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FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. SB 35

Revision Date: \_\_\_\_\_  
Title: Use of Rented Property/Drug  
Violations \_\_\_\_\_  
Sponsor: Rep. Pourchot  
Requestor: Senate Judiciary

Department Affected: Public Safety  
BRU: Alaska State Troopers  
Component: Criminal Investigation  
Bureau \_\_\_\_\_

COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
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<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

(See attached).

Prepared by: Lt. John Myers  
Division: Alaska State Troopers

Phone: 269-5976  
Date: 2/11/91

Approved by Commissioner: Richard L. Burton  
Agency: Department of Public Safety

Richard L. Burton  
Date: 2/26/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

SB 35 amends existing landlord-tenant laws to allow property owners to terminate rental agreements for residential property with renters engaged in certain alcohol and drug violations. The bill created duty on the part of police officers who arrest persons for certain alcohol, drug, and imitation drug offenses committed in residential rental property to make a reasonable effort to discover the identity of the property owner and to notify the owner in writing at the last address listed on tax records and at any other address known to police. The notice requirement applies to alcohol violation arrests for sales from unlicensed premises and for possession or sale of alcohol where prohibited by local option; to drug violations involving the manufacture or distribution of all drugs except small amounts of marijuana; and to imitation drug violations involving the manufacture or distribution of imitation drugs, or possession of certain precursor chemicals used in the manufacture of imitation drugs. Based upon past arrests for these offenses it is estimated that the Department of Public Safety will have to notify approximately three hundred property owners per year. We estimate that research required to identify the property owner, determine the last address listed on tax roles and any other addresses known to police, and to prepare the written notice, will take approximately one hour per occurrence.

The Alaska State Troopers estimates approximately 100 arrests for violation of the "local option" laws, and approximately 200 arrests for applicable drug offenses. It is expected that approximately 80% of the alcohol offenders and 60% of the drug offenders reside in rented property.

There will be fiscal impact upon the Alaska State Troopers. For each of these arrests a clerk would have to research the identity of the owner and prepare notices as required. There will be costs for materials, preparation time, and postage. Since these offenses will be spread throughout the state, no one person would handle them all; the impact would be felt by detachment personnel handling the cases. There is no way to quantify this impact, however. It will be absorbed, as best as can be, within the existing workload. Notices will be mailed out in the normal course of business, as clerical staff can find time to process them. They would not be handled on any sort of emergency or expedited basis.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. CSSB 35 (JUD)

Revision Date: \_\_\_\_\_  
Title: Termination of Tenancies

Department Affected: Public Safety  
BRU: Alaska State Troopers  
Component: Detachments

Sponsor: Rep. Pourchot  
Requestor: Senate Judiciary

Bureau

COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
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<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

(See attached).

Prepared by: Lt. John Myers

Phone: 269-5976

Division: Alaska State Troopers

Date: 2/11/91

Approved by Commissioner: *Richard L. Burton*

Richard L. Burton

Agency: Department of Public Safety

Date: 3/08/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CSSB 35(JUD) amends existing landlord-tenant laws to allow property owners to terminate rental agreements for residential property with renters engaged in certain alcohol and drug violations. The bill creates a duty on the part of police officers who arrest persons for certain alcohol, drug, and imitation drug offenses committed in residential rental property to make a reasonable effort to discover the identity of the property owner and to notify the owner of the arrest either in person or at the last address listed on tax records and at any other address known to police. The notice requirement applies to alcohol violation arrests for sales from unlicensed premises and for possession or sale of alcohol where prohibited by local option; to drug violations involving the manufacture or distribution of all drugs except small amounts of marijuana; and to imitation drug violations involving the manufacture or distribution of imitation drugs, or possession of certain precursor chemicals used in the manufacture of imitation drugs. Based upon past arrests for these offenses, it is estimated that the Department of Public Safety will have to notify approximately three hundred property owners per year. We anticipate that in-person notice would be given in many (perhaps most) cases. If a written notice is necessary, we estimate that research required to identify the property owner, determine the last address listed on tax roles and any other addresses known to police, and to prepare the written notice, will take approximately one hour per occurrence.

The Alaska State Troopers estimates approximately 100 arrests for violation of the "local option" laws, and approximately 200 arrests for applicable drug offenses. It is expected that approximately 80% of the alcohol offenders and 60% of the drug offenders reside in rented property.

There will be fiscal impact upon the Alaska State Troopers. For arrests requiring a written notice, a clerk would have to research the identity of the owner and prepare notices as required. There will be costs for materials, preparation time, and postage. Since these offenses will be spread throughout the state, no one person would handle them all; the impact would be felt by detachment personnel handling the cases. There is no way to quantify this impact, however. It will be absorbed, as best as can be, within the existing workload. Notices will be mailed out in the normal course of business, as clerical staff can find time to process them. They would not be handled on any sort of emergency or expedited basis.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. CS SB 35

Revision Date: \_\_\_\_\_ Department Affected: Community & Regional Affairs  
Title: "An Act..termination of tenancies.. BRU: \_\_\_\_\_  
illegal activities.." Component: \_\_\_\_\_

Sponsor: Senators Pourchot & Halford

Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson, Director Phone: 465-4708

Division: Administrative Services Date: 3/11/91

Approved by Commissioner: Ed. Bethel  
Agency: Community & Regional Affairs Date: 3/11/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. SB 35

Revision Date: \_\_\_\_\_ Department Affected: Community & Regional Affairs  
 Title: "An Act..amending the Uniform BRU: \_\_\_\_\_  
 Residential Landlord & Tenant Act.." Component: \_\_\_\_\_

Sponsor: Senator Pourchot  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson Phone: 465-4750  
 Division: Administrative Services Date: 1/31/91

Approved by Commissioner: Ed. Ruth  
 Agency: Community & Regional Affairs Date: \_\_\_\_\_

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**FISCAL NOTE**

**STATE OF ALASKA  
1991 LEGISLATIVE SESSION**

**Bill No. 80 35**

Revision Date: \_\_\_\_\_  
 Title: An Act amending ... civil remedy ...  
Uniform Residential Landlord & Tenant Act  
 Sponsor: Pourchot  
 Requestor: Pourchot

Department Affected: Alaska Court System  
 BRU: Trial Courts  
 Components: \_\_\_\_\_  
 COMPONENT SERIAL NO. 

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**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

**FUNDING: (Thousands of Dollars)**

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

**ANALYSIS: (Attach a separate page if necessary)**  
 No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel  
 Division: Alaska Court System

Phone: 264-8228  
 Date: 02/04/91

Approved by: Arthur H. Snowden, II, Administrative Director  
 Agency: Alaska Court System

Date: 02/04/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

No. 2

**FISCAL NOTE**

Bill Version: SB.35

(S) Publish Date: 2/6/91

**STATE OF ALASKA  
1991 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act amending ... civil remedy ... BRU: Trial Courts  
Uniform Residential Landlord & Tenant Act Components: \_\_\_\_\_  
 Sponsor: Pourchot  
 Requestor: Pourchot COMPONENT SERIAL NO. 000 | 000 | 000 | 768

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

**FUNDING: (Thousands of Dollars)**

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

**ANALYSIS: (Attach a separate page if necessary)**  
 No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *[Signature]* Phone: 264-8228  
 Division: Alaska Court System Date: 02/04/91

Approved by: Arthur H. Snowden, II, Administrative Director *[Signature]*  
 Agency: Alaska Court System Date: 02/04/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE,  
CO-CHAIR



Senator Pat Pourchot

ANCHORAGE  
P.O. BOX 104836  
ANCHORAGE, AK 99510  
(W) (907) 561-7623  
(H) (907) 338-2425

JUNEAU  
P.O. BOX V  
STATE CAPITOL  
JUNEAU, AK 99811  
(907) 465-3712

## MEMORANDUM

TO: Senator Rick Halford, Chair  
Senate Judiciary Committee

DATE: February 6, 1991

FR: Senator Pat Pourchot

RE: Request for Judiciary hearing on SB 35, relating to use of rented property and drug violations

SB 35 has two main purposes: 1) to expedite the eviction of tenants who fail to pay their rent when due by shortening the notification period from 10 to 5 days prior to commencing forcible entry and detainer (FED) proceedings; and 2) to allow a landlord to terminate the tenancy of a renter who is arrested for conducting certain illegal activities on the rental property - mainly relating to bootlegging or the manufacture or sale of controlled or imitation controlled substances. Neither provision interferes with a tenant's rights in the FED process.

The bill passed the Senate Community and Regional Affairs with a vote of 3 "do pass". I would very much appreciate your scheduling SB 35 for a hearing before the Senate Judiciary Committee at your earliest convenience.

Senator Pat Pourchot  
March 7, 1991

## PROPOSED CS FOR SB 35

Note: New provisions in CS are in bold type.

**Title has been shortened.**

Sections 1 and 12. Adds new provisions to the statutes under which peace officers who arrest persons for specified illegal activities involving alcoholic beverages, controlled substances, or imitation controlled substances on residential premises not occupied by the owner are to make a reasonable effort to advise the owner, either in writing or **in person**, of the arrest that has taken place.

Section 2. Reduces from ten to five days the length of time a landlord must wait after giving written notice to quit for nonpayment of rent or **for certain illegal activities** on premises before FED proceedings can commence; **specifies that forcible entry and detainer (FED) notification period runs concurrently with notification period required under landlord/tenant (LLT) statutes; provides for use of FED remedy after order of abatement served.**

Sections 3 and 4. Conforming amendments - retain current requirement to allow three additional days if notice to quit is provided by mail.

Section 5. **New provision to allow writ of assistance to be issued at same time as order to vacate.**

Section 6. **New provision allowing order of abatement to be used as evidence of unlawful holding by force in FED proceedings.**

Section 7. **Expands current nuisance statutes to provide for abatement of places used for certain illegal activities involving alcoholic beverages, controlled substances or imitation controlled substances. Deletes reference to "lewdness", "assignation", and "immoral acts"**

Section 8. Conforming amendment tying definition of illegal activities under nuisance amendments to definition set out in LLT statutes.

Section. 9. **Allows court to consider evidence of reputation to prove existence of a nuisance.**

Section 10. **Provides that order of abatement terminates rental agreement and that violator is guilty of contempt.**

Section 11. **Amendment to abatement statutes to allow court to order the abated premises to be returned to the owner and to cancel the order of abatement if certain criteria are met; gives court greater leeway in determining the amount of the bond specified as one of the criteria; cancellation of abatement order does not affect termination of rental agreement.**

Section 13. Adds provision to tenant responsibilities under LLT statutes that states a tenant may not knowingly engage or permit others to engage in any of the specified illegal activities on the premises. (Same as in original bill but listed as new subsection)

Section 14. Conforming amendments.

Section 15. Conforming amendment.

Section 16. Conforming amendment.

Section 17. Amends LLT statutes: Lists the specific illegal activities for which a person can be evicted under the nuisance provisions. (Same as original bill except that CS **deletes class A misdemeanors**)

Section 18. **Expands tenant responsibilities to prohibit use of rented commercial buildings for illegal activities; authorizes relief through nuisance abatement process and specifies that an order of abatement terminates the rental agreement.**

Senator Pat Pourchot  
February 25, 1991

## PROPOSED CS FOR SB 35

Title has been shortened.

Sections 1 and 9. Add new provisions to the statutes under which peace officers who arrest persons for specified illegal activities involving alcoholic beverages, controlled substances, or imitation controlled substances on residential premises not occupied by the owner are to make a reasonable effort to advise the owner of the arrest that has taken place. (No change from original bill)

Section 2. Reduces from ten to five days the length of time a landlord must wait after giving written notice to quit for nonpayment of rent before FED proceedings can commence. (No change from original bill)

Sections 3 and 4. Technical amendments necessary to retain current requirement to allow three additional days if notice to quit is provided by mail. (No change from original bill)

Section 5. Expands current nuisance statutes to provide for abatement of places used for certain illegal activities involving alcoholic beverages, controlled substances or imitation controlled substances. (New provision in CS)

Section 6. Limits illegal activities covered in the nuisance provision to specific felonies involving manufacture or delivery or possession with intent to manufacture or deliver as specified in Section 13. (New provision added to nuisance statutes in CS)

Section. 7. Allows court to consider evidence of reputation to prove existence of a nuisance. (New provision in CS)

Section 8. Allows the court to order the abated premises to be returned to the owner and to cancel the order of abatement if certain criteria are met; gives court greater leeway in determining the amount of the bond specified as one of the criteria. (New provision in CS)

What  
does  
this  
mean?

Section 10. Adds new provision to tenant responsibilities under the Uniform Residential Landlord Tenant Act that states a tenant may not knowingly engage or permit others to engage in any of the specified illegal activities on the premises. (No change from original bill)

Section 11. Technical change. (No change from original bill)

Section 12. Technical change. (No change from original bill)

Section 13. Adds new provision that order of abatement terminates the rental agreement. (New provision in CS)

Section 14. Lists the specific illegal activities for which a person can be evicted under the nuisance provisions. (Deletes class A misdemeanors from specified illegal activities in CS)

Section 15. Expands tenant responsibilities to prohibit use of rented commercial buildings for illegal activities; authorizes relief through nuisance abatement process and specifies that an order of abatement terminates the rental agreement. (New provision in CS)

evict10

DRAFT

MEMORANDUM

TO: Senate Judiciary Committee      DATE: February 26, 1991  
Members

FR: Senator Pat Pourchot

RE: Proposed CS for SB 35 (Termination of tenancies for  
nonpayment of rent and specified illegal activities)

The following are amendments which merit further consideration for inclusion in the proposed CS to SB 35.

1) Add provision to FED statutes to shorten the notification period from ten to five days prior to commencing eviction proceedings **for violation of the specified illegal activities** contained in Section 14 of the proposed CS.

Tenant who engages in the specified illegal activities (all felonies) on the premises should be subject to the shorter notice to quit period as is the person who doesn't pay rent, i.e., 5 days vs. the 10 days under all other circumstances.

2) Add to title, "An Act relating to forcible entry and detainer and to termination of tenancies and eviction for nonpayment of rent and certain illegal activities; **relating to tenant responsibilities**; relating to nuisances; and relating to the duties of peace officers to notify landlords of arrests involving certain illegal activity on rental premises."

The House has requested that the title be amended to allow inclusion of a provision that would prohibit a tenant from

changing the locks on a premises without first notifying the landlord and providing a set of keys to the landlord. If tenant violates this provision a landlord would be permitted to enter with 24-hours notice.

- 3) In Section 5: delete "lewdness," "assignation" and "immoral acts" from definition of illegal activities:

Terms no longer appear relevant. For example, "assignation" means anything assigned or an appointment to meet, especially one made secretly by lovers; tryst; rendezvous. "Immoral acts" mean acts not in conformity with accepted principles of right and wrong behavior; unchaste (which means, indulging in unlawful sexual activity - said especially of women), "Lewd" includes showing or intended to excite lust or sexual desire especially in an offensive way.

- 4) In Section 14 make the following changes:

(page 6, line 10) from AS 11.71.010(a) to AS 11.71.010

Misconduct involving a controlled substance in the first degree: Would add as an evictable offense one of the most serious drug violations, "**continuing criminal enterprise**" (an unclassified felony).

(page 6, line 11) add 11.71.040(a)(5)

Misconduct involving a controlled substance in the fourth degree: Would add as an evictable offense "knowingly keeps or maintains any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is used for keeping or distributing controlled substances in violation of a felony offense" (a class C felony).

- 5) Technical change in Section 10. For clarity, change (8) to (b). Crossreference to Landlord Remedies to indicate that noncompliance would be a violation of the nuisance statutes which would allow landlord to seek an injunctive or abatement order.

Abatement order terminates rental agreement and allows landlord to evict under FED statutes.

6) Amend AS 17.30.160 to allow in-person delivery of the notice of arrest to the property owner at any address. Only if no tax records are maintained for the property should notice to other addresses known to the police be required.

Would eliminate the requirement to provide written notice to the address on tax records if the police officer could notify the property owner directly (who often lives nearby or may be present at the rest). Change requested by Department of Public Safety.

**FLOW CHART FOR EVICTION FOR NONPAYMENT OF RENT  
(AVERAGE TIME SCENARIO)**

**DAY**

- 1     **Rent due (rent due on 1st and delinquent on 6th in most rental agreements)**  
2  
3  
4  
5  
6     **10-day notice given tenant**  
7  
8  
9             (If landlord accepts full or partial payment of rent,  
10            the process is voided; must start over by giving  
11            another 10-day notice.)  
12  
13  
14  
15  
16  
17    **Complaint filed in Court - Court sets Hearing date**  
18  
19            (Law states that tenant must be served by Process  
20            Server at least 2 days prior to Hearing date which  
21            is usually set 7-10 days following filing of Complaint.  
22            If tenant cannot be served in time, landlord must go  
23            back to Court for a new Hearing date.)  
24  
25    **Court Hearing date - obtain Order to Vacate**  
26            (Tenant has minimum of 2 days to vacate; Judge may  
27            grant additional time.)  
28    **Tenant remains: obtain Writ of Assistance - deliver to Troopers**  
29            (Troopers usually remove tenant within 24 hours)  
30    **House back in landlord's possession**

**NOTE:**

- 1 )    **TIME MAY BE EXTENDED**
  - if, the day Court assistance is needed (filing Complaint, Hearing, etc.) falls on a Saturday, Sunday or holiday - extend days accordingly;
  - if tenant fights eviction, Judge may grant Continuance;
  - if tenant cannot be served, landlord has to go back to Court for new hearing date;
  - if 10-day notice not immediately given - time extended accordingly.
  
- 2 )    **TIME MAY BE SHORTENED**
  - if there is no 5-day "grace" period in rental agreement;
  - if tenant can be served immediately; Hearing date can legally be set for 3rd day after filing of Complaint if Court calendar permits.
  
- 3 )    The eviction process does not recover any cost other than for filing fees, service and process fees and postage under Court Rule 79 and attorney fees under Court Rule 82; motion to recover costs must be filed within 10 days of Clerk entering FDE Order; treated as a judgement. Getting back rent is another more lengthy process.
  
- 4 )    If process is not completed within the 1st month, landlord will be out rent for additional time tenant remains on premises.

# Alaska State Legislature



## Senate Judiciary Committee


### Memorandum

TO: LAA, Legal Services  
Chenoweth

FROM: Senate Judiciary  
Doug Baily

DATE: March 13, 1991

RE: Judiciary Committee Substitute



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Please prepare a Judiciary Committee Substitute for SB 35.

Starting with 7-LS0160 of 3/6/91

Sec. 1, page 2, line 2 and 3 to read:

2 that levies and collects a property tax. If no tax records are  
3 available, notice may be sent to the owner at any other  
address known to the peace officer.

Sec. 9, page 4, line 23

Delete number "2" in citation to statute so it reads  
"AS09.50.170(a),"

This can be done in final since it has passed out of committee in  
this form!

DB/rt

LAA Legal Serv - Chenoweth  
From - Senate Judiciary - Bail -

Please Prepare a Judiciary Committee Substitute  
for SB 35.  
Starting with 7-LS0160 of 3/6/91

Sec 1, Page 2 line 2 & 3 to read:

- 2 that levies and collects a property tax. If no tax records are
- 3 available, notice may be sent to the owner at any other address  
known to the peace officer.

Sec 9, Page 4 line 23

Delete number "2" in citation to Statute so it  
reads "AS 09.50.170(a),"

This can be done in final since it has  
passed out of committee in the form!



# Alaska State Legislature

Al Adams  
District L



Official Business

WHILE IN SESSION  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3707

OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3245

3111 C Street  
Anchorage, Alaska 99503  
(907) 561-7622

TO: Senator Pat Pourchot  
FROM: Senator Al Adams *APA*  
RE: CS for SB 35  
DATE: March 11, 1991

Following last week's Judiciary Committee discussions on the proposed committee substitute for SB 35, I would like to recommend the following:

- ° Proposed amendments suggested by the Department of Public Safety regarding clarification of what peace officers should do in regards to notification of landlords when no tax records are available
- ° A letter of intent that the legislature does not endorse other criminal behavior not specifically mentioned in this bill as acceptable activities by tenants.
- ° In section 9 regarding the Admissability of Evidence to Prove a Nuisance, delete the singling out of the alcohol and drug crimes as allowable circumstances to bring in evidence of reputation.  
*Comment: I understand the inclusion of this based on Court Rule 405 and its provisions regarding reputation of persons, but it does not make sense why we would exclude evidence of reputation regarding place in regards to the activities that might surround a house of prostitution. The noise or traffic that might constitute a nuisance at the residence of a drug dealer could just as well pertain to the noise and traffic at a house of prostitution.*



Official Business

# Alaska State Legislature

Al Adams  
District L

WHILE IN SESSION  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3707

OUT OF SESSION  
P.O. Box 333  
Kotzebue, Alaska 99752  
(907) 442-3245

3111 C Street  
Anchorage, Alaska 99503  
(907) 561-7622

TO: Senator Pat Pourchot  
FROM: Senator Al Adams *APA*  
RE: CS for SB 35  
DATE: March 11, 1991

Following last week's Judiciary Committee discussions on the proposed committee substitute for SB 35, I would like to recommend the following:

- Proposed amendments suggested by the Department of Public Safety regarding clarification of what peace officers should do in regards to notification of landlords when no tax records are available
- A letter of intent that the legislature does not endorse other criminal behavior not specifically mentioned in this bill as acceptable activities by tenants.
- In section 9 regarding the Admissability of Evidence to Prove a Nuisance, delete the singling out of the alcohol and drug crimes as allowable circumstances to bring in evidence of reputation.  
*Comment: I understand the inclusion of this based on Court Rule 405 and its provisions regarding reputation of persons, but it does not make sense why we would exclude evidence of reputation regarding place in regards to the activities that might surround a house of prostitution. The noise or traffic that might constitute a nuisance at the residence of a drug dealer could just as well pertain to the noise and traffic at a house of prostitution.*

to Jamie -

SB 35 - Pouchat - Passed Sen CRA 3-0  
Some other states similar. Some automatic -  
Some at landlord's option.

We have SB 35

New Sec. Police who arrest for alcohol offense on residential premises try to ID owner and give notice in writing.

Amend. Favorable Entry: Detamer.

Adds illegal activity involving alcohol, drugs & imitation drugs as basis for recovery.

Sec 3 Reduces from 10 to 5 days period of holdover on non-payment.

Sec 4 - Changes registered mail notice to delete the extra three days notice for mail.

Sec 5 - ~~Repeal~~ Relocated Xtra 3 days for mail.

Sec 6 Adds drug arrest to basis for action for recovery.

Sec 8 - Adds notice to owner when person arrested for drugs.

Sec 9 - Adds to tenant responsibility - Not engage in illegal drug or alcohol conduct.

Sec 12 - Gives landlord option to terminate for drug/alcohol.

Proposed CS March 6, 91

## Shortened Title

Drops arrest as basis for eviction due to constitutional problem. Presumption of nuisance.

Substitute 2 options -

- ① Reduce Notice Period to 5 days for non payment or alcohol/drug
- ② Drug/alcohol offense would be basis of nuisance action ~~to~~ including order terminating a rental agreement.

Hearing SB 35 Eviction -

Donnelly -

Wants to insure landlords access to premises.  
Stop tenants from changing locks w/o written permit.

March 12 -

CS is adopted - Version F? of 3-6-91

Public Safety Suggests Amendment - see their position statement of 3-8-91 -

Letter of Intent adopted - No -

Also - delete #2 from Sec 9 - in Stat.

CS as amended Passed w Indiv. Rec.

3642350

CS FOR SENATE BILL NO. 35 (JUDICIARY)  
 IN THE LEGISLATURE OF THE STATE OF ALASKA  
 SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:  
 Referred:

Sponsor(s): SENATORS POURCHOT, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to termination of tenancies and recovery of rental premises for  
 2 nonpayment of rent and certain illegal activities, to tenant responsibilities, to the civil  
 3 remedies of forcible entry and detainer and nuisance abatement, and to the duties of peace  
 4 officers to notify landlords of arrests involving certain illegal activity on rental premises."

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

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

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

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

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

13                   (A) in person; or

14                   (B) in writing, at the last address listed on the assessment roll maintained

OK

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

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

6 \* Sec. 2. AS 09.45.090 is amended to read:

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

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

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

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

21 (2) when, after a notice to quit as provided in AS 09.45.100 [AS 09.45.060 -  
22 09.45.160], a person continues in the possession of the premises

23 (A) at the expiration of the time limited in the lease or agreement under  
24 which that person holds;

25 (B) [, OR] contrary to a condition or covenant in the lease or agreement,  
26 including the breach of a condition or covenant set out in AS 34.03.120(a) but not  
27 including a condition or covenant relating to nonpayment of rent, or the prohibition  
28 set out in AS 34.03.120(b) or AS 34.05.100(a); or

29 (C) without a written lease or agreement;

30 (3) when, after a notice to terminate the tenancy as provided in this title with  
31 reference to termination of estate at will or by sufferance or after receipt of an order of

1 abatement under AS 09.50.210(a), a person continues in possession of the premises after  
2 expiration of the time for determining the tenancy.

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

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

6 (1) delivered to the tenant or person;

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

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

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

11 (b) If notice is provided by mail under (a)(3) of this section, an additional three days  
12 shall be added

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

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

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

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

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

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

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

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

1 premises by force by a person who remains on the premises.

2 \* Sec. 7. AS 09.50.170 is amended to read:

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

11 (1) prostitution; or

12 (2) an illegal activity involving

13 (A) alcoholic beverages;

14 (B) a controlled substance; or

15 (C) an imitation controlled substance.

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

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

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

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

24 \* Sec. 10. AS 09.50.210 is amended to read:

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

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

31 (2) [BE ENTERED DIRECTING] the removal from the building or place of the

1 fixtures, furniture, and movable property used in the nuisance and their sale in the manner  
2 provided for the sale of chattels under execution;

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

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

8 \* Sec. 11. AS 09.50.230 is amended to read:

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

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

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

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

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

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

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

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

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

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

2 (A) in person; or

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

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

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

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

14 \* Sec. 14. AS 34.03.220(a) is amended to read:

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

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

29 (b) If rent is unpaid when due and the tenant fails to pay rent within five [10] days after  
30 written notice by the landlord of nonpayment and the intention to terminate the rental agreement  
31 if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees

1 to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement  
2 and immediately recover possession of the rental unit; only one written notice of default need be  
3 given the tenant by the landlord as to any one default.

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

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

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

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

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

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

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

18 ARTICLE 3. ILLEGAL ACTIVITIES IN NONRESIDENTIAL PREMISES.

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

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

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

29 (d) In this section, "dwelling unit," "illegal activity involving alcoholic beverages,"  
30 "illegal activity involving a controlled substance," and "illegal activity involving an imitation  
31 controlled substance" have the meanings given in AS 34.03.360.

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

BY

Offered:  
Referred:

Sponsor(s): SENATORS POURCHOT, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to termination of tenancies and recovery of rental premises for  
2 nonpayment of rent and certain illegal activities, to tenant responsibilities, to the civil  
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11 premises; and

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13 (A) in person; or

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1            oy the municipality under AS 29.45.160 if the premises are located within a municipality  
 2            that levies and collects a property tax, ~~and at any other address known to the peace~~  
 3            ~~officer, of the arrest.~~ *If no tax rec. Avail at any other address*

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17            (B) violates AS 34.03.120(b) or AS 34.05.100(a) and, after a notice to  
 18            quit as provided in AS 09.45.100, the tenant or person in possession of the premises  
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21            (2) when, after a notice to quit as provided in AS 09.45.100 [AS 09.45.060 -  
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23            (A) at the expiration of the time limited in the lease or agreement under  
 24            which that person holds;

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3 Sec. 09.50.170. ABATEMENT OF PLACES USED FOR CERTAIN ILLEGAL ACTS  
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6 PURPOSES OF LEWDNESS, ASSIGNATION, OR PROSTITUTION OR ANY OTHER  
7 IMMORAL ACT] is guilty of maintaining a nuisance, and the building, structure, or place, or  
8 the ground itself in or upon which or in any part of which the illegal activity [LEWDNESS,  
9 ASSIGNATION, OR PROSTITUTION] is conducted, permitted, [OR] carried on, continues, or  
10 exists, and its [THE] furniture, fixtures, and other contents, constitute a nuisance and may be  
11 enjoined and abated:

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

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2 fixtures, furniture, and movable property used in the nuisance and their sale in the manner  
3 provided for the sale of chattels under execution;

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

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8 shall be punished for contempt as provided in AS 09.50.200.

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

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

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15 a lien on the premises; [,] and

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

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

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

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

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

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

*Needs to conform to Sec 1 Change*

1 premises; and

2 (2) notify the owner of the arrest

3 (A) in person; or

4 (B) in writing, at the last address listed on the assessment roll maintained  
5 by the municipality under AS 29.45.160 if the premises are located within a municipality  
6 that levies and collects a property tax, and at any other address known to the peace  
7 officer, of the arrest.

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

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

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

15 \* Sec. 14. AS 34.03.220(a) is amended to read:

16 (a) Except as provided in this chapter, if there is a material noncompliance by the tenant  
17 with the rental agreement or noncompliance with AS 34.03.120(a) [AS 34.03.120] materially  
18 affecting health and safety, the landlord may deliver a written notice to the tenant specifying the  
19 acts and omissions constituting the breach and specifying that the rental agreement will terminate  
20 upon a date not less than 20 days after receipt of the notice. If the breach is not remedied in 10  
21 days, the rental agreement terminates as provided in the notice subject to the provisions of this  
22 section, and at that time the landlord may serve a notice under AS 09.45.160 to quit the  
23 premises. If the breach is remediable by repairs or the payment of damages or otherwise and  
24 the tenant adequately remedies the breach before the date specified in the notice, the rental  
25 agreement will not terminate. In the absence of due care by the tenant, if substantially the same  
26 act or omission that constituted a prior noncompliance of which notice was given recurs within  
27 six months, the landlord may terminate the rental agreement upon at least 10 days written notice  
28 specifying the breach and the date of termination of the rental agreement.

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

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

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

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

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

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

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

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

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

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

19 ARTICLE 3. ILLEGAL ACTIVITIES IN NONRESIDENTIAL PREMISES.

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

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

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

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

1 controlled substance" have the meanings given in A.S. 34.03.360.

7-LS016(NM  
Chenoweth  
2/25/91

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

BY

Offered:  
Referred:

Sponsor(s): SENATORS POURCHOT, Halford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to forcible entry and detainer and to termination of tenancies and  
2 eviction for nonpayment of rent and certain illegal activities; relating to nuisances; and  
3 relating to the duties of peace officers to notify landlords of arrests involving certain  
4 illegal activity on rental premises."

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

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

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

10 (1) make a reasonable attempt to discover the identity of the owner of the  
11 premises;

12 (2) notify the owner in writing, at the last address listed on the assessment roll  
13 maintained by the municipality under AS 29.45.160 if the premises are located within a  
14 municipality that levies and collects a property tax, and at any other address known to the peace

1 officer, of the arrest.

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

4 \* Sec. 2. AS 09.45.090 is amended to read:

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

7 (1) when the tenant or person in possession of a premises fails or refuses to pay  
8 the rent due on the lease or agreement under which the tenant or person holds [,] or deliver up  
9 the possession of the premises for more than five [10] days after demand made in writing for  
10 the possession;

11 (2) when, after a notice to quit as provided in AS 09.45.060 - 09.45.160, a person  
12 continues in the possession of the premises at the expiration of the time limited in the lease or  
13 agreement under which that person holds, or contrary to a condition or covenant in the lease or  
14 agreement, or without a written lease or agreement;

15 (3) when, after a notice to terminate the tenancy as provided in this title with  
16 reference to termination of estate at will or by sufferance, a person continues in possession of  
17 the premises after expiration of the time for determining the tenancy.

18 \* Sec. 3. AS 09.45.100 is amended to read:

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

- 21 (1) delivered to the tenant or person;
- 22 (2) [OR] left at the premises in case of absence from the premises; [,] or
- 23 (3) [THE NOTICE MAY BE] sent by registered or certified mail [, IN WHICH
- 24 CASE AN ADDITIONAL THREE DAYS SHALL BE ADDED TO THE 10 DAYS].

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

26 (b) If notice is provided by mail under (a)(3) of this section, an additional three days  
27 shall be added

28 (1) to the five days' notice if, under AS 09.45.090(1), the tenant or person in  
29 possession of the premises fails or refuses to pay the rent due on the lease or agreement under  
30 which the tenant holds or deliver up the possession of the premises; or

31 (2) to the required number of days of notice if notice to quit is given for a reason

1 other than that set out in AS 09.45.090(1).

2 \* Sec. 5. AS 09.50.170 is amended to read:

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

12 (1) lewdness, assignation, prostitution, or any other immoral act;

13 (2) an illegal activity involving

14 (A) alcoholic beverages;

15 (B) a controlled substance; or

16 (C) an imitation controlled substance.

17 \* Sec. 6. AS 09.50.170 is amended by adding a new subsection to read:

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

21 \* Sec. 7. AS 09.50 is amended by adding a new section to read:

22 Sec. 09.50.175. ADMISSIBILITY OF EVIDENCE TO PROVE NUISANCE. In an  
 23 action brought under AS 09.50.170(a)(2), the court may consider evidence of reputation within  
 24 a community to prove the existence of a nuisance.

25 \* Sec. 8. AS 09.50.230 is amended to read:

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

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

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

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

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

9    \* Sec. 9. AS 17.30 is amended by adding a new section to read:

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

14                   (1) make a reasonable attempt to discover the identity of the owner of the  
15    premises;

16                   (2) notify the owner in writing, at the last address listed on the assessment roll  
17    maintained by the municipality under AS 29.45.160 if the premises are located within a  
18    municipality that levies and collects a property tax, and at any other address known to the peace  
19    officer, of the arrest.

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

22    \* Sec. 10. AS 34.03.120 is amended to read:

23                   Sec. 34.03.120. TENANT RESPONSIBILITIES [TO MAINTAIN DWELLING UNIT].

24    The tenant shall

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

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

29                   (3) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean  
30    as their condition permits;

31                   (4) use in a reasonable manner all electrical, plumbing, sanitary, heating,

1 ventilating, air-conditioning, kitchen, and other facilities and appliances including elevators in the  
2 premises;

3 (5) not deliberately or negligently destroy, deface, damage, impair, or remove a  
4 part of the premises or knowingly permit any person to do so;

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

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

8 (8) not knowingly engage at the premises in an illegal activity involving  
9 alcoholic beverages, an illegal activity involving a controlled substance, or an illegal activity  
10 involving an imitation controlled substance, or knowingly permit others in the premises to  
11 engage in one or more of those activities at the rental premises.

12 \* Sec. 11. AS 34.03.220(a) is amended to read:

13 (a) Except as provided in this chapter, if there is a material noncompliance by the tenant  
14 with the rental agreement or noncompliance with AS 34.03.120(1) - (7) [AS 34.03.120] materially  
15 affecting health and safety, the landlord may deliver a written notice to the tenant specifying the  
16 acts and omissions constituting the breach and specifying that the rental agreement will terminate  
17 upon a date not less than 20 days after receipt of the notice. If the breach is not remedied in 10  
18 days, the rental agreement terminates as provided in the notice subject to the provisions of this  
19 section. If the breach is remediable by repairs or the payment of damages or otherwise and the  
20 tenant adequately remedies the breach before the date specified in the notice, the rental agreement  
21 will not terminate. In the absence of due care by the tenant, if substantially the same act or  
22 omission that constituted a prior noncompliance of which notice was given recurs within six  
23 months, the landlord may terminate the rental agreement upon at least 10 days written notice  
24 specifying the breach and the date of termination of the rental agreement.

25 \* Sec. 12. AS 34.03.220(b) is amended to read:

26 (b) If rent is unpaid when due and the tenant fails to pay rent within five [10] days after  
27 written notice by the landlord of nonpayment and the intention to terminate the rental agreement  
28 if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees  
29 to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement  
30 and immediately recover possession of the rental unit; only one written notice of default need be  
31 given the tenant by the landlord as to any one default.

1 \* **Sec. 13.** AS 34.05.220 is amended by adding a new subsection to read:

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

4 \* **Sec. 14.** AS 34.03.360 is amended by adding new paragraphs to read:

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

9 (20) "illegal activity involving a controlled substance" means a violation of  
10 AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1), 11.71.030(a)(2), 11.71.040(a)(1), or  
11 11.71.040(a)(2);

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

14 \* **Sec. 15.** AS 34.05 is amended by adding a new section to read:

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

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

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

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

26 (d) In this section, "dwelling unit," "illegal activity involving alcoholic beverages,"  
27 "illegal activity involving a controlled substance," and "illegal activity involving an imitation  
28 controlled substance" have the meanings given in AS 34.03.360.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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(907) 465-3867 or 465-2450  
FAX (907) 465-2029


Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

### MEMORANDUM

March 13, 1991

SUBJECT: CSSB 35 (Judiciary)

TO: Senator Rick Halford, Chair  
Senate Judiciary Committee

FROM: Jack Chenoweth  
Legislative Counsel 

This "V" version reflects changes to the last draft. Per committee direction,

-- in bill sections 1 and 12, I made changes that, in concept and substantially in language, are responsive to the change recommended in the March 8 position paper of the Department of Public Safety (see page 1, line 14 - page 2, line 3, and page 6, lines 1 - 6); and

-- in bill section 9, I deleted the reference to paragraph "(2)" following "AS 09.50.170(a)," thereby permitting use of reputation evidence to be offered in nuisance abatement proceedings based on prostitution as well as illegal drug- and alcohol-related activity.

In addition, I have made two drafting changes:

-- On page 3, line 31, I corrected the spelling of "prima facie";

-- In bill section 7, before the words "ACT" or "activity" where they appear on page 4 at lines 3, 5, and 8, I deleted the reference to "illegal." Nuisance abatement tied to asserted prostitution activities is not dependent on proof of activity sufficient to evidence prostitution as a criminal offense, so the use of "illegal" before "activity" in those three places was inaccurate. "Illegal" should be retained before "activity" where it appears on line because the element of the criminal offense is part of the definition of the nuisance for which abatement may be sought.

JC:gc  
91-140.glc  
Enclosure

# DIVISION OF LEGAL SERVICES

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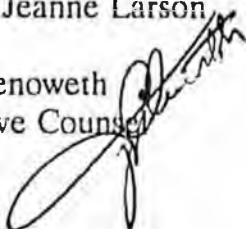
### MEMORANDUM

March 6, 1991

SUBJECT: Draft CSSB 35 ( ), "S" version

TO: Senator Pat Pourchot  
ATTN: Jeanne Larson

FROM: Jack Chenoweth  
Legislative Council



Notes to accompany the draft --

1. You asked me to "specify that [for forcible entry and detainer actions, the] notification period runs concurrently with [the] notification period under the landlord/tenant and nuisance statutes." I have included new material at the end of proposed AS 09.45.090(1)(A), at the end of proposed AS 09.45.090(1)(B), and in the middle of the bill section amending AS 34.03.220(a) to tie those provisions together. The first of these covers situations involving nonpayment of rent (5 days notice required), the second involves use of premises for illegal alcohol and drug activity (5 days notice required), and the last involves instances in which there is a breach of a rental agreement covenant.
2. You asked me to include authority by which the court may enter an order to vacate and a writ of assistance at the same time. See, in this regard, bill section 5.
3. You asked me to provide that trial under the nuisance statute serve also as the hearing required under the forcible entry and detainer process. Because of due process concerns, I didn't see that the forcible entry and detainer process would work without at least a minimum opportunity for the tenant or person in possession to have a chance to appear and raise any defense. Consequently, I opted to retain the separate trial requirement, but reduced to a minimum the burden on the landlord who has secured an abatement order. See, in this regard, bill section 6. Frankly, I can't imagine that this provision will see much use. The proceedings in and entry of the order of abatement should be sufficient to secure the tenant's voluntary removal from the premises on or before the order of abatement issues in order to "protect" his or her personal property from being caught up in the order.

Senator Pat Pourchot

March 6, 1991

Page 2

4. Bill section 14 picks up the correct "AS 34.03.120(a)" reference that you called to my attention.

5. I did not delete the "(a)" following the reference to AS 11.71.010 in what is now bill section 17. Subsection (a) now includes the criminal enterprise activity you were concerned about. Subsection (b)--which the "(a)" deletion would pick up--only adds the definition of that phrase.

JC:gc

91-122.glc

Enclosure

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY

### STATE OF ALASKA

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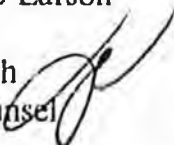
Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

#### MEMORANDUM

February 26, 1991

SUBJECT: Questions concerning Senate Bill 35 and draft  
CSSB 35 ( )

TO: Senator Pat Pourchot  
ATTN: Jeannie Larson

FROM: Jack Chenoweth   
Legislative Counsel

1. Unless the landlord and tenant have provided in their rental agreement for a different remedy, the landlord must use the forcible entry and detainer process of AS 09.45.060-09.45.160 to secure termination of a tenant's forcible entry or unlawful detainer of rented premises.

Yes ( 2. In a residential tenancy, if the landlord seeks to remove a tenant from possession of rented premises based on the tenant's alleged illegal drug activities on the rented premises, under current law the landlord (1) must determine that the tenant has, under AS 34.03.220(a), failed to comply with a tenant's obligation under the rental agreement or under AS 34.03.120 (presumably § 120(a)(6), interference with quiet enjoyment of the premises by neighbors, the justification cited by the Alaska Legal Services Corporation in its February 5 letter in opposition to SB 35), (2) give the 20 day notice under AS 34.03.220(a) directing the tenant to rectify the breach, and (3) if the breach is not adequately remedied within the time allowed--and one wonders how a tenant who engages in illicit alcohol- or drug-activity will do that--move to terminate the rental agreement under the forcible entry and detainer process outlined, presumably under AS 09.45.090(2)(the tenant holds "contrary to a condition or covenant in the lease or agreement,"), in which case, AS 09.45.100 directs a minimum of 10 additional days' notice. Thus, the period under which the landlord would be obligated to wait would necessarily exceed 30 days: a minimum of 20 days under AS 34.03.220(a) and not less than 10 days under AS 09.45.100.

3. The proposed amendment to AS 09.45.130 set out in section 7 of SB 35 is intended to address the situation in which a tenant has prepaid rent and thereafter

I can't find this

Senator Pat Pourchot

February 26, 1991

Page 2

the landlord, during the period of tenant's occupancy covered by the prepaid rent, seeks the tenant's removal for tenant's involvement in illegal drug- or alcohol-related activity. AS 09.45.130(a) appears to protect the tenant who has paid advance rent "until the expiration of the period for which that tenant or person may have paid rent for the premises in advance." In other words, there is the color of argument that a tenant may try to "protect" or insulate himself by paying, say, three-months or even one year in advance and go about using the premises for illegal activities without apparently worrying about removal under AS 09.45.060 - 09.45.160. The proposed subsection (b) is intended to eliminate that possibility. Nothing waives the forcible entry and detainer notice requirement, and the notice provisions of AS 09.45--taken in conjunction with those that may be required by AS 34.03--are otherwise applicable.

4. Section 7 of draft CSSB 35 ( ), M version, offered yesterday, authorizes introduction of reputation evidence to demonstrate nuisance. Rule 405 of the Evidence Rules authorizes introduction of evidence of the reputation of or opinion about a person. The circumstances under which that evidence may be offered, received, and considered are fairly well established in the Rule this is not, then, a provision intended to change the evidence rule as it relates to persons. Taking "reputation" in its dictionary sense ("estimation in which a person or thing is commonly held"--Webster's New World Dictionary), there seemed to be a need for a provision by which neighbors or other residents of a community could describe to a court the opinion or judgment concerning the premises based on their collective opinion of it. Since premises may come to have a community or neighborhood reputation, there should be a clear statement of authority for a court to permit the use of that evidence, subject, of course, to the parameters otherwise applicable to reputation evidence. The provision is permissive. Thus, the bill section would cover evidence relating to personal reputation as well as the collective judgment or repute of a neighborhood or community concerning the premises, though it is only as to the latter that this provision would appear to have substantive effect.

good

JC:gc

91-102.glc

**DIVISION OF LEGAL SERVICES**

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STATE OF ALASKA**

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Mail Stop 3101

**MEMORANDUM**

February 25, 1991

**SUBJECT:** Draft CSSB 35 ( ) relating to the  
landlord-tenant relationship -- sectional  
analysis (W.O. No. 7-LS0160/M)

**TO:** Senator Pat Pourchot  
ATTN: Jeanne Larson

**FROM:** Jack Chenoweth  
Legislative Counsel 

You should have from me a draft amendment to SB 35 (identified as Work Order 7-0160G.5) and a draft CSSB 35, open sponsorship (identified as Work Order 7-0160M), that incorporates that amendment. This sectional analysis, the content of which is applicable to both documents, recounts the substance of the draft committee substitute.

As drafted, CSSB 35 ( ) has two principal purposes, both applicable to the landlord-tenant relationship. First, the measure amends statutes applicable to the forcible entry and detainer remedy to expedite a landlord's eviction of a tenant for failure to pay rent when due. Then, the measure amends the state's nuisance abatement statutes, AS 09.50.170-09.50.240, expanding that remedy to cover the identified criminal offenses involving alcohol or drugs, allowing persons to seek redress under the nuisance abatement law for criminal activity in premises that constitutes a nuisance. There are several secondary changes, noted below.

Let me address these topically rather than sequentially.

**EXPEDITED EVICTION OF TENANT FOR FAILURE TO PAY RENT WHEN DUE:**

Proposed bill section 2 of the draft committee substitute, amending AS 09.45.090(1), reduces from ten days to five days the period in which a landlord must wait after making written demand for possession of rented premises to commence forcible entry

and detainer proceedings to secure a tenant's eviction in the event, and only in the event, the tenant fails to pay rent when due.

Collateral changes are made by proposed bill sections 3 and 4. These sections, read together, merely carry forward the current requirement of allowing three days additional notice if, under the forcible entry and detainer remedy, notice to quit is provided by mail.

A related change is made in the Uniform Residential Landlord and Tenant Act (AS 34.03) by bill section 12. The change made to AS 34.03.220(b) conforms the number of days in which the tenant must pay rent after receiving written notice of nonpayment.

#### NUISANCE ABATEMENT:

Bill section 5 rewrites AS 09.50.170 adding to "lewdness, assignation, prostitution, or any other immoral act"--the existing basis for nuisance abatement relief--an illegal activity involving alcoholic beverages, a controlled substance, or an imitation controlled substance.

Bill section 6 defines those three additional terms, cross-referencing them to the meanings of those terms that are set out in the Uniform Residential Landlord and Tenant Act.

Following the California statutory model, I have included bill section 7, a new section AS 09.50.175, that would allow the court to consider evidence of reputation within a community if relief is sought under the expanded version of the nuisance abatement relief statute.

The substantive change made by bill section 8 is set out at p. 4, lines 11 and 12; it gives the court latitude to determine the amount of bond with sureties necessary when premises under abatement are to be returned to the owner rather than requiring that the value of the bond reflect the full value of the property.

Bill section 13 directs that, under the Uniform Residential Landlord and Tenant Act, an order of abatement entered by the court terminates the rental agreement.

Bill section 14 identifies the particular activities involving alcoholic beverages, controlled substances, and imitation controlled substances that warrant relief under the expanded nuisance abatement provisions. Generally, these statutes identify sales and possession with intent to sell in violation of law. (Again, this is a "narrower" listing of offenses than appeared in the original Senate Bill.)

OTHER CHANGES:

The measure retains from the bill as introduced the content of bill sections 1 and 9. These provisions, adding AS 04.21.075 and AS 17.30.160, respectively, impose on peace officers a requirement to notify a landlord when a tenant has been arrested for violation of one of the identified criminal offenses involving alcohol or drugs.

As in the bill as introduced, bill section 10 of the proposed committee substitute adds as a duty the responsibility of a tenant not to engage in illegal activities on rented premises.

Bill section 11 makes a technical change. Under current law, in order to secure relief under AS 34.03.220(a), a tenant's responsibilities with respect to the dwelling unit set out in AS 34.03.120 must constitute a noncompliance "materially affecting health and safety." As noted above, bill section 10 adds to the tenant's responsibilities "not knowingly [to] engage at the premises in [the specified] illegal [activities] . . . or knowingly permit others in the premises to [do so] . . ." The change made by bill section 11 is to confine the "noncompliance materially affecting health and safety" standard to the tenant responsibilities of current law and not impose that limiting standard to the added responsibility of dealing alcohol and drugs in violation of law.

Finally, as drafted, the legislation adds the content of a portion of your amendment G.1. The measure's bill section 15 adds a new codified section, proposed AS 34.05.-100, extending to tenancies not covered by the Uniform Residential Landlord and Tenant Act the provisions establishing the duty on the tenant not to use the rented premises for illegal activities. Under this new section, noncompliance with the provision is a basis for seeking relief through the nuisance abatement process and, as with bill section 13 above, an order of abatement covering a premises that falls within AS 34.05.100 terminates the rental agreement.

JC:gc  
91-100.glc

Enclosure

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811  
(907) 465-3867 or 465-2450  
FAX (907) 465-2029

Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

**MEMORANDUM**

February 22, 1991

**SUBJECT:** Landlord's remedies for tenant's violation of  
certain alcohol and drug-related offenses

**TO:** Senator Pat Pourchot

**FROM:** Jack Chenoweth  
Legislative Counsel

This memo accompanies a revision of amendment G.4 and a draft committee substitute incorporating that amendment into the original measure (draft CSSB 35 ( )). My comments are applicable to both documents.

If this revised amendment is adopted--or, obviously, if a committee accepts and reports the draft committee substitute--these are the significant differences:

(1) your proposed amendments to the forcible entry and detainer statute (AS 09.45.060 - 09.45.160) and the Uniform Residential Landlord and Tenant Act (AS 34.03) that would have allowed the landlord to seek a tenant's removal for tenant's "arrest" for one of the identified criminal offenses involving alcohol or drugs are eliminated;

(2) in their place, there would be substituted provisions amending the state's nuisance abatement statutes (AS 09.50.170 - 09.50.240), expanding that set of statutes to cover the identified criminal offenses involving alcohol or drugs; thus, a person--including a landlord--could seek redress under the nuisance abatement statutes for criminal activity in premises that constituted a nuisance; this is a variation on the San Diego approach which itself is consistent with California and this state's very old laws on abatement of lewd houses as nuisances;

(3) the range of criminal offenses for which relief under the nuisance abatement statutes is authorized is modified to eliminate from the earlier measure references to violations of

-- AS 04.11.010(a), the general violation statute applicable to unlicensed transactions involving alcoholic beverages; and

Senator Pat Pourchot  
February 22, 1991  
Page 2

-- AS 11.71.050(a)(1) and 11.71.050(a)(2), the two violations involving drug sales and possession of drugs with intent to sell that were punishable as misdemeanors.

The amendment would not affect, and acceptance and reporting of the draft CS would therefore retain, provisions in the original that accomplish the following:

(1) provisions of the original measure reducing from ten to five days the period in which a landlord must give notice to a tenant to quit for failure to pay rent when due;

(2) provisions imposing on peace officers a requirement to notify a landlord when a tenant has been arrested for violation of one of the identified criminal offenses involving alcohol or drugs; and

(3) the duty of the tenant not to engage in illegal activities on rental premises.

\*

I've added to both documents the very important material in proposed bill section 13 to make clear that an order of abatement entered under AS 09.50.170 is sufficient to terminate a rental agreement covered by the Uniform Residential Landlord Tenant Act.

I prepared amendment G.1, extending to tenancies not covered by the Uniform Residential Landlord and Tenant Act the provisions of eviction for tenant's engaging in illegal alcohol- or drug-related activities in order to meet the possible constitutional challenge to the use of "arrest" to secure relief under the forcible entry and detainer provisions. Now that you may abandon that approach, you need not further consider amendment G.1 in its entirety- it would no longer serve its original purpose--though inclusion of subsection (a) of the amendment as drafted--establishing a duty on a tenant not to use rented premises that are exempt from AS 34.03 for illegal activities--would seem to me to serve a salutary function in telling tenants what the law says they may not do. Additionally, if that portion of amendment G.1 is retained for inclusion in this draft, consider further changing it so that, like the material in proposed bill section 13 discussed above, the issuance of an order of abatement as to these rented premises would terminate the lease or rental agreement. Please tell me how you would want this handled.

Finally, now that I look at this measure with a fresh eye, I want to reserve the right to relocate the key definitions of the draft CS's proposed bill section 14 into the nuisance abatement section (probably placing them in what is the draft CS's proposed

Senator Pat Pourchot  
February 22, 1991  
Page 3

bill section 6), for it appears that, as drafted, these definitions would be more relevant there.

JBC:pl  
91-107.plm

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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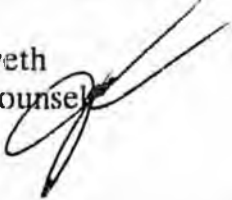
Deliveries to: 240 Main Street  
Court Plaza, Room 500  
Mail Stop 3101

### MEMORANDUM

February 4, 1991

**SUBJECT:** Re Senate Bill 35

**TO:** Senator Pat Pourchot  
ATTN: Jeannie Larson

**FROM:** Jack Chenoweth  
Legislative Counsel 

You have asked for an overview of legislation in other states permitting a landlord to terminate a lease when the landlord determines that the tenant has used the premises for illegal purposes without having evidence of a conviction. The following examples, not intended as an exhaustive list, are suggestive of the authority provided by the various states. The statutes reported generally address the tenant's illegal activities in three areas--illegal sale of liquor, gambling, and prostitution.

1. Automatic termination of lease, or termination of the lease at the landlord's option, without specification that the landlord is entitled to possession:

Automatic termination:

Colorado Rev. Stat. Ann. §13-21-103 -- "unlawful sale or giving away of intoxicating liquors works a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon the premises."

Illinois Ann. Stat., ch. 43 §135 -- "unlawful sale or gift of alcoholic liquor works a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon the premises where the unlawful sale or gift takes place."

At landlord's option:

Alabama Code, §28-4-91 -- "unlawful manufacture, sale, . . . giving away or otherwise disposing of any prohibited liquors or beverages contrary to the law of the state . . . shall, at the option of the landlord or lessor, work a forfeiture of all the rights of any lessee or tenant under any lease or contract of rent of the premises where such unlawful act is performed . . . by the lessee or tenant or by any agent, servant, clerk, or employee of the lessee or tenant with the latter's knowledge or permission."

2. Automatic termination of lease, thereby entitling the landlord to recover possession but without specifying the procedure the landlord is to follow:

Ohio Rev. Code. Ann. §4399.06 -- "all contracts whereby any building or premises are rented, leased, used, or occupied shall become void when such building or premises are used, in whole or in part, for the sale of intoxicating liquors contrary to law, and the lessor, on and after the sale or gift of intoxicating liquors, shall be held to be in possession of such building or premises."

3. Automatic termination of lease, or termination of the lease at the landlord's option, entitling the landlord to recover possession without process of law:

Automatic termination:

Mississippi Code Ann. §95-3-23 -- "if a tenant or occupant of a building or tenement under lawful title uses such place as a nuisance . . . , such use shall annul and make void the lease or other title under which he holds and, without any act of the owner, shall cause the right of possession to revert and vest in the owner, and the owner may without process of law make immediate entry upon the premises."

New Hampshire Rev. Stat. Ann. §544.41 -- "if a tenant or occupant of a building or tenement, under a lawful title, uses such premises . . . for any of the unlawful purposes enumerated herein[,] such use shall annul and make void the lease or other title under which he holds and, without any act of the owner, shall cause the right of possession to revert to him, and he may, without process of law, make immediate entry upon the premises."

Rhode Island Gen. Laws Ann.

§11-19-23 -- "every lease of any house, shop, or place used as a gambling house or place where gaming is practiced or carried on . . . shall be void, and no notice to the occupant thereof other than a demand for the possession of the premises, shall be necessary to eject such occupant therefrom."

§11-30-6 -- "if any person, being a tenant or occupant under any lawful title of any building or tenement not owned by him, shall use said premises or any part thereof for [unlicensed manufacturing or distribution of intoxicating liquor], such use shall annul the lease or other title under which said occupant holds, and, without any act of the owner, shall cause the right of possession thereof to revert and vest in him, and said owner may make immediate entry thereon and repossess himself of the premises without process of law."

At landlord's option:

Ohio Rev. Code Ann. §3767.10 -- "if a tenant or occupant of a building or tenement, under a lawful title, uses such place for the purposes of lewdness,

assignment, or prostitution, such use makes void the lease or other title under which he holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert and vest in such owner, who may without process of law make immediate entry upon the premises."

4. Automatic termination of lease, allowing the landlord to enter on to the leased property or to use the remedy provided in the state's summary proceeding statute:

Kansas Stat. Ann. §41-805(1) -- "if a tenant of any building or premises uses the same, or any part thereof, in maintaining a common nuisance . . . , or knowingly permits such use by another, such use shall render void the lease under which he or she holds, and shall cause the right of possession to revert to the owner or lessor, who may make immediate entry upon the premises, or may avail himself or herself of the remedy provided for the forcible detention thereof."

Maine Rev. Stat. Ann., tit. 17 §2743 -- "if any tenant or occupant, under any lawful title, of any building or tenement not owned by him uses it or any part thereof for any purpose [involving illegal sale or keeping of intoxicating liquor or narcotics, lewdness, or gambling], he forfeits his right thereto, and the owner thereof may make immediate entry, without process of law, or may avail himself of the remedy provided [i.e. forcible entry and detainer]."

Oklahoma Stat. Ann., tit. 21, §958 -- "whenever any lessee of any house or building shall be convicted of suffering any of the said prohibited gambling devices or games of chance to be carried on in said house or building, the lease or contract or letting such house or building shall become void and the lessor may enter upon the premises and shall recover possession of said leased property as in the case of forcible detainer."

5. Automatic termination of lease, granting the landlord the same remedy as the landlord would have against a holdover tenant:

Automatic termination for a tenant's illegal use:

Missouri Rev. Stat. §441.020 -- "whenever any lessee of any house or building shall suffer any prohibited gaming table, bank, or device to be set up or be kept or used therein, for the purpose of gaming, or keeping in the same a bawdyhouse, brothel, or common gaming house, the lease or agreement for letting such house or building shall become void, and the lessor may enter on the premises so let, and shall have the same remedies for the recovery thereof as in the case of a tenant holding over his term."

New Jersey Stat. Ann. §46.8-8 -- "if the lessee of any dwelling house or other premises situate in this state shall use the same for purposes of prostitution or assignation, the lease or agreement for letting the same shall enter thereupon become immediately void, and the landlord may enter thereon, and shall have the same remedies to recover possession as are given by law when a tenant holds over after the expiration of his lease."

Utah Code Ann. §32A-13-6(6) -- "if any tenant of any premises uses the same or any part thereof in maintaining a common nuisance . . . , or knowingly permits use by another, the lease is rendered void, and the right to possession reverts to the owner or lessor[,] who is entitled to the remedy provided by law for forcible detention of the premises."

Termination at landlord's option:

Oregon Rev. Stat. §91.240(3) -- "any person letting or renting any room, building, or place mentioned in [O.R.S. § 91.240(1)] which is at any time used by the lessee or occupant thereof, or any other person with the knowledge or consent of the lessee or occupant, for gambling purposes, upon discovery thereof, may avoid and terminate such lease or contract of occupancy, and recover immediate possession of such building or other place by an action at law for that purpose . . . ."

Rev. Code of Washington §4.24.080 -- "it shall be lawful for any person letting or renting any house, room, shop, or other building whatsoever . . . which shall, at any time, be used by the lessee or occupant thereof, or any other person, with his knowledge or consent, for gambling purposes, upon discovery thereof, to avoid or terminate such lease, and to recover immediate possession of the premises by an action at law for that purpose."

6. Automatic termination of lease, or termination of the lease at the landlord's option, but mandating that the landlord serve a notice to quit on the tenant:

Automatic termination of the lease:

California Code of Civil Procedure §1161(4) -- "any tenant . . . assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of his lease, or maintaining, committing, or permitting the maintenance or commission of a nuisance upon the demised premises . . . thereby terminates the lease, and the landlord, or his successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession in such demised premises . . . ."

Senator Pat Pourchot  
February 4, 1991  
Page 5

Termination at landlord's option:

Nevada Rev. Stat. Ann. §40.2514 -- "a tenant of real property or a mobile home . . . is guilty of unlawful detainer when he:

...  
(4) suffers[,] permits[,] or maintains on or about the premises any nuisance;

...  
and remains in possession after service upon him of 3 days' notice to quit.

\*

An amendment extending the authority of proposed AS 34.03.222 to tenancies other than tenancies in dwelling units covered by the Uniform Residential Landlord and Tenant Act is enclosed.

JBC:lmb  
91-013.lmb

Enclosure

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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### MEMORANDUM

December 17, 1990

SUBJECT: Landlord-tenant relationship (Work order 7-0160G)

TO: Senator Pat Pourchot

FROM: Jack Chenoweth  
Legislative Counsel

This draft legislation has two principal purposes, both applicable to the landlord-tenant relationship. It substantially amends statutes applicable to the forcible entry and detainer remedy to expedite a landlord's eviction of a tenant for failure to pay rent when due. It also amends and adds to the body of law provisions under which a landlord may terminate a rental agreement and seek the ouster of a tenant who has been arrested for violating certain specified laws on the rented premises.

Let me address each in turn.

#### EXPEDITED EVICTION OF TENANT FOR FAILURE TO PAY RENT WHEN DUE:

Proposed bill section 3, amending AS 09.45.090(1), reduces from ten days to five days the period in which a landlord must wait after making written demand for possession of rented premises to commence forcible entry and detainer proceedings to secure a tenant's eviction in the event the tenant fails to pay rent when due.

Collateral changes are made in proposed bill sections 4 and 5. These sections, read together, merely carry forward the current requirement of allowing three days additional notice if, under the forcible entry and detainer remedy, notice to quit is provided by mail.

A related change is made in the Uniform Residential Landlord and Tenant Act by bill section 11. The change, made to AS 34.30.220(b), conforms the number of days in which the tenant must pay rent after receiving written notice of nonpayment.

**TERMINATION OF TENANCY FOR CONDUCTING CERTAIN ILLEGAL ACTIVITIES ON THE RENTED PREMISES:**

The principal provisions are set out in bill sections 9 and 12.

Bill section 9 adds a new paragraph to the statement of tenant's obligations under the Uniform Residential Landlord and Tenant Act. That additional obligation is one of "not knowingly [engaging] at the premises" in one of three illegal activities, and "knowingly [permitting] others in the premises to engage" in those activities.

Bill section 12, adding a new section, AS 34.03.222, outlines the remedies once the landlord learns of the tenant's breach of the obligation to keep the premises free of illegal activities. Under the section, the landlord (1) may terminate the rental agreement, (2) must, if the rental agreement is terminated, provide notice to the tenant of termination and of the act constituting the breach, and (3) may recover possession under the forcible entry and detainer remedy (under the provisions that require a 10 day delay in recovery, and not under the 5 day provisions for failure to pay rent when due that are amended elsewhere in the bill).

The specific "illegal activities" for which a landlord may invoke the forcible entry and detainer remedy are enumerated in bill section 13. Each requires that the tenant or other person shall have been arrested for the specific violation.

In related bill changes:

Bill section 2, revising AS 09.45.070 (by adding a new subsection (a)(3) and a new subsection (b)), explicitly permits landlords to use the forcible entry and detainer remedy if a tenant's illegal activities of the kind identified above are the basis for termination of the tenancy.

The amendment made by bill section 6 makes clear that action to recover premises for a reason specified in AS 09.45.070(a)(3) requires at least 10 days notice (or, alternatively, 90 days under the special provision for farming and agricultural tenancies).

Existing AS 09.45.130 provides a measure of protection to a tenant who has paid rent in advance of the period in which the tenant is due to occupy the premises. Bill section 7 makes clear that a forcible entry and detainer action may be brought against a tenant in possession who engages in one or more of the enumerated illegal activities even if the tenant has paid rent for the premises in advance.

Bill section 10 makes a technical change in an existing reference.

Finally, bill sections 1 and 8 add new provisions, AS 04.21.075 and AS 17.30.160,

Senator Pat Pourchot  
December 17, 1990  
Page 3

respectively, under which peace officers who arrest persons for illegal activities involving alcoholic beverages, controlled substances, or imitation controlled substances on residential premises not occupied by the record owner are to make a reasonable effort to identify and contact the owner of record of the premises and advise the owner of the arrest that has taken place on those premises.

JBG:lmb  
90-036.lmb

Pat

# STATE OF ALASKA

## DEPARTMENT OF LAW

CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

REPLY TO:

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JUNEAU, ALASKA 99811-0310  
PHONE: (907) 465-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

March 5, 1991

The Honorable Pat Pourchot  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: SB 35

Dear Senator Pourchot:

You have inquired through staff whether the Department of Law uses the nuisance abatement procedures set out in AS 09.50.170 and, thus, whether our practices would be affected by an amendment to this statute. AS 09.50.170 et seq. authorize the attorney general to initiate legal proceedings to abate the nuisances created by "places used for immoral acts."

Any such abatement procedures would be undertaken by the civil division of the Department of Law, rather than by the criminal division. I have conferred with Assistant Attorney General Jeff Bush on behalf of the civil division and he advises me that the department currently does not utilize these procedures. Accordingly, the department would not be affected by any amendment to the statutes.

Thank you for inquiring. If you have any further questions that we may be able to answer, please do not hesitate to contact us.

Very truly yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By:

*Margot O. Knuth*  
Margot O. Knuth  
Assistant Attorney General

MOK:ma

BILL NO: (Proposed) CSSB 35(JUD)

DATE: 3/08/91

TITLE: An Act Relating to Termination  
of Tenancies

CONTACT: Gayle A. Horetski  
Deputy Commissioner  
465-4322

DEPARTMENT OF  
PUBLIC SAFETY

The proposed Judiciary Committee substitute for SB 35 amends existing landlord-tenant laws to allow property owners to terminate rental agreements for residential property with renters who have committed certain alcohol and drug violations. The bill creates a duty on the part of police officers who arrest persons for certain alcohol, drug, and imitation drug offenses committed in residential rental property to make a reasonable effort to discover the identity of the property owner and to notify the owner, in person, or in writing at the last address listed on tax records and at any other address known to police. The notice requirement applies to alcohol violation arrests for sales from unlicensed premises and for possession or sale of alcohol where prohibited by local option; to drug violations involving the manufacture or distribution of all drugs except small amounts of marijuana; and to imitation drug violations involving the manufacture or distribution of imitation drugs, or possession of certain precursor chemicals used in the manufacture of imitation drugs.

Based upon past arrests for these offenses, it is estimated that the Department of Public Safety will have to notify approximately three hundred property owners per year. The proposed CS allows the peace officer to notify the property owner in person, and we anticipate that that will occur in many (perhaps most) cases. If a written notice is necessary, we estimate that research required to identify the property owner, determine the last address listed on tax roles and any other addresses known to police, and to prepare the written notice, will take approximately one hour per occurrence. The requirement in this bill to provide written notice to "any other address known to the peace officer" will result in the preparation and delivery of the written notice to multiple addresses on file with the police for the owner. As an example, APSIN can retain up to four different addresses for a person. This will result in the sending of multiple notices to property owners, a wasteful duplication of effort.

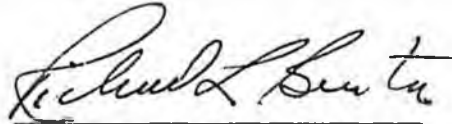
The Department of Public Safety supports this bill, but suggests that the proposed committee substitute be amended to provide that only if no tax records are maintained for the property should notice to other addresses known to the police be required. This could be accomplished by amending Section 1, at page 2, lines 2 and 3, to read ". . .that levies and collects a property tax, of the arrest. If no tax records are available, notice may be sent to the owner at any other address known to the peace officer." A similar amendment would also have to be made in Section 12, page 6, at lines 6 and 7.

Department of Public Safety

Position Paper - CSSB 35(JUD)

Page 2

Although the provisions of this bill will create additional work for peace officers, the Department of Public Safety recognizes the problems created for property owners who find that they have rented to alcohol or drug violators. Allowing property owners to evict arrested drug and alcohol violators would help neighborhoods take an active role in fighting the war on drug and alcohol abuse. This law gives property owners a tool to help clean up their rental properties.

A handwritten signature in cursive script, reading "Richard L. Burton". The signature is written in dark ink and is positioned above a horizontal line.

Richard L. Burton  
Commissioner

BILL NO: SB 35

DATE: 2/25/91

TITLE: An Act Amending the Uniform Residential Landlord and Tenant Act

CONTACT: Gayle A. Horetski  
Deputy Commissioner

DEPARTMENT OF  
PUBLIC SAFETY



SB 35 amends existing landlord-tenant laws to allow property owners to terminate rental agreements for residential property with renters who have committed certain alcohol and drug violations. The bill creates duty on the part of police officers who arrest persons for certain alcohol, drug, and imitation drug offenses committed in residential rental property to make a reasonable effort to discover the identity of the property owner and to notify the owner in writing at the last address listed on tax records and at any other address known to police. The notice requirement applies to alcohol violation arrests for sales from unlicensed premises and for possession or sale of alcohol where prohibited by local option; to drug violations involving the manufacture or distribution of all drugs except small amounts of marijuana; and to imitation drug violations involving the manufacture or distribution of imitation drugs, or possession of certain precursor chemicals used in the manufacture of imitation drugs.

Based upon past arrests for these offenses it is estimated that the Department of Public Safety will have to notify approximately three hundred property owners per year. We estimate that research required to identify the property owner, determine the last address listed on tax roles and any other addresses known to police, and to prepare the written notice, will take approximately one hour per occurrence. The requirement in this bill to provide written notice to "any other address known to the peace officer" will result in preparation and delivery of the written notice to multiple addresses on file with the police for the owner. As an example, APSIN can retain up to four different addresses for a person. This will result in the sending of multiple notices to property owners, a wasteful duplication of effort.

The current version of the bill makes no provision for delivery of the notice in person to the owner of the property. Often the property owner lives in close proximity to the rental property; he or she may actually be present at the time of the arrest or shortly thereafter. The bill as presently written always requires notice to the address on tax records, and does not appear to allow for direct notice from the peace officer to the property owner.

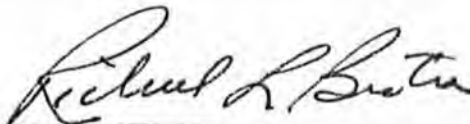
Although the provisions of this bill will create additional work for peace officers, the Department of Public Safety recognizes the problems created for property owners who find that they have rented to alcohol or drug violators. Allowing property owners to evict arrested drug and alcohol violators would help neighborhoods take an active role in fighting the war on drug and alcohol abuse. This law gives property owners a tool to help clean up their rental properties.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SB 35

Page 2

The Department of Public Safety supports this bill, but suggests that proposed AS 04.21.075 (Sec. 1) and AS 17.30.160 (Sec. 8) be amended to allow in-person delivery of the notice of arrest to the property owner at any address. Only if no tax records are maintained for the property should notice to other addresses known to the police be required.

A handwritten signature in cursive script, reading "Richard L. Burton". The signature is written in dark ink and is positioned above a horizontal line.

Richard L. Burton  
Commissioner

# STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

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PHONE: (907) 563-1073

March 11, 1991

## POSITION PAPER

RE: Committee Substitute for Senate Bill 35

Sponsor: Senators Pourchot & Halford

### Program effects of Bill

This bill would have no direct effect on the Department of Community and Regional Affairs.

### Comments

As an investor providing loans to borrowers for housing needs in the rural areas of the state, the department becomes an owner and landlord only after a foreclosure sale when the state takes title to a property. Since the Department of Community and Regional Affairs has the lowest foreclosure rate of any investor, our landlord activity is relatively low.

*Remond Henderson for*  
Edgar Blatchford, Commissioner

# STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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PHONE: (907) 563-1073

January 31, 1991

## POSITION PAPER

RE: Senate Bill 35

SPONSOR: Senator Pourchot

### PROGRAM EFFECTS OF THE BILL

This bill appears to have little impact on DCRA/HAS. The Housing Assistance Section would not have responsibility of enforcement nor implementation of this bill.

The only apparent effect would be from the renting or leasing of our foreclosed homes to people who may become involved with illegal activities. This bill would allow us to remove them in a timely manner. Housing Assistance may see an increase in the legal fees in dealing with the eviction of tenants that are convicted of illegal activities.

### COMMENTS

The department has no objections to the bill.

*Edgar Blatchford*

Edgar Blatchford, Commissioner



**Alaska Court System**  
**State of Alaska**  
OFFICE OF ADMINISTRATIVE DIRECTOR

**CHARLES S. CHRISTENSEN III**  
Staff Counsel

303 K Street  
Anchorage, AK 99501  
(907) 264-8228

February 4, 1991

The Honorable Pat Pourchot  
Co-Chairman, Senate Finance Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Pourchot:

Your office has inquired about the effect of Senate Bill 35, relating to the use of rental property and drug violations, on the Alaska Court System.

This bill has no direct impact on the administration of the court system, and its fiscal impact is zero.

Please contact me if I can be of any further assistance.

Very truly yours,

A handwritten signature in cursive script, appearing to read "C. S. Christensen III".

C. S. Christensen III  
Staff Counsel

**WAGSTAFF, POPE & CLOCKSIN**  
Lawyers

Robert H. Wagstaff  
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912 West Sixth Avenue  
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April 4, 1991

Senator Pat Pourchot  
Room 504, Capitol Building  
P.O. Box "V"  
Juneau, Alaska 99811

Re: Senate Bill 35  
Our File No. 3014.31

Dear Senator Pourchot:

I recently sent you a letter criticizing your Senate Bill 35. For your convenience, a copy is attached to this letter. Since then I have had the opportunity to review the Judiciary Committee Substitute and to speak with your staff about the bill. The substitute alters several provisions, but is still very objectionable. In fact, for reasons I will discuss, the substitute is even worse than the original bill. The ACLU has chosen to submit separate testimony, and this letter is submitted by me on my own behalf and on behalf of the thousand of tenants who live in downtown Anchorage.

1. The Bill Violates Constitutional Principles.

I believe there are some important principles imbedded in our constitution, even if they may not appear in any court interpretation of that document. Those include the right to adequate, actual notice before the courts take away an important right, like housing. They also include the right not to be treated differently than others based upon one's race, sex or economic status, and the right not to be punished for something without proof the "something" actually occurred.

This bill violates all three principles.

First, it reduces the notice required before eviction to almost meaninglessness. Under current law a tenant who does not pay rent when due must received a ten-day notice to pay rent or vacate. If the rent is not paid in that ten-day period, and the tenant does not leave, the tenancy is terminated and another ten-

Senator Pat Pourchot  
April 4, 1991  
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day notice to quit must be provided without the option of paying. If the tenant still doesn't leave, the landlord may file a lawsuit, and can get a trial within two to four days after the tenant gets notice of the suit. A tenant being evicted for a problem other than non-payment of rent must receive a notice to cure the problem in ten days or vacate in 20 days. For a second offense, the tenancy can be terminated with ten day's notice, giving the tenant no choice to cure the violation. The ten day notice to quit and the lawsuit procedures are the same.

These procedures would be changed by reducing the notice from 20 days to five or eight days. (In fact, through a drafting error, one could argue that no notice is required before suing a tenant for eviction for non-payment of rent.) Since the bill eliminates the obligation to give notice by registered or certified mail, there is no assurance that tenants will get actual notice that their rent is unpaid and they have to leave. Even if they do get actual notice, five days is simply not a reasonable period of time to respond. Please remember that there are many circumstances where the rent has actually been paid, or where a reasonable notice will result in payment without further action. These changes largely foreclose amicable resolution of these types of rent disputes.

Second, this bill treats tenants as second class citizens. Home-owners who don't make their payments have much more liberal time periods than these. The fact that much greater numbers of minorities, women, and low-income citizens rent than own their homes means the effect of these changes falls disproportionately on those groups. As I said in my March 27th letter, when this legislation was enacted in 1974 it was a careful compromise between the needs of landlords to protect their investment and the needs of tenants to avoid being precipitously and unfairly thrown out of their homes. These changes clearly favor the property-owner.

Third, tenants will suffer from government publication of their arrest for alcohol or drug crimes before there has been any determination the crime has been committed. Tenants will also suffer because they - and their families - will be evicted for the conduct of others not under their control. Finally, tenants will suffer because they will be evicted before they have the opportunity to defend themselves on the criminal charges. I note that in his Position Paper, Commissioner Burton says CSSB 35 allows property owners to evict arrested drug and alcohol violators. I agree, your staff's protestations to the contrary notwithstanding. This bill will require tenants to defend themselves from allegations that they violated the alcohol or drug laws with only a few days' notice. Within two to four days after receiving notice of an eviction lawsuit, the tenant will have to be prepared to go

Senator Pat Pourchot  
April 4, 1991  
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to trial on those charges. The summary eviction procedure was not intended to provide a forum for such complicated issues. The result will be that an order of eviction will quite likely be issued before the criminal charges are finally resolved.

2. The Bill Is Incomprehensible.

I spent eight years as a legislative lobbyist and six years as a legislator. My ability to read and digest a bill is better than most, particularly a bill relating to landlord-tenant law. (I helped write the original law in 1973-74). After several hours of trying I do not understand portions of this bill. Since the subject is not particularly complicated, there can only be two explanations. Either the bill drafting has not been done competently or there is a deliberate effort to write a bill which is not understandable by the general public.

A normal citizen can't understand this bill, and no bill should ever be passed that a normal citizen can't understand.

3. The Nuisance Statute.

In a clever twist, the proponents of this legislation have found a way landlords can ignore the procedural requirements of AS 34.03. and AS 09.45.060-.160. All they need to do is sue to abate the tenant's dwelling as a nuisance based upon its use as a "crack house" or a bootlegging operation. That way no one needs to prove the illegal conduct by evidence beyond a reasonable doubt, as would be necessary if a criminal charge were filed. The bill does not require a criminal conviction before winning a nuisance action. The attractiveness of this new remedy is increased by the fact the landlord doesn't even have to show the tenant was at fault. The conduct of any person in the dwelling can be enough to declare it a nuisance.

The bill makes this remedy even easier by providing that, the landlord can get the dwelling declared a nuisance based solely upon "evidence of reputation within a community." He or she doesn't even have to prove the tenant did anything wrong - only that the tenant's neighbors think so. This embellishment overturns the rule that has been in effect in Alaska since 1928 - that the neighbors' perception as to whether a dwelling is a nuisance is not enough to make it a nuisance. U.S. v. Rex Hotels, 8 Alaska 21 (1928).

Finally, this new remedy is particularly attractive to landlords since it might put a tenant in jail for up to six months if the tenant tries to stay in his home after a nuisance abatement order is issued. See AS 09.50.200-.210.

I cannot adequately express the disgust I feel over anyone who would attempt to use this archaic and draconian remedy in the landlord-tenant relationship.

4. Rule Changes.

Section 09.45.125 grants the court the authority to simultaneously enter an order to vacate and issue an order to a peace officer to forcibly remove the tenant. I believe this affects a matter of court procedure.

Section 09.45.100 also appears to alter current court procedure. Therefore, this Section of the legislation requires a two-thirds vote. See Alaska Constitution, Article IV, Section 15.

5. Fiscal Impact.

I have reviewed several position papers and fiscal notes on both versions of SB35. All the fiscal notes are zero. The Public Safety analysis indicates about 300 hours of increased work per year, plus supplies, postage, etc. This analysis admits that the bill will cause a fiscal impact. The Court System fiscal note is faulty because it does not recognize the increased number of eviction cases filed (when the notice period is shortened, the number of informally resolved cases will go down) nor does it realize the effect of a revitalized nuisance statute.

But most importantly, the agency which will suffer the most obvious fiscal impact has not even submitted a fiscal note. AS 44.23.020(b)(8) requires the Department of Law to prepare a handbook describing the landlord-tenant law. The passage of this bill will necessitate a new version of that handbook, particularly in light of the complicated provisions. Since the preparation of that handbook inevitably will cost money, a Finance Committee referral is required.

6. The Bill Is Not Necessary.

It must be emphasized that this bill is not necessary. Alaska law provides powerful remedies for landlords - abbreviated notice requirements and a speedy eviction procedure combined with a cooperative judicial system. Do not let landlords tell you the law does not allow them to evict "bad" tenants. The tools are there for the landlords and lawyers who know how to use them.

7. Conclusion.

This bill should not pass. It is technically defective. It constitutes a move away from enlightened landlord-tenant law, which recognized that the rights of both parties deserve respect and

Senator Pat Pourchot  
April 4, 1991  
Page 5

protection. It will increase homelessness, since it will summarily remove families from their homes, often for events which are not their fault. It violates important principles which are the foundations of our system of justice - due process, equal treatment, and punishment only on proof of misconduct. Finally, it will destroy a carefully crafted legislative compromise that has lasted for seventeen years, and open old wounds and cause new legislative wars.

Thank you for the opportunity to communicate with you on this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Don Clocksin".

Don Clocksin

DC:dkm\30143104.la

cc: All members of the Senate



**First National Bank**  
of Anchorage

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December 11, 1990

Senator Pat Fourchot  
Alaska State Legislature  
P. O. Box 104836  
Anchorage, AK 99510

Dear Pat:

Thank you for your letter of December 4, 1990 addressed to Steve Shropshire regarding the Landlord-Tenant Act. I think that you are on the right track. Please keep up the good work.

Sincerely,

David W. Cuddy  
Senior Vice President

DWC/als

JAN 21 1991



Institute of Real Estate Management  
of the NATIONAL ASSOCIATION OF REALTORS®

JAMES KUNTZ, CPM  
c/o MARSTON PROPERTIES  
4105 TURNAGAIN BLVD.  
ANCHORAGE AK 99517

248-1717

Alaska Chapter No. 97

January 21, 1991

Senator Pat Pourchot  
Alaska State Legislature  
P.O. Box V  
State Capitol  
Juneau, AK 99811

RE: Proposed Changes To The Alaska  
Uniform Residential Landlord - Tenant Act

Dear Senator Pourchot:

The Alaska Chapter of the Institute of Real Estate Management is an affiliate of the National Association of Realtors. Our executive board has reviewed and supports your proposed changes to the Alaska Uniform Residential Landlord - Tenant Act.

Shortening the notice period for non-payment of rent to five days would assist property owners in accelerating the timely FED process and would still allow well-intentioned tenants to pay or make other arrangements. The second proposal would benefit property owners by giving them the option to initiate the eviction process against tenants arrested for certain drug and alcohol related crimes.

Both proposals would result in reducing the losses rental property owners encounter due to unpaid rent and losing good tenants because of disturbances or fear from certain neighboring tenants engaged in illegal drug activity.

The members of IREM support these proposed changes and are hopeful that they will be passed.

Very truly yours,

James Kuntz, CPM, CRB  
IREM Past President

cc: Dea Turner, Alaska Association of Realtors  
Jim McCourt, Alaska Association of Realtors

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THE FOREMAN'S

1241 HILLCREST DRIVE  
P.O. BOX 91576 ANCHORAGE, ALASKA 99509-1576  
(907) 279-1736

December 31, 1990

Senator Pat Pourchot  
P.O. Box 104836  
Anchorage, Alaska 99510-4836

Sir:

Thank you and your Mr. Abbott for the opportunity for input regarding the two changes you are proposing to the Alaska Uniform Residential and Landlord and Tenant Act.

The non-payment of rent notice period change from ten (10) to five (5) days is highly desirable.

Immediate eviction process against those arrested for drug- or alcohol-related crimes is highly desirable; however, it appears doubtful such legislation would "stand up in court" because "arrest" is not "conviction". And, a person is presumed innocent until proven guilty.

Please note we are sending copies of this letter to our legislators soliciting their support for your efforts.

Very truly yours,

*Helen G. Foreman*

Helen G. Foreman  
Co-Owner

hgf/s

cc: Senator Drue Pearce, Suite 535, 3111 C Street  
Senator Pat Rodey, 3111 C Street  
Representative Dave Donley, Suite 450, 3111 C St.  
Representative Max F. Gruenberg, Jr., 914 Clay Ct.



BOX 719  
BETHEL, ALASKA 99559

543-2124

Senator Pat Pourchot  
Alaska State Legislature  
P.O. Box 104836  
Anchorage, Ak. 99510

December 13, 1990

Dear Senator Pourchot:

This letter is to support your proposed changes in the Alaska Uniform Residential Landlord-Tenant Act.

We are a Native Village Corporation with major interest in rental property in our area. We are fully aware of the impact of drug-related and bootlegging problems in our area. We too would like the right to evict such persons from the premises as soon as possible.

As a landlord, we are also in favor of the 5 day in place of the 10 day eviction notice.

If we can be of further assistance in this matter, please contact us.

Sincerely,

William C. Bivin  
President/CEO

543-2062 (H)

1201 West 45th Ave.  
Anchorage, Alaska 99503  
January 4, 1991

JAN - 7 1991

Dear Sen. Pourchot,

Thank you for your letter of December 4 expressing concerns for landlord's trying to evict non-paying tenants and those engaged in drug selling and bootlegging activity.

We have read the work draft of the proposed bill and find it carefully written.

At our December 13 meeting, the Landlord and Property Managers Ass'n. voted in favor of this draft as far as it goes. We will support it to the best of our ability.

We look forward to hearing that it has been filed.

Sincerely,

*Alice Brewer*

Alice Brewer  
Executive Secy. ALPMA

563-6734

P.O. Box 103628  
Anchorage, AK 99510  
12 November 1990

Senator Pourchot  
Alaska State Senate  
3111 C Street, Suite 545  
Anchorage, AK 99503

Dear Senator Pourchot:

Subject: Landlord-Tenant Law changes

You are interested in sponsoring a bill to amend the landlord-tenant law. You propose to shorten the notice-to-quit time in an FED procedure. I support this plan. I suggest five-days notice.

I own and manage 10 apartments in 3 buildings. I have had experience with the eviction process for non-payment of rent. Currently a ten-day notice is required before an FED lawsuit can be started. This is too long. It is a useless delay. Five days is a good time for a notice-to-quit period (three days would be best, but I will settle for five). Tenant groups will complain, but shortening the notice period will pose no problem. Whatever the non-paying tenant was going to do on the tenth day, they can do just as well on the fifth day. Also, I believe, other states have notice times that are shorter than ten days. Lets be in line here. Finally, remember that this is a legal minimum notice time and each situation can be increased above the minimum. This allows the landlord to give good tenants a break and to get rid of non-payers quickly.

Senator Pourchot, the ten-day notice-to-quit time is a major problem with the current law. Please submit and enact a bill to reduce this useless delay.

Sincerely,



Jerry Lee Gottbe (husb) 338-0627

December 17, 1990

Senator Pat Parnoch  
P.O. Box 104836  
Anchorage, Alaska

Dear Senator,

Your proposed bill, "to reduce the time after giving written notice that a landlord must wait to terminate a tenancy for failure to pay rent when due", and "with respect to illegal activities involving alcoholic beverages, controlled substances," sounds good. If this will help control some of the illegal activities, by making those aware that they can be evicted early, then let's have it made part of the laws.

Landlords need help with the delinquent and destructive tenants.

Sincerely,

Charles Lippitt

2203 Mc.Indy Ave.

Spenard, Alaska

248-4770

TESTIMONY FOR SB 35 (3/7/91)

Mark Begich  
P.O. Box 201627  
Anchorage, AK 99520

Peter Hutton  
Weidner Co. Property Service  
5600 Lake Otis  
Anchorage, AK

James Kuntz, CPM  
c/o Marston Properties  
4105 Turnagain  
Anchorage, AK 99517

Alice Brewer  
1201 West 45th Avenue  
Anchorage, AK 99503

Lt. Dan Lloyd, APD Metro Unit