [NOR MORE THAN
27 FOUR] days before the date of trial. A [NO] continuance may not [SHALL] be
28 granted for a longer period than two days unless the defendant applying for the
29 continuance gives an undertaking to the adverse party, with sureties approved by the
30 court conditioned to the payment of the rent that may accrue if judgment is rendered
31 against the defendant.

1 * Sec. 7. AS 09.45.120 is repealed and reenacted to read:

2 Sec. 09.45.120. SUMMONS AND CONTINUANCE. Summons in actions for
3 forcible entry and detainer shall be served not less than two days before the date of
4 trial. Except when a continuance is required by AS 34.03.345, a continuance may not
5 be granted for a longer period than two days unless the defendant applying for the
6 continuance gives an undertaking to the adverse party, with sureties approved by the
7 court conditioned to the payment of the rent that may accrue if judgment is rendered
8 against the defendant.

9 * Sec. 8. AS 09.45 is amended by adding a new section to read:

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

16 * Sec. 9. AS 09.45 is amended by adding a new section to read:

17 Sec. 09.45.135. ACTION AGAINST TENANT OCCUPYING PREMISES
18 ABATED AS NUISANCE. In an action under AS 09.45.060 - 09.45.160 against a
19 tenant or person in possession of premises for which an order of abatement has been
20 entered under AS 09.50.210(a), a certified copy of the order of abatement is prima
21 facie evidence of unlawful holding of the premises by force by a person who remains
22 on the premises.

23 * Sec. 10. AS 09.50.170 is amended to read:

24 Sec. 09.50.170. ABATEMENT OF PLACES USED FOR CERTAIN ACTS
25 [IMMORAL ACT]. A person who erects, establishes, continues, maintains, uses,
26 owns, or leases a building, structure, or other place used for one of the following
27 activities [THE PURPOSES OF LEWDNESS, ASSIGNATION, OR PROSTITUTION
28 OR ANY OTHER IMMORAL ACT] is guilty of maintaining a nuisance, and the
29 building, structure, or place, or the ground itself in or upon which or in any part of
30 which the activity [LEWDNESS, ASSIGNATION, OR PROSTITUTION] is
31 conducted, permitted, [OR] carried on, continues, or exists, and its [THE] furniture,

1 fixtures, and other contents, constitute a nuisance and may be enjoined and abated;

2 (1) prostitution;

3 (2) an illegal activity involving a place of prostitution; or

4 (3) an illegal activity involving

5 (A) alcoholic beverages;

6 (B) a controlled substance; or

7 (C) an imitation controlled substance.

8 * Sec. 11. AS 09.50.170 is amended by adding a new subsection to read:

9 (b) In this section, "illegal activity involving alcoholic beverages," "illegal
10 activity involving a controlled substance," "illegal activity involving an imitation
11 controlled substance," "illegal activity involving a place of prostitution" and
12 "prostitution" have the meanings given in AS 34.03.360.

13 * Sec. 12. AS 09.50 is amended by adding a new section to read:

14 Sec. 09.50.175. ADMISSIBILITY OF EVIDENCE TO PROVE NUISANCE.

15 In an action brought under AS 09.50.170(a) to prove the existence of a nuisance, the
16 court may consider

17 (1) evidence of reputation within a community;

18 (2) evidence derived from records of the courts of the state or of the
19 United States that relate to previous complaints concerning alleged violations of, and
20 to arrests for or convictions of violations of, laws based on activity set out in
21 AS 09.50.170.

22 * Sec. 13. AS 09.50.210 is amended to read:

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

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

30 (2) [SHALL BE ENTERED DIRECTING] the removal from the
31 building or place of the fixtures, furniture, and movable property used in the nuisance

1 and their sale in the manner provided for the sale of chattels under execution;
2 (3) [. THE ORDER SHALL ALSO DIRECT] the closing of the
3 building or place against its use for any purpose for a period of one year unless sooner
4 released.

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

8 * Sec. 14. AS 09.50.230 is amended to read:

9 Sec. 09.50.230. RELEASE OF PREMISES TO OWNER. (a) The court may
10 order premises abated under AS 09.50.210 delivered to the owner and cancel the
11 order of 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
14 [WHICH] are a lien on the premises; [,] and

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

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

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

25 * Sec. 15. AS 17.30 is amended by adding a new section to read:

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

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

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

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

12 * Sec. 16. AS 34.03.020(a) is amended to read:

13 (a) The landlord and tenant may include in a rental agreement clauses and
14 conditions not prohibited by this chapter or by law, including rent, terms of agreement,
15 mediation of disputes between them under AS 34.03.345, and other provisions
16 governing the rights and obligations of the parties.

17 * Sec. 17. AS 34.03.020 is amended by adding a new subsection to read:

18 (e) If required by the landlord, the landlord and the tenant shall include within
19 the rental agreement, incorporate by reference in the rental agreement, or add as a
20 separate attachment to the rental agreement a premises condition statement, setting out
21 the condition of the premises, including fixtures but excluding reference to any of the
22 other contents of the premises, and, if applicable, a contents inventory itemizing or
23 describing all of the furnishings and other contents of the premises and specifying the
24 condition of each of them. In the premises condition statement and contents inventory,
25 the parties shall describe the premises and its contents at the commencement of the
26 term of the period of the occupancy covered by the rental agreement. When signed
27 by the parties, the premises condition statement and contents inventory completed
28 under this subsection become part of the rental agreement.

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

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

1 periodic rent. This subsection does not apply to a rental unit if the rent exceeds
2 \$1,000 a month.

3 * Sec. 19. AS 34.03.070(b) is amended to read:

4 (b) Upon termination of the tenancy, property or money held by the landlord
5 as prepaid rent or as a security deposit may be applied to the payment of accrued rent
6 and the amount of damages that the landlord has suffered by reason of the tenant's
7 noncompliance with AS 34.03.120. ["DAMAGES" DOES NOT INCLUDE WEAR
8 RESULTING FROM ORDINARY USE OF THE PREMISES.] The accrued rent and
9 damages must be itemized by the landlord in a written notice mailed to the tenant's
10 last known address within the time limit prescribed by (g) of this section, together with
11 the amount due the tenant. In this subsection, "damages"

12 (1) means deterioration of the premises and, if applicable, of the
13 contents of the premises;

14 (2) does not include deterioration

15 (A) that is the result of the tenant's use of the premises by
16 normal, nonabusive living;

17 (B) caused by the landlord's failure to prepare for expected
18 conditions or by the landlord's failure to comply with an obligation of the
19 landlord imposed by this chapter.

20 * Sec. 20. AS 34.03.090 is amended by adding a new subsection to read:

21 (b) As a condition of delivery of possession of the premises to the tenant, the
22 landlord may require the tenant to acknowledge or verify by the tenant's signature the
23 accuracy of the premises condition statement and contents inventory prepared under
24 AS 34.03.020(e). Before requiring the tenant's signature, the landlord shall first advise
25 the tenant that the premises condition statement and contents inventory

26 (1) may be used by the landlord as the basis

27 (A) to determine whether prepaid rent or a security deposit shall
28 be applied to the payment of damages to the premises when authorized by
29 AS 34.03.070(b); and

30 (B) to compute the recovery of other damages to which the
31 parties may be entitled under this chapter; and

1 (2) is, in an action initiated by a party to recover damages or to obtain
2 other relief to which a party may be entitled under this chapter, presumptive evidence
3 of the condition of the premises and its contents at the commencement of the term of
4 the period of occupancy covered by the rental agreement.

5 * Sec. 21. AS 34.03.110(a) is amended to read:

6 (a) Unless otherwise agreed, a landlord who conveys premises that include a
7 dwelling unit subject to a rental agreement in a good faith sale to a bona fide
8 purchaser is relieved of liability under the rental agreement and this chapter as to
9 events occurring subsequent to written notice to the tenant of the conveyance.
10 However,

11 (1) the landlord remains liable to the tenant for the property and money
12 to which the tenant is entitled under AS 34.03.070, unless the property and money are
13 specifically assigned to and accepted by the purchaser; and

14 (2) the provisions of

15 (A) a premises condition statement prepared under
16 AS 34.03.020(e) between the landlord and the tenant remains valid as
17 between the purchaser and the tenant until a new premises condition
18 statement is entered into between the purchaser and the tenant; and

19 (B) a contents inventory prepared under AS 34.03.020(e)
20 between the landlord and the tenant remains valid as between the
21 purchaser and the tenant for the contents remaining on the premises after
22 the conveyance of the premises until a new contents inventory is entered
23 into between the purchaser and the tenant.

24 * Sec. 22. AS 34.03.120 is amended to read:

25 Sec. 34.03.120. TENANT OBLIGATIONS [TO MAINTAIN DWELLING
26 UNIT]. The tenant [SHALL]

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

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

31 (3) shall keep all plumbing fixtures in the dwelling unit or used by the

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tenant as clean as their condition permits;

(4) shall use in an ordinary, [A REASONABLE] manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen, and other facilities and appliances including elevators in the premises;

(5) may not [DELIBERATELY OR NEGLIGENTLY] destroy, deface, damage, impair, or remove a part of the premises or knowingly permit any person to do so;

(6) may not [UNREASONABLY] disturb, or permit others on the premises with the tenant's consent to [UNREASONABLY] disturb, a neighbor's peaceful enjoyment of the premises; [AND]

(7) shall maintain smoke detection devices as required under AS 18.70.095; and

(8) except in an emergency when the landlord cannot be contacted after reasonable effort to do so, may not change the locks on doors of the premises without first securing the written agreement of the landlord and, immediately after changing the locks, providing the landlord a set of keys to all doors for which locks have been changed; in an emergency, the tenant may change the locks and shall, within five days, provide the landlord a set of keys to all doors for which locks have been changed and written notice of the change.

* Sec. 23. AS 34.03.120 is amended by adding a new subsection to read:

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

* Sec. 24. AS 34.03.140(a) is amended to read:

(a) The tenant may not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, remove personal property belonging to the landlord that is not covered by a written rental agreement, or exhibit the dwelling unit to prospective or actual

1 purchasers, mortgagees, tenants, workers, or contractors.

2 * Sec. 25. AS 34.03.140(d) is amended to read:

3 (d) The landlord does not have a [HAS NO OTHER] right to access the
4 dwelling unit

5 (1) except

6 (A) as permitted by this section;

7 (B) by court order; or

8 (C) [, AND] as permitted by AS 34.03.230(b); [,] or

9 (2) unless [IF] the tenant has abandoned or surrendered the premises.

10 * Sec. 26. AS 34.03.220(a) is amended to read:

11 (a) Except as provided in this chapter, if there is [A MATERIAL]
12 noncompliance by the tenant with the rental agreement or noncompliance with
13 AS 34.03.120(1) - (7), other than noncompliance as to a utility service for which
14 the provisions of (e) of this section apply, [AS 34.03.120 MATERIALLY
15 AFFECTING HEALTH AND SAFETY], the landlord may deliver a written notice to
16 the tenant specifying the acts and omissions constituting the breach and specifying that
17 the rental agreement will terminate 24 hours [UPON A DATE NOT LESS THAN 20
18 DAYS] after receipt of the notice. If the breach is remediable by repairs or the
19 payment of damages or otherwise and the tenant remedies the breach to the
20 satisfaction of the landlord before the date specified in the notice, the rental
21 agreement will not terminate. If the breach is not remedied [IN 10 DAYS], the
22 rental agreement terminates as provided in the notice, and at that time the landlord
23 may serve a notice under AS 09.45.100 to quit the premises. This subsection does
24 not apply unless the tenant's acts or omissions

25 (1) constituting noncompliance with or breach of the obligation
26 imposed by AS 34.03.120(a)(5) are substantial; an act or omission is "substantial"
27 if the loss of property attributable to the destruction, defacement, damage,
28 impairment, or removal affecting the premises exceeds the amount of the security
29 deposit held by the landlord under AS 34.03.070;

30 (2) constituting noncompliance with or breach of an obligation
31 imposed by AS 34.03.120(a)(1) - (4) materially affect the health or safety of the

1 tenant or other tenants:
2 (3) constituting noncompliance by the tenant with the rental
3 agreement, other than a provision of the rental agreement that addresses an
4 obligation imposed by AS 34.03.120(a), detrimentally affect the landlord's
5 investment in the premises, the quiet enjoyment of the premises by other tenants,
6 or the use and occupancy of adjacent premises [SUBJECT TO THE PROVISIONS
7 OF THIS SECTION. IF THE BREACH IS REMEDIABLE BY REPAIRS OR THE
8 PAYMENT OF DAMAGES OR OTHERWISE AND THE TENANT ADEQUATELY
9 REMEDIES THE BREACH BEFORE THE DATE SPECIFIED IN THE NOTICE,
10 THE RENTAL AGREEMENT WILL NOT TERMINATE. IN THE ABSENCE OF
11 DUE CARE BY THE TENANT, IF SUBSTANTIALLY THE SAME ACT OR
12 OMISSION THAT CONSTITUTED A PRIOR NONCOMPLIANCE OF WHICH
13 NOTICE WAS GIVEN RECURS WITHIN SIX MONTHS, THE LANDLORD MAY
14 TERMINATE THE RENTAL AGREEMENT UPON AT LEAST 10 DAYS
15 WRITTEN NOTICE SPECIFYING THE BREACH AND THE DATE OF
16 TERMINATION OF THE RENTAL AGREEMENT].

17 * Sec. 27. AS 34.03.220(b) is amended to read:

18 (b) If rent is unpaid when due and the tenant fails to pay rent in full within
19 five [10] days after written notice by the landlord of nonpayment and the intention to
20 terminate the rental agreement if the rent is not paid within that period of time, the
21 tenancy terminates unless the landlord agrees to allow the tenant to remain in
22 occupancy, and the landlord may terminate the rental agreement and immediately
23 recover possession of the rental unit. Only [; ONLY] one written notice of default
24 need be given the tenant by the landlord as to any one default. A landlord who has
25 given written notice to the tenant under this subsection may accept a partial
26 payment of the rent due under the rental agreement and extend the date for the
27 eviction accordingly.

28 * Sec. 28. AS 34.03.220 is amended by adding new subsections to read:

29 (d) An order of abatement entered by a court under AS 09.50.170 terminates
30 a rental agreement on the premises subject to the order of abatement.
31 (e) If a public utility providing electricity, natural gas, or water to the premises

1 occupied by the tenant discontinues the service to the premises due to the failure of
2 the tenant to pay for the utility service, the landlord may deliver a written notice to the
3 tenant advising that, notwithstanding (a) of this section, the tenancy will terminate five
4 days after the tenant's receipt of the notice. If, within three days from the receipt of
5 the notice, the tenant reinstates the discontinued service and repays the landlord for
6 any amounts paid by the landlord to reinstate service, and if damage did not occur to
7 the rental unit as a result of the discontinuance of service, the rental agreement will
8 not terminate. However, in the absence of due care by the tenant, if substantially the
9 same act or omission that constituted a prior noncompliance under this subsection for
10 which notice was given recurs within six months, the landlord may terminate the rental
11 agreement upon at least three days' written notice specifying the breach and the date
12 of termination of the rental agreement.

13 (f) If there is a noncompliance by the tenant with AS 34.03.120(8), the
14 landlord may terminate the rental agreement by giving to the tenant written notice to
15 quit as provided in AS 09.45.100(a)(1) or (2). If the tenant fails or refuses to deliver
16 up possession of the premises within five days, the landlord may recover possession
17 of the premises.

18 * Sec. 29. AS 34.03.230(b) is amended to read:

19 (b) During an absence of the tenant in excess of seven days, the landlord may
20 enter the dwelling unit at times reasonably necessary as provided in AS 34.03.140.
21 The landlord may reenter the dwelling unit and, if there is evidence that the
22 tenant has abandoned the dwelling unit, unless the landlord and tenant have made
23 a specific agreement to the contrary, the landlord may terminate the rental
24 agreement.

25 * Sec. 30. AS 34.03.260(d) is amended to read:

26 (d) The landlord is not liable [MAY NOT BE HELD TO RESPOND] in
27 damages in an action by a tenant claiming loss by reason of the landlord's storage
28 [ELECTION], destruction, or disposition of property under this section. A [, OR
29 SALE. IF, HOWEVER, THE] landlord who deliberately or negligently violates the
30 provisions of this section [, THE LANDLORD] is liable for actual damages and penal
31 damages of an amount not to exceed actual damages.

1 * Sec. 31. AS 34.03 is amended by adding a new section to read:

2 Sec. 34.03.335. **PROOF OF BASIS IN CERTAIN PROPERTY DAMAGE**
3 **CLAIMS.** In an action initiated by a party to recover damages or to obtain other relief
4 to which a party may be entitled under this chapter, a premises condition statement and
5 contents inventory prepared under AS 34.03.020(e) is presumptive evidence of the
6 condition of the premises and its contents at the commencement of the term of the
7 period of occupancy covered by the rental agreement between the parties. Unless its
8 authenticity is rebutted by clear and convincing evidence by the party against whom
9 the statement and contents inventory is offered, the statement and contents inventory
10 may be offered by a party, without additional supporting evidence, as the basis on
11 which to compute the recovery of damages to which the party may be entitled under
12 this chapter.

13 * Sec. 32. AS 34.03 is amended by adding a new section to read:

14 Sec. 34.03.345. **MEDIATION.** A landlord and a tenant may agree to mediate
15 disputes between them as to an obligation of either of them arising out of the rental
16 agreement. If the landlord and tenant agree to mediate disputes they shall include the
17 scope of the agreement within the executed rental agreement, incorporate a reference
18 to that agreement within the rental agreement, or add the text of the agreement as a
19 separate attachment to the rental agreement. If mediation of a dispute is requested by
20 the landlord or the tenant mediation shall be conducted substantially in the following
21 manner:

22 (1) judicial proceedings then pending are continued for a period until
23 the court is notified that mediation efforts have been unsuccessful;

24 (2) the parties may use the services of an impartial mediator and select
25 the mediator by mutual agreement; the mediator does not have the power of
26 compulsion in mediation proceedings under this subsection;

27 (3) mediation may be conducted informally as a conference, by
28 telephone, or by a series of conferences, as the parties may agree or the mediator may
29 determine;

30 (4) if mediation efforts are

31 (A) successful, the decision of the parties with respect to an

1 obligation or obligations of either of them arising out of the rental agreement
2 is binding on the parties;

3 (B) not successful, either party may withdraw or the mediator
4 may terminate mediation and shall so advise the parties; the parties thereafter
5 may seek other remedies provided by law;

6 (5) the mediator may, without regard to the success or failure of
7 mediation efforts, assign or apportion costs of mediation and require either or both
8 parties to pay those costs.

9 * Sec. 33. AS 34.03.360 is amended by adding new paragraphs to read:

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

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

18 (21) "illegal activity involving an imitation controlled substance" means
19 a violation of AS 11.73.010 - 11.73.030;

20 (22) "illegal activity involving a place of prostitution" means a violation
21 of AS 11.66.120(a)(1), 11.66.130(a)(1), or 11.66.130(a)(4);

22 (23) "prostitution" means an act in violation of AS 11.66.100.

23 * Sec. 34. AS 34.05 is amended by adding a new section to read:

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

25 **Sec. 34.05.100. TENANT RESPONSIBILITIES IN PREMISES OTHER**
26 **THAN DWELLING UNITS. (a)** In rented premises other than premises to which the
27 provisions of AS 34.03 apply, the tenant may not knowingly engage at the premises
28 in prostitution, an illegal activity involving a place of prostitution, an illegal activity
29 involving alcoholic beverages, an illegal activity involving a controlled substance, or
30 an illegal activity involving an imitation controlled substance, or knowingly permit
31 others in the premises to engage in one or more of those activities at the rental

1 premises.

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

4 (c) An order of abatement entered by a court under AS 09.50.210 against
5 premises under this section terminates a rental agreement on the premises subject to
6 the order of abatement.

7 (d) In this section, "dwelling unit," "illegal activity involving alcoholic
8 beverages," "illegal activity involving a controlled substance," "illegal activity
9 involving an imitation controlled substance," "illegal activity involving a place of
10 prostitution," and "prostitution" have the meanings given in AS 34.03.360.

11 * Sec. 35. AS 34.03.360(18) is repealed.

12 * Sec. 36. Rule 40(e)(1), Alaska Rules of Civil Procedure, is amended to read:

13 (1) All cases set for trial shall be heard on the date set unless the same
14 are required to be continued under AS 34.03.345(1) or are continued by order of
15 the court for cause shown. Except when a continuance is required under
16 AS 34.03.345(1), the [THE] presiding judge of a judicial district may require that a
17 visiting or pro tem judge obtain approval from the presiding judge before granting any
18 continuance of trial.

19 * Sec. 37. Rule 40(e)(2), Alaska Rules of Civil Procedure, is amended to read:

20 (2) Unless otherwise permitted by the court or required by
21 AS 34.03.345(1), application for the continuance of the trial of the case shall be made
22 to the court at least five days before the date set for trial. The application must be
23 supported by the affidavit of the applicant setting forth all reasons for the continuance.
24 If such case is not tried upon the day set, the court in its discretion may impose such
25 terms as it sees fit, and in addition may require the payment of jury fees and other
26 costs by the party at whose request the continuance has been made.

27 * Sec. 38. Rule 85(a)(3), Alaska Rules of Civil Procedure, is amended to read:

28 (3) Continuances. No continuance shall be granted for a longer period
29 than 2 days, unless

30 (A) the continuance is required by AS 34.03.345(1); or

31 (B) the defendant applying therefor shall give an undertaking

1 to the adverse party, with sureties approved by the court, conditioned to the
2 payment of the rent that may accrue if judgment is rendered against defendant.

3 * Sec. 39. AS 09.45.125, added by sec. 8 of this Act, allowing orders to vacate and writs
4 of assistance to issue at the same time as the entry of judgment or at any later date, has the
5 effect of amending Rule 62(a) of the Alaska Rules of Civil Procedure and Rule 24(a) of the
6 Alaska District Court Rules of Civil Procedure by eliminating the respective periods of
7 automatic stays of enforcement upon judgment for orders to vacate premises.

8 * Sec. 40. AS 09.45.125, added by sec. 8 of this Act, takes effect only if sec. 39 of this
9 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
10 Constitution of the State of Alaska.

11 * Sec. 41. Section 7 of this Act and AS 34.03.345(1), added by sec. 32 of this Act, take
12 effect only if secs. 36 - 38 of this Act receive the two-thirds majority vote of each house
13 required by art. IV, sec. 15, Constitution of the State of Alaska.

14 * Sec. 42. If sec. 7 of this Act takes effect, sec. 6 of this Act does not take effect.