

HB

177

HB 177

Tape #

Date

8

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2/18/75

COMMITTEE REPORT

JUDICIARY

HOUSE

Mr. Speaker:

Date _____

The Committee on COMMERCE has had HB 177

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>

Members NOT concurring in the Majority report:

<u>[Signature]</u>	recommends: <u>No rec</u>
<u>[Signature]</u>	recommends: <u>9/10 Rec</u>
<u>[Signature]</u>	recommends:
<u>[Signature]</u>	recommends:
<u>[Signature]</u>	recommends:

[Signature] Chairman

AMENDMENT

Ardin / pass

OFFERED IN THE HOUSE:

By: Commerce Committee

To: _____ HOUSE BILL No. 177

SENATE BILL No. _____

PAGE: 1

LINE: 10.11.13.16

Line 10

After the word "an" insert the word "aggregate".

Line 11

After the word "landlord" delete the word "may" and insert the word "shall".

Line 13

After the words "inventory of" delete the word "existing" and insert the words "the condition of existing facilities and furnishings and any".

Line 16

Section 2. AS 34.03.070(d) is amended to read:

(d) If the landlord fails to comply with (a) of this section, the tenant may recover twice the amount of the security deposit or prepaid rent paid, or \$100, whichever is more. If the landlord willfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

March 3, 1975

Representative Bob Bradley, Chairman
House Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

Subject: HB 177 - Security Deposits

Dear Representative Bradley:

As we discussed on Saturday, March 1, 1975, here are amendments to HB 177 as proposed by Commissioner-designate Notley and myself.

1. On line 10, after "an" insert "aggregate".

This is to clarify that prepaid rent and security deposit, added together, cannot exceed twice the monthly rent.

2. On line 11, change "may" to "shall".

This is to make certain the new language is mandatory. If any deposit or prepaid rent is to be charged by the landlord, the written inventory must be made and signed by both parties.

3. On line 13, after "inventory of" strike "existing" and insert "the condition of existing facilities and furnishings and any".

This is to clarify the bill's intent to require that landlord and tenant agree as to the condition of the premises when the tenant moves in.

March 3, 1975

4. Oneline 16, add a new section, as follows:

*Sec. 2. AS 34.03.070(d) is amended to read:

(d) If the landlord fails to comply with (a) of this section, the tenant may recover twice the amount of the security deposit or prepaid rent paid or \$100, whichever is more. If the landlord willfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

This is to provide a measure of damages for violation of (a) of this section. At present there is no penalty for violating this subsection.

Thank you for your consideration.

Sincerely,

DEC:mjb

cc: Representative McKinnon
Commissioner Motley

Donald E. Clocksin
Deputy Director

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-~~7546~~ 6425

March 3, 1975

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House Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

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Commissioner Motley

Sincerely,



Donald E. Clocksin
Deputy Director

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JUNEAU, ALASKA 99801
TELEPHONE 586-XXXX 6425

MEMORANDUM

To: Sen. Kerttula and Rep. Bradley, Chairmen, Commerce Committees

From: Don Clocksin

Subject: Confirmation hearings - Commissioner-designate of Commerce

Date: Feb. 16, 1975

Since the Commissioner-designate of Commerce will be in front of your committees for confirmation, you may wish to ask questions relating to the Commerce Department's responsibility in the area of rent control.

In 1974 the Eighth Legislature adopted the Emergency Residential Housing Rent Regulation and Control Act (AS 34.06; Chapter 128, SIA 1974; CSSB 520 am). The Act declared that a public emergency may exist when rental housing becomes so tight that rent gouging occurs, and it required that the Commissioner of Commerce adopt regulations under which the Governor could declare a housing emergency and impose rent controls. Unless extended, the Act expires July 1, 1975.

To this date no regulations have been adopted or even proposed. The old Commissioner conducted "informational" hearings in Fairbanks and Valdez, but he made no other attempt to comply with the legislative mandate. Meanwhile, there are several communities that presently have a housing emergency as defined in the Act that should have rent control as the Legislature intended.

I would hope that two lines of inquiry be presented to the Commissioner-designate. First, does he intend to adopt regulations to protect communities that are being victimized by artificially inflated rents; that is, what does he think about rent control as a temporary emergency solution for Alaska's overcrowding? Second, does he intend to comply with legislative mandates or does he, like his predecessor, intend to ignore those legislatively imposed duties which he doesn't care for?

I also hope your committees will look into the necessity for extending and revising the Emergency Residential Housing Regulation and Control Act. I have attached a copy.

Don Clocksin



LAWS OF ALASKA

1974

Source

CSSB 520 am

Chapter No.

128

AN ACT

Relating to the establishment of rent regulation and control in emergency situations; and providing for an effective date.

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

* Section 1. AS 34 is amended by adding a new chapter to read:

CHAPTER 06. EMERGENCY RESIDENTIAL RENT REGULATION AND CONTROL.

Sec. 34.06.010. LEGISLATIVE FINDINGS, PURPOSE. The legislature finds and declares that

(1) a serious public emergency may exist in housing in Alaska when, because of sudden economic development and uneven population growth, there develops an acute shortage of dwellings in all or parts of Alaska;

(2) abnormal economic conditions affecting the availability of residential rental housing may produce serious threats to the public health, safety and general welfare and, to prevent these perils, standby preventative regulations that may be invoked in the event of an emergency should be promulgated.

Sec. 34.06.020. DECLARATION OF HOUSING EMERGENCY. (a) In accordance with regulations promulgated under sec. 30 of this chapter, when the governor finds that emergency conditions exist with regard to residential rental housing, after public hearings in the area, or areas, affected, he may by written proclamation declare that a state of housing emergency exists. A housing emergency exists when the rate of vacancies in residential rental housing is so low that there is a substantial impairment of free choice in residential rental housing or when the average vacancies in residential

housing rentals falls below three per cent in the area, or areas, affected and remains below three per cent for a period of at least 90 days. The proclamation shall state the nature of the housing emergency, designate the area, or areas, affected and be published generally through the state in the manner provided by law. When the state of emergency no longer exists, the governor shall issue a written proclamation stating this fact and publish it generally throughout the state in the manner provided by law.

(b) On issuing a proclamation of a housing emergency, the governor may invoke the provisions of this chapter to regulate and control residential rents and evictions in some parts or all of the state.

Sec. 34.06.030. SCOPE OF EMERGENCY HOUSING REGULATIONS. Subject to the Administrative Procedure Act (AS 44.62), the commissioner of commerce, who is charged with the administration of this chapter, shall promulgate regulations concerning the control of residential rents, including but not limited to provision for the establishment and adjustment of maximum rents, the classification of residential housing accommodations and the regulation of evictions.

Sec. 34.06.040. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a) Administrative and adjudicatory proceedings conducted under this chapter shall be conducted under the Administrative Procedure Act (AS 44.62).

(b) A final determination or order issued, or a regulation promulgated, under this chapter is subject to judicial review under the Administrative Procedure Act (AS 44.62).

Sec. 34.06.050. DEFINITIONS. In this chapter

- (1) "commissioner" means the commissioner of commerce;
- (2) "department" means the Department of Commerce;
- (3) "residential housing accommodation" means a single or multiple unit private dwelling, including mobile homes, or a structure on the land that may be leased for any term of one week or longer, or other condition of tenancy, that is used for dwelling purposes.

Sec. 34.06.060. SHORT TITLE. This chapter may be cited as the Emergency Residential Housing Rent Regulation and Control Act.

* Sec. 2. AS 44.62.330 is amended by adding a new paragraph to read:

(37) Department of Commerce, under the Emergency Residential Rent Regulation and Control Act (AS 34.06).

* Sec. 3. This Act expires July 1, 1975.

* Sec. 4. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

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ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-~~915~~6425
March 21, 1975

MEMORANDUM

TO : Rep. Joe McKinnon
FROM : Don Clocksin *DK*
SUBJECT: Floor Debate - CSHB 177, Rent Deposits

Since this bill may soon appear on the House floor, you may want to use this memo.

I. Background.

The Landlord-Tenant Act of 1973 was passed one year ago. Since it was adopted, several problems have arisen. According to news stories, the greatest single landlord-tenant complaint heard in the Consumer Protection Division of the Attorney-General's Office was about security deposits. Disputes over the amount of damage caused by a tenant and the remedies available have been common. Confusion has arisen about how to calculate the maximum charges that can be imposed by a landlord when a tenant moves in.

II. Present Law.

Under present law, a landlord can charge a deposit or prepaid rent in an amount not to exceed two months' rent. That means if the monthly rent is \$200, the maximum that can be charged is \$600:

\$ 200	- first months' rent
200	- last months' rent
200	- security deposit
<u> </u>	
\$ 600	

II. What the Bill Would Do.

1. The bill would add "aggregate" to clarify that deposit and prepaid rent, added together, cannot exceed two times the rent.

MEMORANDUM

TO: Rep. Joe McKinnon

-2-

March 21, 1975

2. The bill would require that the landlord and tenant take an inventory of existing conditions so that there will be fewer misunderstandings as to the condition of the premises when the tenant moves in. Many landlords do this now, according to testimony from Ben Marsh of the Anchorage Landlord and Property Managers Association. This will reduce the misunderstandings between landlord and tenant and eliminate needless litigation and hard feelings.

3. The bill would clarify the enforcement section. Through inadvertence or whatever, when the Act was passed last year there was no enforcement provision provided for a violation of sub (a). This bill would provide that if a landlord charges more than allowed, the tenant can recover twice the amount of the excess. (e.g. if landlord in example above charges \$700, tenant can recover \$200.) That is similar to remedy adopted last year for a violation of sub (b).

DEC:btg

cc: Rep. Bradley ✓

XXX 6425

March 3, 1975

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House Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

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