

Offered: 3/16/83
Referred: Rules

Original sponsor: Abood

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 1 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to landlords and tenants."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
8 * Section 1. AS 09.45 is amended by adding a new paragraph to read:
9 Sec. 09.45.085. ENFORCEMENT. A judgment for the restitution of
10 real property rendered in an action for forcible entry or detention
11 may be enforced by the plaintiff without further judicial action and
12 the plaintiff may not be required to obtain a writ of assistance or
13 other order to enforce the judgment.
14 * Sec. 2. AS 09.45.090 is amended by adding a new paragraph to read:
15 (4) when, after a notice to terminate the tenancy as pro-
16 vided in AS 34.03.290 with reference to termination of a periodic
17 tenancy, a person continues in possession of a dwelling unit after
18 expiration of the time for determining the tenancy.
19 * Sec. 3. AS 34.03.270 is amended by adding a new subsection to read:
20 (b) If the rental agreement is terminated by the tenant, the
21 tenant fails to provide the notice required under AS 34.03.290(a) or
22 (b), and the failure to provide the notice is wilful or not in good
23 faith the landlord may recover an amount not to exceed one and one-
24 half times the actual damages. Failure by the tenant to provide the
25 notice required under AS 34.03.290(a) or (b) is presumed to be wilful
26 and not in good faith.
27 * Sec. 4. AS 34.03.290(b) is amended to read:
28 (b) The landlord or the tenant may terminate a month to month
29 tenancy by a written notice given to the other at least 30 days before

1 the termination [RENTAL DUE] date specified in the notice.

2 * Sec. 5. AS 34.03.290(c) is amended to read:

3 (c) If the tenant remains in possession without the landlord's
4 consent after expiration of the term of the rental agreement or after
5 its termination, the landlord may bring an action for possession and
6 recovery of actual damages. If [IF] the tenant's holdover is wilful
7 or [AND] not in good faith the landlord, in addition, may recover an
8 amount not to exceed one and one-half times the actual damages. If
9 the landlord consents to the tenant's continued occupancy, AS 34.03.-
10 020 applies.

11 * Sec. 6. AS 34.03.310(a) is amended to read:

12 (a) Except as provided in (c) and (d) of this section, a land-
13 lord may not retaliate by increasing rent, [OR] decreasing services,
14 terminating the rental agreement or providing notice of termination,
15 or by bringing or threatening to bring an action for possession after
16 the tenant has

17 (1) complained to the landlord of a violation of AS 34.03.-
18 100;

19 (2) endeavored to enforce [AVAIL HIMSELF OF] rights and
20 remedies granted to a tenant [HIM] under the provisions of this
21 chapter;

22 (3) organized or become a member of a tenant's union or
23 similar organization; or

24 (4) complained to a governmental agency responsible for
25 enforcement of governmental housing, wage, price or rent controls.

26 * Sec. 7. AS 34.03.310 is amended by adding a new subsection to read:

27 (f) A landlord is presumed to have violated (a) of this section
28 if the landlord increases rent, decreases service, terminates the
29 rental agreement or provides notice of termination, or brings or

- 1 threatens to bring an action for possession within 60 days after a
- 2 tenant has engaged in an action listed under (a)(1) - (4).

STATE OF ALASKA
FISCAL NOTE

Revision Date March 21, 1983

I. REQUEST

Bill/Resolution No.: CSHB 1 (Judiciary)
 Title: Landlords and Tenants
 Sponsor: Representative Abood
 Requestor: House Finance Committee

II. FISCAL DETAIL

Agency Affected: Dept. of Law
 Program Category Affected: Public Protection
 BRU, Program of Subprogram(s) Affected: Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		5.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	5.0	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	5.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No information provided.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues Director
 Division: Administrative Services Division

Phone: 465-3672
 Date: March 21, 1983

Approved by Commissioner: Norman C. Gorsuch Attorney General Date: March 21, 1983
 Department: Department of Law

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor

ANALYSIS
CSHB 1

The committee substitute does not change the department's involvement in landlord/tenant matters where we are only permitted to provide information on landlord and tenant rights.

This bill amends the state's existing statutes setting out the private rights and remedies accorded to both landlords and tenants, and in so doing the bill modifies some of those rights and remedies. Alaska law does not provide for government intervention or enforcement and any remedial action is a private civil matter of either landlord or tenant, or both. AS 44.23.020(b)(8) does provide, however, that the Attorney General shall prepare, publish and revise an information packet on landlord and tenant rights. Enactment of this bill will require the revision of existing landlord/tenant handbook, the costs for which (\$5,000) are included in this fiscal note.

The following individual is expected to testify on CS HB 1
(Judiciary):

Mitch Abood, prime sponsor

The following individual will be available for questions on CS HB
1 (Judiciary):

Tam Cook, Division of Legal Services (Ms. Cook drafted the
bill.)

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: CS SS HB 1 (JUD)
 Title: "An Act Relating to Landlords & Tenants"
 Sponsor: House Judiciary
 Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Crime & ID
 BRU, Program of Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact anticipated

Prepared By: Paul A. Conger Phone: 465-4338
 Division: Administrative Services Date: 3/21/83
 Approved by Commissioner: [Signature] Date: 3/21/83
 Department: Public Safety

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

Offered: 3/16/83
Referred: Rules

Original sponsor: Abood

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 1 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to landlords and tenants."

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

8 * Section 1. AS 09.45 is amended by adding a new paragraph to read:

9 Sec. 09.45.085. ENFORCEMENT. A judgment for the restitution of
10 real property rendered in an action for forcible entry or detention
11 may be enforced by the plaintiff without further judicial action and
12 the plaintiff may not be required to obtain a writ of assistance or
13 other order to enforce the judgment.

14 * Sec. 2. AS 09.45.090 is amended by adding a new paragraph to read:

15 (4) when, after a notice to terminate the tenancy as pro-
16 vided in AS 34.03.290 with reference to termination of a periodic
17 tenancy, a person continues in possession of a dwelling unit after
18 expiration of the time for determining the tenancy.

19 * Sec. 3. AS 34.03.270 is amended by adding a new subsection to read:

20 (b) If the rental agreement is terminated by the tenant, the
21 tenant fails to provide the notice required under AS 34.03.290(a) or
22 (b), and the failure to provide the notice is wilful or not in good
23 faith the landlord may recover an amount not to exceed one and one-
24 half times the actual damages. Failure by the tenant to provide the
25 notice required under AS 34.03.290(a) or (b) is presumed to be wilful
26 and not in good faith.

27 * Sec. 4. AS 34.03.290(b) is amended to read:

28 (b) The landlord or the tenant may terminate a month to month
29 tenancy by a written notice given to the other at least 30 days before

1 the termination [RENTAL DUE] date specified in the notice.

2 * Sec. 5. AS 34.03.290(c) is amended to read:

3 (c) If the tenant remains in possession without the landlord's
4 consent after expiration of the term of the rental agreement or after
5 its termination, the landlord may bring an action for possession and
6 recovery of actual damages. If [IF] the tenant's holdover is wilful
7 or [AND] not in good faith the landlord, in addition, may recover an
8 amount not to exceed one and one-half times the actual damages. If
9 the landlord consents to the tenant's continued occupancy, AS 34.03.-
10 020 applies.

11 * Sec. 6. AS 34.03.310(a) is amended to read:

12 (a) Except as provided in (c) and (d) of this section, a land-
13 lord may not retaliate by increasing rent, [OR] decreasing services,
14 terminating the rental agreement or providing notice of termination,
15 or by bringing or threatening to bring an action for possession after
16 the tenant has

17 (1) complained to the landlord of a violation of AS 34.03.-
18 100;

19 (2) endeavored to enforce [AVAIL HIMSELF OF] rights and
20 remedies granted to a tenant [HIM] under the provisions of this
21 chapter;

22 (3) organized or become a member of a tenant's union or
23 similar organization; or

24 (4) complained to a governmental agency responsible for
25 enforcement of governmental housing, wage, price or rent controls.

26 * Sec. 7. AS 34.03.310 is amended by adding a new subsection to read:

27 (f) A landlord is presumed to have violated (a) of this section
28 if the landlord increases rent, decreases service, terminates the
29 rental agreement or provides notice of termination, or brings or

1 threatens to bring an action for possession within 60 days after a
2 tenant has engaged in an action listed under (a)(1) - (4).

Introduced: 1/28/83
Referred: Labor & Commerce
and Judiciary

1 IN THE HOUSE

BY ABOOD

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 1
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to landlords and tenants."

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

8 * Section 1. AS 09.45.090 is amended by adding a new paragraph to read:

9 (4) when, after a notice to terminate the tenancy as pro-
10 vided in AS 34.03.290 with reference to termination of a periodic
11 tenancy, a person continues in possession of a dwelling unit after
12 expiration of the time for determining the tenancy.

13 * Sec. 2. AS 34.03.290(b) is amended to read:

14 (b) The landlord or the tenant may terminate a month to month
15 tenancy by a written notice given to the other at least 45 [30] days
16 before the termination [RENTAL DUE] date specified in the notice.

17 * Sec. 3. AS 34.03.290(c) is amended to read:

18 (c) If the tenant remains in possession without the landlord's
19 consent after expiration of the term of the rental agreement or after
20 its termination, the landlord may bring an action for possession and
21 recovery of actual damages. If [IF] the tenant's holdover is wilful
22 and not in good faith the landlord, in addition, may recover an amount
23 not to exceed one and one-half times the actual damages. If the
24 landlord consents to the tenant's continued occupancy, AS 34.20.020
25 applies.

26 * Sec. 4. AS 34.03.310 is amended by adding a new subsection to read:

27 (f) A landlord is presumed to have violated (a) of this section
28 if the landlord increases rent, decreases service, or brings or
29 threatens to bring an action for possession within 60 days after a

1 tenant has engaged in an action listed under (a)(1) - (4).

STATE OF ALASKA
FISCAL NOTE

Revision Date March 21, 1983

I. REQUEST

Bill/Resolution No.: CASHB 1 (Judiciary)
 Title: Landlords and Tenants
 Sponsor: Representative Abood
 Requestor: House Finance Committee

II. FISCAL DETAIL

Agency Affected: Dept. of Law
 Program Category Affected: Public Protection
 BRU, Program of Subprogram(s) Affected: Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		5.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	5.0	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	5.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No information provided.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues Director Phone: 465-3672
 Division: Administrative Services Division Date: March 21, 1983
 Approved by Commissioner: Richard I. Pegues/for/
Norman C. Gorsuch, Attorney General Date: March 21, 1983
 Department: Department of Law

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

ANALYSIS
CSHB 1

The committee substitute does not change the department's involvement in landlord/tenant matters where we are only permitted to provide information on landlord and tenant rights.

This bill amends the state's existing statutes setting out the private rights and remedies accorded to both landlords and tenants, and in so doing the bill modifies some of those rights and remedies. Alaska law does not provide for government intervention or enforcement and any remedial action is a private civil matter of either landlord or tenant, or both. AS 44.23.020(b)(8) does provide, however, that the Attorney General shall prepare, publish and revise an information packet on landlord and tenant rights. Enactment of this bill will require the revision of existing landlord/tenant handbook, the costs for which (\$5,000) are included in this fiscal note.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU ALASKA 99801
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 22, 1983

SUBJECT: Landlords and tenants
(CSSSHB 1 (Judiciary))

TO: Representative Mitchell E. Abood, Jr.

FROM: Tamara Brandt Cook
Legislative Counsel

TPC

Here is the sectional analysis of CSSSHB 1 (Judiciary) that you requested.

Section 1. This is a new provision authorizing enforcement of a judgment for the restitution of real property obtained in an action for forcible entry or detention. No other order to enforce the judgment may be required. —

Section 2. Continued possession of a dwelling after expiration of the tenancy is added to the list of cases that constitute unlawful holding by force for purposes of the article dealing with forcible entry and detainer. Under the Uniform Residential Landlord and Tenant Act a landlord is authorized to bring an action for possession.

Section 3. If the tenant terminates a rental agreement under the Uniform Residential Landlord and Tenant Act, fails to provide the proper notice of termination, and the failure to provide notice is wilful or not in good faith, the landlord may recover as punitive damages one and one-half times the actual damages. Failure to provide notice of termination is presumed to be wilful and not in good faith.

Section 4. In the case of a month-to-month tenancy, either party may terminate the rental agreement by providing at least 30 days notice. Under existing law the notice must be given at least 30 days before the rental due date indicated in the notice, so a tenancy must be terminated on a rental due date rather than at any time during the rental period.

Representative Mitchell E. Abood, Jr.

Page 2

March 22, 1983

Section 5. This authorizes a landlord to bring an action for recovery of actual damages in the subsection that provides for punitive damages. Under another section, AS 34.-03.270, it is clear that a landlord may bring an action for actual damages for breach of a rental agreement.

Section 6. This adds terminating the rental agreement or providing notice of termination to the list of retaliatory actions that a landlord may not take when a tenant attempts to enforce certain rights.

Section 7. A landlord is presumed to have acted in retaliation if the landlord takes certain actions within 60 days after a tenant attempts to secure rights.

TBC:ljb

11/008

Alaska State Legislature

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843
HOME (907) 274-3102

IN SESSION:
COMMITTEE V
ANCHORAGE, ALASKA 99511
(907) 465-4947




HOUSE MAJORITY WHIP

CHAIRMAN
STATE AFFAIRS

MEMBER
TRANSPORTATION
LEGISLATIVE COUNCIL

Representative Mitch Abood
HOUSE DISTRICT 11

TO: Representative Al Adams
Chairman, House Finance Committee

FROM: Representative Mitch Abood 

DATE: March 21, 1983

RE: CSSSHB 1 - "An Act relating to Landlords and Tenants"
Synopsis

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 1 (Judiciary)

"An Act relating to landlords and tenants"

The Alaska Statutes governing Landlords and Tenants is not entirely clear in defining certain areas of concern to both the landlord and the tenant. Both the landlord and the tenant hold certain unalienable rights in the property they own as a landlord or rent as a tenant. With the 0% to 4% vacancy rates in most of Alaska, and because over 35% of the population in Alaska rent their dwellings, it is necessary to update the laws to answer the some of these needs.

Section 1 - Sec. 09.45.085 - ENFORCEMENT.

This section assists the plaintiff in settling his case. As it stands now, if a landlord, (for example), wins his suit against the tenant who is holding over without the landlord's permission, the landlord needs to first receive a judgment from the court, and then go to the Court or State Troopers to file an additional form or forms to enforce the judgment. In some cases, a delay in action results in the tenant disappearing before the correct forms can be served upon him, and this would alleviate the additional costs of filing additional forms.

Section 2 - This section stipulates a "periodic tenancy" termination. AS 09.45.090 cites a "week to week" tenancy, as well as an "estate at will", but because most tenancies are based on a "month to month" period of time, this section is added to update the laws. (Estate at will is defined as a tenancy that transpires on a day to day basis or an indefinite term at the will of the lessor. In this case, the tenant has no say in how long the tenancy will last.)

CSSSHB 1

"An Act relating to Landlords and Tenants"

Synopsis - CSSSHB 1

Page Two

Section 3 - The key word here is "presumed". The burden of proof lies with the tenant to prove that his intentions were in good faith. This shortens the judicial process in some circumstances. It is up to the tenant to explain why he did not give notice or had a good reason for not giving notice, (i.e. an emergency operation, a death in the family, etc.). Until that time, the court presumes that the tenant failed to give notice and the landlord can proceed with recovery of the premises.

Section 4 - Referring to "notice of termination", a landlord or tenant may give 30 days notice before moving out of the premises. "Rental due date" has been replaced by "termination date". This provides the tenant and the landlord with a more equitable time frame to terminate the tenancy. They are not obligated to give notice on the day the rent is due; rather, they can give notice at any time during the month, provided the 30 day time frame is given.

Section 5 - Provides for recovery of "actual damages" as well as one and one-half times the actual damages as compensation to the landlord. This deters the tenant from staying on past termination or the expiration of the rental agreement. An improper hold-over by tenants has caused landlords financial difficulties. Alaska law allows landlords to sue for damages, but the time, effort and money involved is not always feasible to pursue.

Section 6 - Retaliatory Action - This is a further definition of violations in AS 34.03.310 (a) 1 - 4. The landlord may not terminate the tenancy because the tenant has made a complaint for just causes in the method governed by the the Alaska Statutes. Note that (2) is simply revising the masculine pronouns.

Section 7 - Same as Section 6. Retaliatory Action on the part of the landlord.

This bill is intended to update the present laws governing both the landlord and tenant. I feel that it provides both parties with fair and equitable provisions to answer some of the overwhelming problems that have arisen over the past several years, due to the increase in the Alaskan population.

STATE OF ALASKA

WALT FURNACE, CHAIRMAN
RICK UEHLING, VICE CHAIRMAN
JOHN COWDERY
NIILO E. KOPONEN
HUGH MALONE
JOHN RINGSTAD
RON WENDTE



POUCH V
JUNEAU, ALASKA 99811
(907) 465-3892

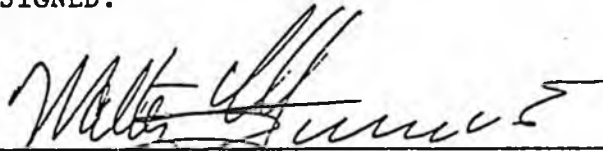
HOUSE LABOR AND COMMERCE COMMITTEE

February 10, 1983

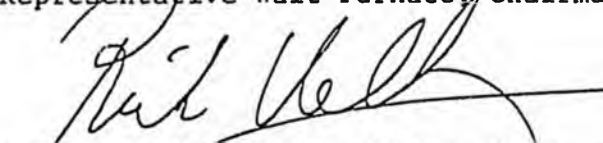
LETTER OF INTENT FOR
CSSS FOR HB-1 (L & C)

The Legislature recognizes that an increase in rent by the landlord may constitute a form of termination, in that it terminates the rental agreement then in existence and offers a new rental agreement at different terms. The tenant, however, should be given ample time to locate a new dwelling and to move. Upon receipt of a notice of rent increase a tenant should have the full 45 days to vacate provided under this bill if he chooses not to accept the higher rent. The tenant would be under the obligation to inform the landlord of his intention to vacate within the 45 day period if the tenant does not intend to pay the higher rent.

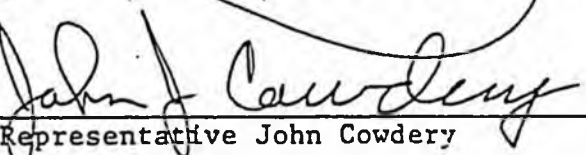
SIGNED:


Representative Walt Furnace, Chairman

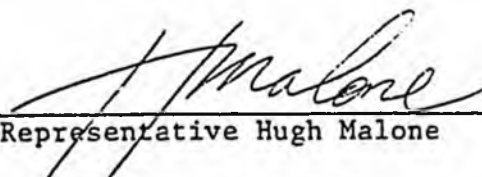

Representative John Ringstad


Representative Rick Uehling, Vice Chairman


Representative Ron Wendte


Representative John Cowdery

Representative Niilo Koponen


Representative Hugh Malone

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

RECEIVED
FEB 16 1983

No: HB 1 Date on Bill: 1/28/83
 Title: "An Act relating to landlords and tenants."
 Sponsor: Representative Abood
 Requestor: Representative Abood

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating			-0-	5.0	-0-	-0-		
Total								

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

c. Source of funds to offset fiscal impact of bill:

No information provided.

d. Assumptions:

This bill amends the state's existing statutes setting out the private rights and remedies accorded to both landlords and tenants, and in so doing the bill modifies some of those rights and remedies. Alaska law does not provide for government intervention or enforcement and any remedial action is a private civil matter of either landlord or tenant, or both. AS 44.23.020(b)(8) does provide, however, that the Attorney General shall prepare, publish and revise an information packet on landlord and tenant rights. Enactment of this bill will require the revision of existing landlord/tenant handbook, the costs for which are included in this preliminary statement of Fiscal Impact.

e. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Richard I. Pezues, Director
 Division: Administrative Services

Phone: 465-3672
 Date: 2/15/83

Approved by Commissioner: Norman C. Gorsuch
 Department: Department of Law

Date: 2/15/83

f. Distribution:

Original to Legislative Finance
 Copy to OMB
 Copy to Sponsor
 Copy to Requestor



COOPERATIVE EXTENSION SERVICE

UNIVERSITY OF ALASKA, USDA & SEA GRANT COOPERATING

ANCHORAGE DISTRICT, 2651 PROVIDENCE AVENUE, ANCHORAGE, ALASKA 99508

NOTE: SSB 1 TESTIMONY GIVEN BY BARBARA EICHNER TO LABOR AND COMMERCE COMMITTEE ON 2/10/83. THE BILL HAS BEEN UPDATED BY THE LABOR AND COMMERCE COMMITTEE --- BARBARA EICHNER WILL SPEAK TO THESE CHANGES AT THE JUDICIARY MEETING 2/25/83.

Testimony on House Bill 1
Barbara G. Eichner
District Home Economist - Cooperative Extension Service
February 10, 1983

Good morning and thank you for providing the opportunity for me to testify on one of the most important bills before the 1983 legislature.

This is Barbara Eichner speaking. I am district home economist for the Cooperative Extension Service in Anchorage. Briefly, our agency is the non-credit educational arm of the land-grant university in every state, which includes the University of Alaska. Our job is to disseminate practical information to consumers on a wide variety of topics such as gardening, nutrition, agriculture and housing.

Three years ago because of a fluke answer to a consumer newspaper column, the Cooperative Extension Service was propelled to the forefront as the only impartial agency or organization who would and could answer landlord-tenant questions quickly, simply and at no charge. I am not an attorney and I do not give legal advice. All I can do is give people an idea of their rights and responsibilities under the law and yet despite that, over 4000 landlords and tenants have sought my advice through telephone counseling and seminars. In addition, over 14,000 copies of our landlord-tenant handbooks have been distributed statewide and 9 hours of radio and television time have been used to discuss landlord-tenant issues. In short, the concerns relating to rental housing are numerous and the effect of inadequate assistance is widespread. People in Bethel, Kodiak, Nome, Dutch Harbor and North Pole all want the same thing according to my statistics - available and affordable housing managed in a business-like manner. People in 26 Alaskan communities have all said the same thing - change the law.

You all know the history of rental housing in the boom and bust economy of Alaska's towns and villages. In good times housing has responded well to the laws of supply and demand. In poor times, landlords and tenants alike have asked for help in keeping housing available, affordable and soundly managed. Despite the steady growth of Alaska's overall economy, the supply of rental housing in the last 3 years has remained the same while the population increased. Anchorage alone has experienced a rental vacancy rate of less than 1% for almost 2 years. Newspaper headlines like "Tenants Feel Pinch of Escalating Rents", "Anchorage Renters May Form Union" and "Man Sues Landlady for \$2.8 million" only underscore the tension prevalent in the rental market.

Continued...

Page two...
H.B.1 continued

The stories that didn't capture headline attention are the sometimes unbelievable but everyday problems the Extension Service has faced such as:

- the tenant who hasn't had heat for 6 months and whose landlord says if she doesn't like it she can move
- the landlord who is left with a \$3000 outstanding bill in damages and back rent when the tenant moves out in the middle of the night
- the tenant whose rent has been raised \$350 in just one month
- the landlord who needs to evict 8 people who are living in a one-bedroom apartment
- the tenant who was physically assaulted by his landlord, and
- the landlord who must replace a whole bedroom wall section because the permeating odor of a previous tenant's pet snake that crawled into the wall and died. (Yes, it is a true story).

If consumers are to act as responsible citizens in the marketplace, then our laws must reflect the needs of our citizens. It really doesn't matter whether you are a landlord or a tenant, the fact is that Alaska's Uniform Residential Landlord and Tenant Act is out-of-date and unclear. Many issues such as those just named, are not addressed at all.

In the three years that I have dealt with rental housing questions, the problems that have loomed largest include evictions, improper holdover, lack of written rental agreements, abuse of the right to access, retaliation, security deposits and forceable entry and detainer without due process.

I am pleased to see that House Bill 1 makes an effort to address four of these issues.

Section 1 and Section 3 make it clearer for landlords in knowing when they can prosecute for improper possession. Far too many tenants have told me that they feel landlords are obliged to house them until it is convenient for them to move. Not only has this attitude complicated the rights of landlords to negotiate new deals with new tenants, it has been held with little consequence or risk.

I believe Section 2 will be a welcome relief to both landlords and tenants in outlining a clearer way of determining when a tenant will move. The 45-day proviso is a compromise on just-cause eviction which is fairer to landlords. At the same time, I don't know how many landlords and tenants have been stuck with nearly 60 days notice when they have accidentally missed a rental due date. Almost everyone should be able to count 45 calendar days.

Continued...

Page three
H.B.1

And finally, in Section 4, I believe it is appropriate to shift the burden of proof for retaliatory measures to the landlord without sticking them with an enforced lease behind which unsavory tenants could hide. Retaliatory action is clearly illegal in our current statute but my experience indicates that it is practically impossible for tenants to prove. Landlords, by virtue of their position, have the greater power here and therefore I believe should have the greater burden. It is a question of social equity for tenants who see themselves as helpless victims and should create no hardship for the vast majority of our landlords who are straight-forward business people.

Housing issues have deep psychological roots. The fiber of the good life in this country appears to weigh heavily on access to shelter. We must give consumers the tools with which to manage their own affairs at a satisfactory level. Even though there are many issues yet to address, House Bill 1 has taken an equitable stance on at least 4 of these and I urge your serious consideration of this proposed legislation.

Thank you.

COMMON RENTAL PROBLEMS

<u>Problem</u>	<u>Remedy</u>
1. No written notice	1. Written notices are required in many sections of the law; re-read this bulletin carefully to see when to use a written notice.
2. Landlord tells a tenant to move immediately or cuts off essential services without warning	2. Evictions are controlled by specific sections of the law. Tenants do not have to move if these rules are not followed and may sue for 1½ times actual damages.
3. Tenant refuses to move after receiving an eviction notice	3. The landlord should go to court for an F.E.D. order; the State Troopers will carry out the order. In addition, the landlord may sue for 1½ times the actual damages. See the section— EVICCTIONS .
4. Deposit is not returned	4. Tenants may sue for twice the amount kept; re-read the section— DEPOSIT RETURN .
5. Tenant is habitually late with rent or repeatedly breaks rules	5. Late rent and other problems repeated within a 6-month period may be grounds for eviction; re-read section on EVICCTIONS or see a lawyer.

RENT CONTROL

During the pipeline boom of the early 1970's, several Alaskan cities experienced a severe housing shortage, and the legislature passed an emergency rent control law. (A.S. 34.06.010-.060)

When emergency rent control is in force, the rules regarding rent increases and evictions change; however, the law expired in 1977, and if an emergency situation occurred again, a new law would have to be passed by the legislature.

THERE IS NO RENT CONTROL IN ALASKA AT THE CURRENT TIME.

TABLE OF CONTENTS

	Page
Introduction.....	1
who is covered?.....	1
terminology.....	1
written notices.....	1-2
Before You Move In.....	2
rental agreements.....	2
change your lease.....	3
illegal discrimination.....	3
disclosure.....	3
deposits.....	3-4
inspections.....	4
While Renting.....	4
paying rent/rent increases.....	4
rules and regulations.....	4-5
subleasing.....	5
privacy.....	5
absence/abandonment.....	6
fire/casualty damage.....	6
housing codes.....	6
condemned.....	7
landlord duties.....	7-8
handyman agreements.....	8
tenant duties.....	8
eviction.....	8-9
retaliation.....	9
Moving Out.....	10
proper notice.....	10
cleaning and damages.....	10
deposit return.....	10
Special Rules for Mobile Homes.....	11
rental agreements.....	11
capital improvements.....	11
eviction.....	11
Where To Go For Help.....	12
Setting Disputes.....	13
Sample Forms.....	13-15
Common Rental Problems.....	16
Rent Control.....	16

ALASKA LANDLORD- TENANT LAW

This booklet is a June 1982 update of the 1980 publication prepared by the Cooperative Extension Service, with the assistance of Alaska Legal Services and the Consumer Protection Section of the Alaska Dept. of Law.

INTRODUCTION

In 1974, the Alaska Legislature passed the Uniform Residential Landlord and Tenant Act (A.S. 34.03.010-.380). The purpose of the Act was to simplify, clarify and modernize Alaskan laws relating to the rental of dwellings. It was also intended to encourage both landlords and tenants to maintain and improve the quality of housing.

While the law does not cover every problem a landlord or tenant may have, it was written to protect the rights of both parties.

In addition to the Uniform Residential Landlord and Tenant Act, other laws which have application to the rental of dwellings include:

1. Alaska Statute 09.45.060-.160
Procedure for Recovering Possession
2. Alaska Statute 34.06.010-.060
Emergency Residential Rent Regulation and Control

This booklet was prepared directly from A.S. 34.03.010-.380. Where appropriate, we have cited the actual portion of the law that pertains so that if you need to go to court, you can either use this booklet or can refer directly back to the law. The reference will be the letters "A.S." (short for Alaska Statute) followed by some numbers (these are the title, chapter and article numbers of the law respectively); for example: (A.S. 34.03.330).

You can get a copy of the actual law at your nearest courthouse, public library or magistrate's office.



who is covered

A dwelling, in this law, is a structure or part of a structure used as a home, residence or sleeping place by one or more persons, including the rental of mobile home space.

If you rent a house, apartment, mobile home, mobile home space, condominium, townhouse or duplex, this law applies to you!

the law does not cover:

1. residency in an institution (school dorm, jail, hospital, nursing home, etc.);
2. hotels, motels and other transient housing;
3. condominiums occupied by the owner;
4. occupancy under a contract of sale;
5. occupancy of a dwelling owned by a fraternal or social organization of which you are a member;
6. live-in employment (apartment managers, housekeepers, etc.);
7. occupancy when the premises are used primarily for agricultural purposes.

terminology

In this booklet, several terms are used that mean the same thing.

Landlord means the owner or manager or rental agent for the dwelling.

Dwelling, unit, property and premises means the rental unit, whether it is a home, apartment, mobile home, etc.

Tenant means any of the people who rent a dwelling.

Other technical definitions may be found in A.S. 34.03.360—Definitions.

written notices

Putting things in writing does not mean the landlord and tenant are enemies or do not trust each other. It is simply a good way to do business. Oral agreements are legal; however, under the law, a written notice or agreement may be your only protection if something goes wrong. Some people hesitate to put agreements in writing because they don't know what to say. There are examples of various notices in the back of this booklet that may help.

Here are some things that should definitely be in writing:

1. receipts for payments of any kind;
2. promises to fix things;
3. rental agreements;
4. eviction or moving notices;
5. notices of repairs needed;
6. details of what needs to be done to get back a deposit.

It cannot be emphasized strongly enough how important this is:
GET IT IN WRITING!



BEFORE YOU MOVE IN rental agreements

Rental agreements may be either written or oral, but written is best. If any disagreement occurs later, both tenants and landlords will have evidence to back their claims.

If a tenant signs a rental agreement, moves in and begins paying rent, the agreement is still legal even if the landlord didn't sign the agreement.

If the landlord shows the tenant a rental agreement to which the tenant agrees, moves in and begins paying rent, the agreement is still legal even if the tenant did not sign it. It is critical that tenants and landlords review and discuss any rental agreements and rules before anyone moves in or money changes hands.

A lease is a rental agreement that tells how long the tenant will stay (usually four, six or twelve months). If there is a lease, the

landlord cannot raise the rent or evict the tenant unless promises in the lease are broken. If there is a lease but the tenant must move, the tenant is still responsible for the rent for the rest of the lease period, unless the dwelling can be re-rented.

Here are some things which should appear in a rental agreement:

1. name and address of the owner and his/her manager or agent as well as the tenant's name and address;
2. the amount of rent, when it is due, where and how it is to be paid;
3. if this is a month-to-month agreement or lease with time limits;
4. when the rent will be considered overdue and what penalty will be levied;
5. what is included in the rent (heat, lights, water, etc.) and what is provided (driveway, garage, furnishings, kitchen appliances, snow removal, storage, laundry, etc.);
6. total number of full-time occupants and pets allowed;
7. a list of prohibited equipment (snowmobiles, motorcycles, musical equipment, etc.);
8. the amount and type of deposit (cleaning, security, pets, etc.) and what has to be done to get it back;
9. a list of landlord and tenant repair and maintenance duties;

Rental agreements cannot:

1. force a tenant to waive any legal rights,
2. excuse the landlord from any legal responsibilities,
3. let the landlord sue the tenant without notice,
4. require the tenant to pay the landlord's attorney fees should you go to court;
5. allow the landlord to take a tenant's personal belongings (A.S. 34.03.040).

DO NOT SIGN A RENTAL AGREEMENT THAT HAS ILLEGAL WORDING.

If the rental agreement contains any of the things listed below, they should be removed before signing:

1. agreeing to let the landlord come into the dwelling whenever he/she wants;
2. agreeing to immediate eviction for nonpayment of rent;
3. agreeing that the tenant will make all repairs;
4. excusing the landlord from liability in case of accidents due to his/her neglect;
5. giving up rights to the deposit.

NOTICE OF DEFECTS IN ESSENTIAL SERVICES

(Date)

TO: _____
(Landlord)

(Address)

You are notified that you are failing to provide (water/hot-water/heat/sewer service or other essential services) at the above address. The specific defect (s) is as follows: _____

If you do not fix this defect WITHIN 24 HOURS, I have a right to 1) have it fixed myself and deduct the cost from my rent, 2) sue you for damages, or 3) move out and hold you responsible for my expenses in doing so.

Signed,

(Tenant)

Receipt:
I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Landlord)

KEEP A COPY OF THIS NOTICE

**NOTICE OF TERMINATION OF TENANCY
BY LANDLORD**

(Date)

TO: _____
(Tenant)

(Address)

You are notified that your tenancy is terminated and that you must move from the address listed above on the rent due date which occurs at least 30 days from the date you receive this notice. Your rent is due on the _____ of each month, so you must be gone by the _____ day of _____ 19____.

The reason you are being evicted is as follows:

If you are not gone by that date, a lawsuit will be filed to evict you.

Signed,

Receipt:
I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Tenant)

KEEP A COPY OF THIS NOTICE

15

NOTICE OF TERMINATION OF TENANCY (BY TENANT)

(Date)

TO: _____
(Landlord)

(Address)

You are notified that I am terminating this tenancy effective on the rent due date which occurs at least 30 days from the date you receive this notice. My rent is due on the _____ of each month, so I will be gone by the _____ day of _____, 19____.

Please send my security deposit of \$_____, or an explanation of how it was used, to _____
(address)

within 14 days of the date I move.

Signed,

(Tenant)

(Address)

Receipt:

I received this notice on the _____ day of _____
19___ at _____ am/pm.

(Landlord)

KEEP A COPY OF THIS NOTICE

NOTICE OF EVICTION FOR VIOLATION OF AGREEMENT
AND/OR THE LAW

(Date)

TO: _____
(Tenant)

(Address)

You are notified that you have seriously violated your agreement with me and/or your duties under the law. The violation (s) are set out specifically as follows: _____

If you do not remedy the violation (s) listed above within TEN DAYS after the date you receive this notice, your tenancy will terminate in not less than TWENTY DAYS, and you must move. Failure to remedy the violation (s) listed above will mean you must leave by the _____ day of _____, 19____.

If you have not remedied the problem (s) and have not moved by the date listed above, a lawsuit will be filed to evict you. If you remedy the problem (s) within TEN DAYS, you may stay.

Signed,

(Landlord)

Receipt:

I received this notice on the _____ day of _____
19___ at _____ am/pm.

(Tenant)

KEEP A COPY OF THIS NOTICE

14

change your mind?

Once an agreement to rent a place has been made, and all or part of the deposit and rent has been paid and then a tenant doesn't move in, he/she may not be able to have all his/her money returned. If this happens on a month-to-month agreement (written or oral), the tenant may have to pay for one month's rent or rent on a day-to-day basis until someone else rents the place, whichever is less. If a lease was signed, the tenant may owe rent until the place is re-rented or the lease period ends, whichever is less.

EXCEPTION: If the landlord lied about the place or deceived the tenant by not telling about important problems (for instance, no heat, the building is condemned, etc.) the tenant should get all the money back. In addition, the tenant could sue for fraud. If this situation comes up, see a lawyer.

illegal discrimination

It is illegal for landlords to refuse to rent to someone because of sex, age, race, religion, national origin, color, marital status, pregnancy or changes in marital status, unless the housing is specially designated for "singles only" in advance.

It is unlikely that a landlord will openly refuse to rent to someone for an illegal reason. There are some indications that a landlord may be practicing discrimination in renting when:

- the apartment the tenant called about is "suddenly" taken when the landlord sees the tenant.
- a place the tenant was told is "rented" remains vacant.
- the rent or deposit is much higher than advertised or charged for similar units.
- rules will be different for one tenant than for others in the same apartment house or court. (For example, others have pets, but you cannot. A landlord may decide to allow no more pets, but he/she must stick to the new rules as far as new tenants are concerned.)
- the tenant is not referred to a listing in a real estate office that fits his/her needs.
- a house or apartment in the tenant's area is rented with the intention of forcing others to leave (block-busting).
- an advertisement indicates a preference based upon race, color, religion, sex, age, marital status or national origin.

Everyone should have a free choice about where to live, and there are legal methods of fighting discriminatory practices. If you feel you have been discriminated against and want to do something about it, you can complain to the State Human Rights Commission. The Commission's investigation costs you nothing.

For more help on illegal discrimination, contact the Human Rights Commission in your town or:

State Human Rights Commission
204 East 5th
Anchorage, Alaska 99501
phone: 276-7474

disclosure

The law says that someone must be responsible for such things as decisions about maintenance, repairs, collecting rent and receiving notices from tenants or from the court. It is a requirement that when a tenant moves in, he/she must be told in writing the name and address of the owner (or who the owner wants his/her agent to be). This information must be kept up-to-date.

If this information is not provided, whoever made the rental agreement or receives the rent becomes the legally responsible person. Then, when the tenant is required to give a written notice or wants to sue, he/she should:

1. contact the owner or his/her agent, or
2. if that information was never officially given to the tenant, contact the person who made the original agreement or takes the rent. (A.S. 34.03.080)

deposits

Deposits are often collected for pets, children, cleaning or security before a tenant moves in. Sometimes the tenant will be asked to pay the last month's rent, too. The total amount collected for all deposits and pre-paid rent, except the first month's rent, cannot exceed two month's rent. (A.S. 34.03.070)

Deposits and pre-paid rent along with first month's rent can make total move-in costs high. Here are some examples of how these move-in costs might be set:

Legal Examples

- #1: \$ 375 first month's rent
- \$ 375 last month's rent
- \$ 375 security deposit
- \$1125 total to move in
- #2: \$ 325 first month's rent
- \$ 150 cleaning deposit
- \$ 175 security deposit
- \$ 325 last month's rent
- \$ 975 total to move in

Illegal Examples

- #1: \$ 275 first month's rent
- \$ 375 last month's rent
- \$ 400 security deposit
- \$1150 total to move in
- #2: \$ 325 first month's rent
- \$ 300 cleaning deposit
- \$ 200 security deposit
- \$ 325 last month's rent
- \$1150 total to move in

The deposit and any pre-paid rent must be deposited in a trust account in a bank, savings and loan association or with a licensed escrow agent. Exceptions are made for rural Alaska, if it is impractical to bank the money. When the deposit is collected, be sure to get a receipt. Also, it is a good idea to have the landlord write on the receipt the amount paid for each type of deposit and what has to be done to get the deposit back. (Always get and keep records for any money paid.)

If the tenant is renting a unit and the building is sold, there is often confusion as to which person, the old or new landlord, is responsible for the deposit and pre-paid rent money. The original landlord who accepted the money is the person responsible for returning the money to the tenant UNLESS the new owner receives the money from the old landlord and agrees to the responsibility of taking care of it.

When a tenant finds out the building is being sold, he/she should find out whether the old or new landlord will hold the deposit money. If the old landlord keeps the deposit, the tenant should get in writing the name of the bank where the deposit is kept and the new address of the old landlord.

inspections

While the law does not specify that an inspection must be done, it is a good idea for the landlord and tenant to inspect the dwelling together before anyone moves in. Make a list of items needing repair and the date the work should be completed (10 days is standard). Make another list of damage that will not be changed or repaired. Both the landlord and the tenant should sign and date these lists. Each of you should keep a copy. These lists will be handy when the tenant is ready to move out.

**WHILE RENTING**
paying rent/rent increases

The landlord is not required to ask tenants each month for their rent before they are "required" to pay it. If a time and place for payment of rent was not agreed upon when the tenant moved in, it is assumed that the rent will be collected at the dwelling.

If the tenant rents monthly, the rent is due every 30 days, unless otherwise agreed. So, if the tenant moves in on the 8th, the rent is due on or before the 8th of every month.

If there is a signed lease, rent may not be increased during the lease period. Other rent increases may be levied as the landlord sees fit; however, the law is unclear regarding the notice period which the landlord is required to give.

The general interpretation is that a rent increase is either:

1. a termination by the landlord of the tenancy at the old rental rate and an offer to renew it at a higher rate or
2. a modification of a rule or regulation.

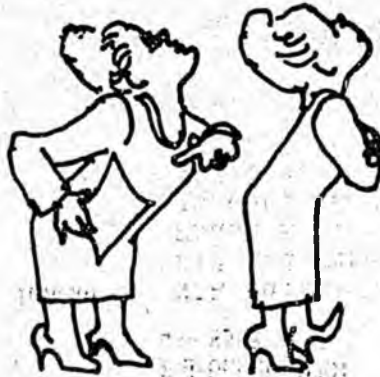
In either case, tenants should be given a written notice 30 days before the next rental due date. If the tenant does not agree with the rent increase or cannot pay, he/she may give notice to move. Since the law is not clear, landlords and tenants should seek legal advice if they are unsure about a proposed rent increase. (A.S. 34.03.290b and A.S. 34.03.130b)

4**rules and regulations**

Almost every landlord has rules and regulations. Often these are not mentioned until after a tenant moves in or until the rule

SAMPLE FORMS

The following notices were prepared as samples of what is necessary. These samples may not apply in all situations, but could be helpful.



SETTLING DISPUTES

When landlords and tenants disagree, sometimes tempers flare, and things may be said and/or done which are wholly outside the law. Sometimes the disagreement becomes just plain petty and small. It will only complicate matters if either party takes the issue to court.

If there is disagreement on any issue, remember that the court looks favorably on "good faith" action; that is, action taken in an honest, forthright manner. Try to remain calm. Gather your facts and **PUT THEM IN WRITING**. Be sure to pay attention to sections of the law that require written notices and that specify the number of days allowed for landlords or tenants to remedy disagreeable situations. Present your problem to the other party in writing, clearly stating what you want to change and what you will do if the situation doesn't change. The forms in the back of this booklet may help.

Generally speaking, the rental of dwellings is a business, and as in any other business, both parties should conduct themselves in a fair, honest manner. There are not many agencies that will mediate landlord/tenant disputes, and problems are frequently not serious enough to require a lawyer or go to court. Most landlord/tenant problems could be settled by both parties acting "in good faith".

If serious problems do arise, it is always advisable to see a lawyer. But first, give the other person a chance by trying to work it out together.

NOTICE OF EVICTION FOR NON-PAYMENT OF RENT

(Date)

TO: _____
(Tenant)

(Address)

You are notified that you owe rent in the amount of \$_____. If you do not pay this rent within TEN DAYS of the day you receive this notice, your tenancy is terminated and you must move. You must pay your rent in cash, money order or certified check.

If you have not paid the rent or moved within TEN DAYS, a lawsuit will be filed to evict you. If you pay your rent on or before the TEN DAY period, you may stay.

Signed,

(Landlord)

Receipt:

I received this notice on the _____ day of _____
19____ at _____ am/pm.

(Tenant)

KEEP A COPY OF THIS NOTICE

has been broken. To avoid problems, the law requires the landlord to show his/her rules and regulations to the tenant before the tenant commits himself to a rental agreement (oral or written). The tenant may discover that he/she does not agree with them and decide not to move in. The rules and regulations must be reasonable and specific, or under the law, the landlord will not be able to enforce them.

Remember that once the tenant has seen the rules and moved in, he/she is agreeing to live by these rules. A copy must be posted by the landlord someplace at the dwelling where it can be easily seen.

Rules must apply to all tenants equally and fairly. Rules and regulations cannot be changed without first giving tenants reasonable notice. If tenants do not agree to the change, and it changes the original rental agreement a great deal, they may move after giving at least 30 days notice or they may refuse to accept the rule. Landlords may evict tenants who refuse to abide by a reasonable rule change. If the change does not apply to all tenants in the building equally, an eviction based on a tenant's breaking of a rule may be illegal. (A.S. 34.03.130)

subleasing

When a lease is signed, the tenant is promising to stay for a certain length of time (usually four, six or twelve months). The tenant is telling the landlord that each and every month, whether the tenant still lives in the apartment or not, he/she will be responsible for paying the rent. Unless the landlord signs a paper saying it's okay with him/her for someone else to move in if the tenant moves out, the tenant cannot just have someone else "take over" the place.

There are usually only two ways to get out of a lease:

1. If the landlord breaks his/her part of the bargain (what's written in the lease), the tenant can move after giving 30 days written notice.
2. Get the landlord to agree to let the tenant sublease the place. Under the law the landlord has a right to ask for certain information about the new tenants. The landlord can reject the new tenants only for certain reasons, and cannot unreasonably prevent subleasing.

The information the landlord can ask for **IN WRITING** about the new tenant includes:

1. name, age and present address;
2. occupation, present employment and name and address of employer;
3. marital status;
4. how many people will live in the apartment;
5. two credit references;
6. names and addresses of all landlords of this person for the last three years.

Once this information has been given to the landlord, he/she has 14 days to answer the request. No answer within 14 days is considered the same as consent, so go ahead and sublease. If the answer is "no", the landlord must give written reasons for the decision.

The only legal reasons for refusing to allow a sublease are:

1. bad credit record;
2. too many people;
3. too many children;
4. unwillingness of new tenant to accept rental agreement;
5. pets not acceptable;
6. proposed business activity;
7. bad report from former landlord.

If the landlord says "no" to the suggested new tenant, but doesn't give reasons in the list of acceptable rejection reasons, the law says the old tenant can go ahead and sublease or move out; however, to move out without subleasing, a thirty day **WRITTEN** notice must be given to the landlord. (A.S. 34.03.070)

privacy

A common problem landlords and tenants have is that of the tenant's right to privacy. Many landlords feel they can come and go from their property whenever they please. Some tenants feel they never have to let a landlord come in.

To clear up the confusion, the law says a landlord must give a tenant 24 hours notice that he/she would like to come for the purpose of making repairs, maintenance, an inspection or showing the place. The landlord may enter only with the tenant's consent and only at reasonable times.

TWO EXCEPTIONS: No such notice is required if it is not possible to contact the tenant by ordinary means within 24 hours, or if there is an emergency (smoke, water, explosion, etc.).

WHERE TO GO FOR HELP



Both landlords and tenants can get help from the following agencies:

1. For copies of this publication and general assistance, contact the Cooperative Extension Service.

Anchorage	277-1488
Bethel	543-2503
Fairbanks	456-6885
Homer	255-8176
Juneau	586-7103
Ketchikan	225-3290
Nome	443-2320
Palmer	745-3360
Soldotna	262-5824

2. To file a complaint on false advertising, chronic misuse of deposit money or fraud, see the Consumer Protection Section, Alaska Department of Law.

Anchorage 1049 West 5th Avenue, Suite 101
Anchorage, AK 99501
279-0428

Fairbanks 604 Barnette, Room 228
Fairbanks 99701
456-8588

Juneau NBA Building
217 2nd Street
Pouch K
Juneau, AK 99811
465-3692

3. Persons with low incomes may call Alaska Legal Services for attorney help. If your landlord tries to evict you, be sure you mention this when you call.

Anchorage	272-9431
Barrow	852-2311
Bethel	543-2237
Dillingham	842-5653
Fairbanks	452-5181
Juneau	586-6425
Ketchikan	225-6420
Kodiak	486-4178
Kotzebue	442-3398
Nome	443-2951

4. If you need a lawyer but don't qualify for Alaska Legal Services, see the low-cost legal clinics in your town or call the statewide Lawyer Referral Service at 272-0352 in Anchorage. They may be able to refer you to a lawyer in your town.

5. For complaints against state government officials, contact the State Ombudsman Office.

Anchorage 840 K Street
Anchorage 99501
276-4011

Fairbanks 613 Cushman
Fairbanks 99701
452-4001

Juneau 525 Village Street
Juneau 99811
465-4970

6. For complaints against Municipality of Anchorage employees, contact the Municipal Ombudsman Office at 264-4461.

7. To file a claim for damages of \$2,000 or less, see the Alaska Court System and ask for their publication, "Alaska Small Claim Handbook".

Landlords cannot abuse their right to request entry or harass tenants, and tenants cannot unreasonably keep a landlord from entering.

If a tenant has a nosey landlord who believes he/she can come and go as he/she pleases, it might be a good idea to get a copy of the law to show him/her the section called ACCESS (34.03.140). If the landlord comes in and will not leave, call the police.

When a landlord does abuse his/her right to enter (by coming in without the tenant's permission, or when the tenant is gone or repeatedly without need), the tenant can ask a court to demand that the landlord stop (called an injunction). The tenant may also sue for actual damages or one month's rent, whichever is greater, court costs and attorney fees. If the tenant wishes to move because the landlord has abused the access privilege, a 10-day written notice is required.

If the tenant unreasonably refuses to allow the landlord in, the landlord can get an injunction. The landlord may also sue for actual damages or one month's rent, whichever is greater, or evict the tenant with a 10-day written notice.

absence/abandonment

Tenants must tell their landlord every time they plan to be gone for more than seven days. If the tenant plans to be gone only 2 or 3 days, then finds that for whatever reason he/she will actually be gone more than a week, they must notify the landlord as soon as possible.

This is to help protect the property from pipes freezing up, etc. While the tenant is gone, the landlord may go into the place only if there is an emergency or with 24 hours notice.

A landlord may assume the dwelling has been abandoned when:

1. the tenant is behind in rent, and
2. the tenant has been gone for more than 7 straight days and
3. the tenant did not notify the landlord that he/she would be gone.

The landlord may then enter the dwelling, store the tenant's belongings and re-rent the place. He must attempt to send the tenant a notice telling where the belongings are being kept and asking the tenant to remove his/her property within 15 days. The notice must also tell whether the landlord is going to have a public sale to get rid of the belongings or is going to throw or give them away, if

they are not picked up within 15 days. A tenant's belongings cannot be thrown or given away unless they can be considered to have no value or are food. (A.S. 34.03.230 and 34.03.260)

fire/casualty damage

If the dwelling is damaged by a fire or other casualty (earthquake, flood, etc.), depending on the amount of damage, there are a couple of things the tenant can do.

1. **Partial damage:** When only a part of the dwelling is damaged and it is lawful for the tenant to stay (the place isn't condemned), move out of the damaged part. The rent can be reduced to an amount which reflects the fair value of the undamaged part of the dwelling.
2. **Total destruction:** If the tenant can no longer live in the place, he/she can move out, notify the landlord and stop paying rent. The rental agreement and responsibility to pay rent ends when the tenant moves.

After the tenant moves, the landlord must return any deposits and/or pre-paid rent to the tenant. Rent paid for the time the tenant didn't live in the dwelling must be returned (counted from the day of the casualty and including the day of the casualty) to the tenant. (A.S. 34.03.200)

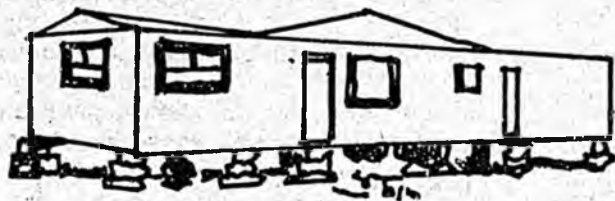
housing codes

The primary objective of codes is the protection of the health and safety of the people who live in houses and apartments. A minimum standard of maintenance is set, making the landlord (not his tenants) responsible for keeping rental property in decent shape. (The section of this booklet called **LANDLORD DUTIES** explains what the landlord is expected to repair and maintain.)

The law protects tenants who use their right to report code violations. If they call to complain and ask for an inspection, the landlord cannot take revenge by evicting or harassing the tenant. Alaska has a statewide fire code but does not have a statewide housing code.

The following places do have local housing codes. Report sub-standard conditions to:

- Anchorage - New Construction—Building Safety Division (264-6533)
- Existing Housing—Health & Environmental Protection (264-4666)



SPECIAL RULES FOR MOBILE HOMES

rental agreements

Rental agreements between mobile home park operators and mobile home park tenants may not:

1. prohibit the tenant from selling his mobile home (unless the mobile home is in violation of laws or ordinances, the proposed buyer doesn't agree with the terms of the existing rental agreement or the buyer does not have sufficient financial responsibility, and the park operator notifies the tenant of his/her objection in writing 30 days in advance);
2. require the tenant to provide permanent improvements to park property (the tenant may be required to maintain existing conditions);
3. require the tenant or prospective buyer to pay a fee to sell or transfer the mobile home (unless services were actually performed by the park operator to assist the sale or transfer, and the tenant was notified in writing of these charges before he/she moved into the park), or
4. require a fee to set up a mobile home in the park or to move an existing home out of the park (unless services were actually performed by the park, and the tenant was notified in writing of the charges before he/she moved into the park).

capital improvements

Mobile home park operators must give prospective tenants a list of all capital improvements that will be required (skirting, utility hookups, tie-downs, etc.) before the tenant moves in. Even though park operators may specify the type of equipment, tenants cannot be required to buy their equipment from the park operator.

eviction

Mobile home park tenants may be evicted only if:

1. they are behind in the space rent; or
2. they are violating a law or ordinance, and the violation endangers the health, safety or welfare of others in the park; or
3. the tenant has substantially violated a reasonable term or provision of the initial written rental agreement;
(new law, effective: 8/18/82)
OR
4. there is to be a change in the use of the land on which the park is located. When there is to be a change in the use of the mobile home park land, landlords or park operators must give tenants a 90-day written notice, unless a longer period was specified in a previously signed lease.

For all other evictions, the same notices are required as for other types of tenants. (A.S. 34.03.040c, 34.03.080d, 34.03.130c and 34.03.225)

MOVING OUT

proper notice

When a tenant wants to move, the law requires that he/she give a written notice 30 days before the next rental due date. For example, if rent is due on the 8th of each month and the tenant decides on January 20 that he/she wants to move, the soonest he/she could get out of the obligation would be March 8, providing the tenant gives a written notice on or before February 8.

(Tenants who rent by the week must give 14 days written notice.)

Tenants not giving proper written notice will be held responsible for rent up to that 30-day period or until the place is re-rented, whichever is less.

This does not include tenants who are moving because of serious problems which the landlord has not fixed (see the section under **LANDLORD DUTIES**).

Also, tenants who do not give proper written termination notice, the proper number of days before they move out, may have to wait 30 days after the move to get their security deposit refund (with proper notice, the refund must come back in 14 days).

cleaning and damages

Tenants should clean the dwelling completely before moving, including the refrigerator, bathtub, toilet and oven. Other cleaning responsibilities may have been spelled out in the rental agreement, lease or landlord's posted rules.

When the place has been cleaned, the tenant and landlord should inspect the place together, using the damage list prepared when the tenant first moved in as a guide. Tenants cannot be charged for ordinary wear and tear. But, since landlords and tenants sometimes disagree on what "ordinary wear and tear" is, here are some guidelines:

1. A family with children or pets will wear things out faster —this type of wear is the landlord's responsibility.
2. If something cannot be cleared because of the landlord's act or negligence, it is the landlord's responsibility (non-washable paint on the walls, water leaks staining the walls, etc.).



3. Shampooing carpets and painting walls are usually considered landlord responsibilities, as these items are bound to get dirty through normal useage. Holes in the carpet or writing on the walls, however, are not normal wear and tear and are the tenant's responsibility to repair.

Damages caused by the tenant are the tenant's responsibility, even if they were caused by an accident. The damage deposit can be kept by the landlord in the amount needed to make repairs. If the tenant has purposely destroyed the landlord's property (throwing a rock through the window, writing on the walls, smashing furniture, etc.) the tenant may be guilty of a misdemeanor and face up to one year in prison, a \$500 fine or both and will still have to pay for the damage.

deposit return

After either the landlord or the tenant has given a proper written termination notice, (see the section above: "Proper Notice"), then the landlord must return the security deposit to the tenant within fourteen (14) days after the tenant moves out, or the landlord must send a written notice telling the tenant why any or all of the deposit is being kept by the landlord.

If the tenant does not give proper written termination notice, then the landlord can take up to thirty (30) days after the tenant moves to send the tenant's deposit refund or a written notice about withholding refund.

The landlord is obligated to send the written notice plus the refund being returned to the tenant to the last known address of the tenant. Therefore, the tenant should be sure to give the landlord a good forwarding address, since the landlord has the duty only to make a "reasonable effort" to locate the tenant, and only if the landlord "actually knows or has reason to know" how to locate the tenant.

(These are some new amendments, effective 7/19/82.)

Deposits may be kept only if the tenant:

- causes damage;
- owes back rent;
- doesn't leave the place as clean as it was when he/she moved in (other than ordinary wear and tear that cannot be removed by cleaning);
- does not comply with previously agreed upon requirements of deposit return as specified in the lease, rental agreement or landlord's posted rules. (A.S. 34.03.070b)

Fairbanks - Fairbanks Building Official (452-1881)
Juneau - Juneau-Douglas Borough Housing Inspector
(586-3300)
Ketchikan - City Building Inspector (225-3111)
Kodiak - City Building Inspector (486-5731)

condemned

Buildings inspected and found to be very unsafe may be condemned. The housing inspector will tell the landlord that he/she must repair the problems or he/she will be taken to court. If the problems are so serious that the inspector feels the building is beyond repair, the inspector will order that it be torn down.

The tenant may come home one day and find a sign posted on the building saying that the place is unsafe for anyone to live there. Tenants should immediately find out when the inspector and landlord expect all the tenants to move. They should also see an attorney before paying any more rent.

landlord duties

These are the things tenants can expect their landlords to do:

1. make all repairs to keep the dwelling in a livable condition;
2. keep all common areas (stairs, halls, yard, garbage area, etc.) clean and safe;
3. keep in safe and working condition all electrical, plumbing, toilet ventilating (fans, windows), air conditioning, kitchen and other appliances or facilities supplied by him/her;
4. provide garbage cans and arrange for removal service;
5. supply running water and reasonable amounts of hot water and heat at all times, unless there is a severe energy shortage or the furnace or hot water heater is in the complete control of the tenant (as in a house);
6. if requested by the tenant, supply locks and keys. If the lock can be easily broken, it does not provide enough protection. A tenant can demand that a proper lock be put on the door.

This is a check list of the main things the landlord should repair and maintain:

- doors, windows, roof, floors, walls, and ceilings that leak or have holes;

- plumbing fixtures (must work, not leak and provide a reasonable amount of running, hot and cold water at a reasonable water pressure level);
- a working and safe stove and oven;
- a reliable heating system which provides heat to all rooms in a reasonable amount;
- a safe electrical system (no loose or exposed wires, sockets that do not spark and enough power so the system does not blow fuses when used normally);
- windows (or fans) that provide fresh air when wanted;
- enough garbage cans to provide an adequate and safe trash removal service;
- extermination service if roaches, rats, mice or other pests infest the building, apartment or property;
- proper maintenance of vacuum cleaners, washing machines, dish washers, etc. supplied by the landlord (when not abused or broken by the tenant).

If the dwelling is in an isolated area where public sewer or water service is not available, the landlord does not have to provide those services; however, if the landlord privately provides these services at the beginning of the rental agreement, he/she must maintain the services. If there is a serious problem with something mentioned above that is not the tenant's fault, the law provides remedies for the tenant. The landlord must be given a reasonable chance to fix the problem first, but if he/she won't fix it, here is what the tenant can do:

1. **MOVE.** The tenant gives the landlord a written notice describing the problem and saying that if the problem is not fixed within 10 days, he/she will move within 20 days. If the problem is fixed within 10 days, but the tenant still wants to move, a regular 30-day notice is required.

2. **EMERGENCY REPAIR AND DEDUCT.** If heat, water, sewer or other essential service breaks down, the tenant may get the problem fixed and deduct the actual and reasonable expenses from the next month's rent. The tenant must give the landlord a written notice that this is what he/she plans to do, and if the problem is major, the tenant must provide the landlord with a copy of the estimated repair costs. However, once written notice is given, the tenant may immediately go ahead with repairs. If the cost is very great, it is advisable to contact a lawyer before proceeding with repairs. If the problem cannot be fixed right away and it

7