

SB

37, 43,

44



ALASKA LANDLORD & PROPERTY MANAGERS ASSOCIATION

MY NAME IS: SAMUEL CLEMENS

I REPRESENT THE ALASKA LANDLORD & PROPERTY MANAGERS ASSOCIATION

I HAVE BEEN IN THE RENTAL BUSINESS HERE IN ALASKA SINCE 1965. I AM A RELATIVELY SMALL LANDLORD WITH JUST 16 UNITS.

I AM RETIRED FROM THE NAVY, WITH OVER 30 YEARS OF SERVICE AND ALSO RETIRED FROM THE STATE OF ALASKA. I AM A LANDLORD BECAUSE I HAVE FOUND THIS TYPE OF ENTERPRISE AFFORDS ME THE OPPORTUNITY TO AUGMENT MY RETIREMENT INCOME AND ALLOWS ME TO BE INDEPENDENTLY SELF EMPLOYED WITHOUT ACTUALLY BEING EMPLOYED.

PRIMARILY I AM HERE TO REPRESENT THE ALASKA LANDLORD & PROPERTY MANAGERS ASSOCIATION. AS PRESIDENT OF THIS ASSOCIATION I REPRESENT A GOOD PORTION OF THE LANDLORDS AND PROPERTY MANAGERS WITHIN ALASKA. WE HAVE A MEMBERSHIP OF 175 MEMBERS, REPRESENTING 3,080 RENTAL UNITS IN ANCHORAGE ALONE. WE ALSO HAVE MEMBERS OPERATING IN OTHER CITIES OF ALASKA INCLUDING FAIRBANKS (WITH 620 UNITS REPRESENTED), KETCHIKAN, DOUGLAS AND SOLDOTNA WITH A SUBSTANTIAL NUMBER OF UNITS.

ADDRESSING ATTENTION TO THREE SENATE BILLS, SB-36, SB-38 AND SB-57. ALL OF WHICH HAVE BEEN INTRODUCED AS PROPOSED CHANGES, ADDITIONS OR AS CLARIFICATIONS OF ARTICLES WITHIN ALASKA STATUTES.

ALASKA STATUTES TITLE 34.03 - UNIFORM RESIDENTIAL LANDLORD & TENANT ACT SAYS:

1. SIMPLIFY, CLARIFY, MODERNIZE AND REVISE THE LAW GOVERNING THE RENTAL OF DWELLING UNITS AND THE RIGHTS AND OBLIGATIONS OF LANDLORD AND TENANT;
2. ENCOURAGE LANDLORD AND TENANT TO MAINTAIN AND IMPROVE THE QUALITY OF HOUSING;
3. MAKE UNIFORM THE LAW AMONG THOSE STATES WHICH ENACT IT.

WITH THAT AS BACKGROUND I FEEL THAT IS EXACTLY WHY THESE THREE SENATE BILLS HAVE BEEN INTRODUCED.

SENATE BILL 36 - A NEW SECTION TO BE ADDED TO THE STATUTES

I FEEL THAT THE LANDLORD SHOULD BE PROTECTED BY STATE LAW FROM BEING VICTIMIZED BY WORTHLESS CHECKS, THE SAME AS ANY OTHER TYPE OF BUSINESSMAN. IF IT IS A MISDEMEANOR TO PASS A BAD CHECK TO A MOTEL, HOTEL OR INNKEEPER, THEN THE SAME SHOULD APPLY LIKEWISE TO LANDLORDS. GRANTED HOTELS OPERATE ON A DAY TO DAY, OR A FEW DAYS OCCUPANCY AND A LANDLORD OPERATES ON A LONGER TIME SPAN AND EVEN THOUGH THE TWO TYPES OF LODGING ARE SIMILAR I NEVER-THE-LESS FEEL THAT THE LANDLORD HAS A GREATER INVOLVEMENT OF LIABILITY COMMITMENTS, AGREEMENTS AND A MUCH LONGER TIME. THE POINT IS THAT A B A D C H E C K IS EXACTLY THAT! AS A LANDLORD I WOULD LIKE TO FEEL THAT I DO HAVE PROTECTION OR AN AVENUE OF RECOURSE UNDER THE LAW.

SENATE BILL 38 - A NEW SECTION TO BE ADDED TO THE STATUTES

THIS BILL CLARIFIES WHERE THE RESPONSIBILITY RESTS FOR THE PROPER AND ADEQUATE SERVICES. IS IS PROTECTIVE IN NATURE. IT ALLOWS THE LANDLORD TO TAKE IMMEDIATE ACTION TO PROTECT HIS PROPERTY WHEN IT IS APPARENT THAT IT IS JEOPARIZED BY ANOTHER PERSONS NEGLIGENCE. I BELIEVE THIS BILL HAS BEEN INTRODUCED WITH THE INTENT OF PROTECTION OF BOTH LANDLORDS AND TENANTS. THERE IS MORE AT STAKE, SO TO SPEAK, IN A MULTIPLE DWELLING COMPLEX, THAN A LANDLORD AND A TENANT. IF ONE TENANT DID GET CARELESS IT COULD EFFECT THE SAFETY OF OTHER TENANTS. I FEEL THAT THE REMEDIAL PROVISIONS AS STATED ARE NECESSARY.

RELATE THE EXPERIENCE I HAD WITH TENANTS IN APT. "B", 40TH STREET - IF APPROPRIATE AND TIME ALLOWS.

SENATE BILL 57 - IN SUPPORT OF THIS BILL I WOULD LIKE TO READ A LETTER FROM AN ALPMA MEMBER AND ANCHORAGE ATTORNEY-AT-LAW:

READ LETTER -

MR. MAFFEI'S PROPOSED CHANGE AND AMENDMENT IS WELL SUPPORTED BY ALPMA. WE FEEL THAT THE TENANT SHOULD PROVIDE THE LANDLORD A FORWARDING ADDRESS AND ALSO THAT IN MANY CASES IT APPEARS THAT THE 14 DAY PERIOD IS NOT SUFFICIENT TIME TO DO ADEQUATE CHECKING ON CLOSE OUT OF UTILITY SERVICES AND TO KNOW THAT THERE WILL NOT BE ANY DELAYED BILLINGS PLACED ON THE LANDLORD AFTER THE TENANT HAS MOVED, THE NOTICE HAS BEEN TIMELY FORWARDED TO THE TENANT AND SO TO, SO TO SPEAK, THE TRANSACTION CLOSED.

SPEAKING OF PERSONAL EXPERIENCES, I PRESENTLY HAVE A LIKE SITUATION. THE TENANT BECAME UNEMPLOYED. EARLY IN JANUARY HE CONTACTED THE RESIDENT MANAGER AND STATED THAT THEY MAY HAVE TO MOVE AND ASKED IF THEY COULD USE UP THE SECURITY DEPOSIT AS RENT THROUGH THE 15TH. THE MATTER WAS REFERRED TO ME. THE NEXT DAY I TALKED WITH THE MAN AND EXPLAINED WHY I WOULD NOT AGREE WITH HIS REQUEST. WE DISCUSSED POSSIBILITIES OF THEM REMAINING IN THE APARTMENT. HE STATED THAT HE SHOULD BE RECEIVING AN UNEMPLOYMENT CHECK ON THE 15TH OF THE MONTH. WE AGREED TO THEM PAYING THE FULL MONTHS RENT AT THAT TIME. I ALSO INFORMED THEM THAT BY STATE LAW AND THE RENTAL AGREEMENT THEY WERE REQUIRED TO GIVE A 30 DAY NOTICE TO VACATE AND WHEN THEY DID VACATE AND IF ALL REQUIREMENTS WERE MET THAT THEY WOULD BE RECEIVING A REFUND OF SECURITY DEPOSIT. IT ALL SEEMED TO BE UNDERSTOOD. THEY WERE GOOD TENANTS.

ON JANUARY 15TH, EARLY EVENING, I WAS INFORMED BY THE MANAGER THAT THE TENANTS HAD MOVED. THEY HAD LEFT THE KEY IN THE MANAGERS MAIL BOX AND LEFT A NOTE THAT THEY HAD MOVED. THEY HAVE NOT GIVEN A FORWARDING ADDRESS OR PHONE NUMBER OR WHERE THEY COULD BE LOCATED. THIS IS AN EXAMPLE OF WHAT HAPPENS.

IN CONCLUSION AND SPEAKING IN BEHALF OF THE ALASKA LANDLORD AND PROPERTY MANAGERS ASSOCIATION I RECOMMEND AND URGE THAT EACH OF THESE BILLS BE PASSED, WHICH WILL CLARIFY AND STRENGTHEN THE STATUTES IN IT'S INTENT AND PURPOSE.

THANK YOU.

ALBERT MAFFEI
TELEPHONE 277-2503

LAW OFFICES
MAFFEI, INC.
A PROFESSIONAL CORPORATION
1034 WEST 4TH AVENUE
ANCHORAGE, ALASKA 99501

P. O. BOX 674
ANCHORAGE, ALASKA 99510

November 17, 1978

Mr. Bernard L. Marsh
Executive Secretary
Alaska Landlord & Property Managers Assoc.
505 West Northern Lights Blvd.
Suite 120
Anchorage, AK 99503

RE: Landlord Tenant Act-Security Deposits

Dear Ben:

In my practice over the past several years regarding the Landlord-Tenant Act, it appears that the most troublesome provision is the one requiring the return of the security deposit.

The provision under AS 34.03.070(b), which provides that accrued rent and damages must be itemized by the landlord in a written notice delivered to the tenant, together with the amount due, no later than 14 days after termination of the tenancy and delivery of possession by the tenant is the one that causes the problems and probably should be amended.

The problem is the written notice delivered to the tenant. Generally, I have advised my clients that if a tenant does not give any written or verbal notice of his new address and the landlord has no actual notice of his new address, then the written notice should be delivered to the tenant at his last known address, which is the landlord's premises. This is impractical, however, since obviously the tenant has moved and unless he has left a forwarding address, the notice will not be delivered to him.

The question is if the notice is not delivered to the tenant, then may he bring action against the landlord for twice the actual amount withheld?

The law should be clarified to either provide that the tenant must notify the landlord in writing of his new address, or put the responsibility upon the tenant to make demand for the return of the security deposit giving his address and where he can be located, and then require that the landlord deliver to him within 14 days either the security deposit or the written notice. This would seem to be fair since rarely does

Mr. Bernard L. Marsh
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the tenant give his landlord notice of where he intends to move, and usually the tenant just skips without giving any notice, and waits until the 14 days have expired, and then brings an action for double the amount of the security deposit. If the landlord does not give a notice, obviously the tenant will be successful.

I would appreciate hearing from you regarding this matter.

Very truly yours,

MAFFEI, INC.


Albert Maffei

AM/bfm

37

Introduced: 1/16/79
Referred: Commerce and
Judiciary

1 IN THE SENATE

BY BRADLEY

2 SENATE BILL NO. 37

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to landlord remedies."

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

8 * Section 1. AS 34.03.250(a) is amended to read:

9 (a) Except as provided in (c) of this section, a [A] lien or
10 security interest on behalf of the landlord in the tenant's household
11 goods is not enforceable unless perfected before March 19, 1974.

12 * Sec. 2. AS 34.03.250 is amended by adding a new subsection to read:

13 (c) The landlord and tenant may execute a security agreement which
14 gives the landlord an enforceable security interest for unpaid rent in
15 the household goods of the tenant which are not exempt from execution or
16 attachment under state or federal law. The landlord has no right to
17 take possession of the collateral except by judicial process. The
18 security interest is subject to AS 45.05.690 - 45.05.794 except when in-
19 consistent with this section. The security interest is not a "land-
20 lord's lien" for purposes of AS 45.05.696(2). The security agreement is
21 void unless in writing and signed by the tenant.

22 * Sec. 3. This Act applies prospectively only and not retroactively.

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43

Introduced: 1/16/79
Referred: Commerce and
Judiciary

1 IN THE SENATE

BY BRADLEY

2 SENATE BILL NO. 43

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to rental agreements."

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

8 * Section 1. AS 34.03.030(c) is amended to read:

9 (c) Except as provided in (d) of this section, if [IF] a rental
10 agreement given effect by the operation of this section provides for a
11 term longer than one year, it is effective only for one year.

12 * Sec. 2. AS 34.03.030 is amended by adding a new subsection to read:

13 (d) If a rental agreement given effect by the operation of this
14 section has either of the provisions listed below, that provision is as
15 effective and enforceable as if each party had signed the agreement and
16 delivered it to the other party:

17 (1) a provision requiring

18 (A) automatic renewal of the tenancy for a one-year term
19 after a term of one year unless a written notice of nonrenewal is
20 delivered by either party to the agreement to the other party; and

21 (B) automatic renewal of the tenancy each year in the
22 same manner;

23 (2) a provision

24 (A) requiring automatic renewal of the tenancy for a
25 one-year term after a term of one year unless a written notice of
26 nonrenewal is delivered by either party to the agreement to the
27 other party; and

28 (B) prohibiting more than one renewal of the tenancy
29 under the rental agreement.

1 * Sec. 3. This Act is inapplicable to rental agreements executed before
2 the effective date of this Act.

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Alaska Court System
State of Alaska

RICHARD P. BARRIER
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K STREET
ANCHORAGE, ALASKA 99501

(907) 274-8611

February 9, 1979

Hon. W. E. "Brad" Bradley
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Bradley:

Thank you for sending the Court System several of your bills for comment and statements concerning fiscal impact. I have reviewed each of these bills, including SB 36, 37, 38, 42, 43, and 44, and find the impact of these bills on the operations of the Alaska Court System should be minimal. Each of these bills is related to substantive issues of law relating to landlords and remedies under the Landlord and Tenant Act. As a result of these bills there may be more or less litigation in various types of disputes but it is unlikely that the level of litigation will increase enough to have a serious impact on the Court System.

The Court System takes no position concerning the intent or purpose of the legislation you have sent us. Our comments are generally limited to impacts bills on the administration of the courts. Thank you for supporting the establishment of an intermediate Court of Appeals.

I would appreciate your continuing to send to us any bills which may have an impact on the Court System.

Sincerely,

Richard P. Barrier
Deputy Administrative Director

4141

Introduced: 1/16/79
Referred: Commerce and
Judiciary

1 IN THE SENATE

BY BRADLEY

2 SENATE BILL NO. 44

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to security deposits and prepaid
7 rent."

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

9 * Section 1. AS 34.03.070(d) is amended to read:

10 (d) If the landlord wilfully fails to comply with (b) of this
11 section, the tenant may recover an amount not to exceed [TWICE] the
12 actual amount withheld.

13 * Sec. 2. This Act applies to any action brought under AS 34.03.070(d)
14 which is commenced on or after the effective date of this Act, regardless of
15 when the cause of action may have arisen.

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BROOKE MARSTON, Broker
WILEY S. BROOKS, Property Manager
LINDA J. ENCELEWSKI, Assistant Manager



BRADY BRADLEY
2804 W. NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503
TELEPHONE: (907) 274-5504

February 17, 1979

Mr. George Oliver
President
Anchorage Board of Realtors
301 E. Fireweed
Anchorage, Alaska 99503

Dear Mr. Oliver:

It has come to my attention that certain requirements of the Alaska Statutes and Regulations relating to Real Estate Brokers and salesmen are not in the best interest of property owners. In fact, specific statutes act to prevent property owners from effectively managing their own investments. Other statutes hinder those having a fiduciary responsibility from managing an owner's property by the most efficient and economical means.

Below are some specific statutes which I urge the Real Estate Board to carefully study and seek legislative change which will be more in the interest of real estate owners:

1. Article 2 Section 08.88.161 (1) which reads, "unless licensed as a real estate broker, associate real estate broker, or real estate salesman, no natural person, foreign or domestic corporation, or partnership, or limited partnership, or other entity may sell, exchange, rent, lease, auction, or purchase real estate."

Comment: The intent of this part of the statutes is undoubtedly to protect an owner against persons not having proper training and qualifications. But, literally interpreted, the words rent and lease prevent an owner from employing an unlicensed person from renting or leasing real estate in the owners behalf. I feel quite certain many owners absent from Alaska, or simply involved with their own enterprises authorize resident managers to sign rental and lease agreements for the owner. The owner should certainly have this right without placing an unlicensed resident manager in violation of the statutes. The exceptions found in Section 08.88.421 are not explicit enough to prevent some from insisting that an unlicensed non-owner is unauthorized to sign a rent or lease agreement.

Subparagraph (3) of the above reference section reads, "Collect rent for the use of real estate;"



Comment: This part of the statute is very specific and less subject to interpretation. It prohibits an owner or a professional management firm from including collecting rent monies as part of the duties assigned to an on-site manager. This is over regulation for the following reasons:

- 1) It is normally cost prohibitive to employ a licensed individual to work as a resident manager.
- 2) Residents of an apartment complex without a qualified (licensed) resident manager to collect rents are inconvenienced and incur travel expenses to pay rent monies.
- 3) It is a real estate owner's risk and right to employ a resident manager to collect rents in the owner's behalf.
- 4) Professional property management firms routinely provide a fidelity bond on employees to protect their client's interest. (See our own enclosed management agreement). Even though we are providing fidelity bonds on our employees, we are unable to utilize on-site managers to collect rents.

2. Article 3, Section 8.88.331 states:

"All transactions in real estate by a real estate salesman or associate real estate broker shall be processed through his employing real estate broker's office, whether the transactions are for the real estate salesman's or associate real estate broker's own use or the use of a client."

Article 3, Section 8.88.341 (1) states:

"A real estate broker shall (1) keep a complete record of all real estate transactions made by himself or persons in his employ for at least three years" etc.

Comment: While I am in complete agreement that the statute, as it relates to the real estate client is very appropriate, to deny the real estate salesman or associate real estate broker the freedom and privacy of renting, leasing and maintaining records on their own investments is very inappropriate.

RECOMMENDATIONS:

1. That Article 4 of Section 08.88.421 be amended as follows:
Subparagraph (10) be added:
(10) A person employed by a real estate owner or licensed owner's agent, whose responsibilities are limited to "on-site" management, office

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Mr. George Oliver
February 17, 1979

administration, or bookkeeping.

2. That article 4, of section 8.88.421 (1) be amended as follows:
Subparagraph (11) be added - a person, though licenced, who rents leases, and maintains records or property he owns.
3. That a subparagraph (c) be added to Chapter 64 12 AAC 64.230 to read:
(c) a licensee engaged in property management must provide a fidelity bond in adequate amounts on all employees who handle or are responsible for owner's monies.

I am certain you will insure the above recommendations will be given early study and action by the Anchorage Real Estate Board.
Thank you for your interest and dedication in these matters.

Sincerely,

Wiley S. Brooks
Manager

CC: Bernard L. Marsh, Executive Secretary
Alaska Landlord & Property Managers Association



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