

SB

155

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 18, 1993

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

1031 W. 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P. O. BOX 110300 STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 462-5295
465-6735

Hon. Loren Leman
Alaska State Senate
State Capitol, Room 113
Juneau, Alaska 99811

MAR 18 1993

Dear Senator Leman:

We understand that SB 161, relating to interest rates, is before your committee for consideration.

Attached is a sectional analysis for the bill. The bill was proposed by the Department of Law and the Department of Revenue. The bill makes important improvements in Alaska law on interest rates as explained in the sectional analysis.

The Department of Law would appreciate scheduling of a hearing at your committee's earliest convenience.

Sincerely yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: *Deborah E. Behr*
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Charles E. Cole
Attorney General

Bruce M. Botelho
Deputy Attorney General

Rod Mourant, Legislative Contact
Department of Revenue

Sam Helms
1524 Stacia St.
Fairbanks, Ak 99701

March 22, 1993

Loren Leman, Chair
State Affairs Committee

Dear Senator Leman:

I want to express my support for SB155. This bill is an effort to equalize the law as it pertains to rentals. Presently the Landlord Tenant Act is an act which predominantly addresses tenants rights.

I have experienced extraordinary damage through malicious destruction by a tenant and his friends. As the law presently exists, there is no recourse for me. I was required to give that tenant 20 days notice to quit destroying my property or at the end of 20 days he would have to vacate the premises. That gave him 20 days within which to do over \$10,000 worth of destruction to my property. I was told it was a "civil matter". I believe malicious vandalism of over \$500 by the tenant should be treated as a criminal act. This is not the case at the present time.

You have before you an explanation of what this bill will do. I want to point out that all the protections for tenants that presently exist continue to exist under this bill. We have taken nothing away from the good tenants that Act is intended to protect. We are interested in protecting ourselves against those few severe cases that we are presently helpless to do anything about. As a member of that minority class in Alaska, the taxpayer, landlords are only asking for a measure of justice that is presently denied them.

Please support SB155. There are a great number of landlords that would be extremely grateful.

Yours Truly,



Sam Helms
Landlord

cc: Senator Mike Miller, Vice-Chair
Senator Robin Taylor
Senator Johnny Ellis
Senator Jim Duncan

PETITION

(1)

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	Harry Jenkins	HARRY JENKINS	210 10 TH AVE	X	1		
2	Don Wadle	DON WADLE	4888 Old Airport Hwy	X	11		
3	Delores Linzner	DELORES LINZNER	1213 Talle St.			✓	
4	Dorothy E. Dallas	Dorothy E. Dallas	450 Sun Way				✓
5	Dois D. Dallas	DOIS D. DALLAS	450 SUN WAY				✓
6	Opal Sleeps	Opal Sleeps	311 Birch St.	X	1		
7	Marrin Bushey	MARRIN BUSHEY	1019 VERNAL				✓
8	Shenni Hutchison	Shenni Hutchison	1019 VERNAL				✓
9	Wilma Wadle	WILMA WADLE	4888 Old Airport Rd.	X	11		
10	Pauline Cornnell	PAULINE CORNELL	921 O'CONNOR RD				✓
11	Mathilde Link	MATHILDE LINK	665-10th Ave #206				✓
12	Shirley Christensen	Shirley B Christensen	1616 Maryland				✓
13	Ruby Blair	Ruby Blair	83 Slater Dr #14	Gen. Manager	60		
14	Leo V. Blair	Leo V. BLAIR	83 SLATER DR #14	MANAGER	60		
15	Gary Lundgren	Gary Lundgren	3400 Airport Way	OWNER	2.4		
16	James Rathmeyer	JAMES RATHMEYER	4001 Geist Rd Suite 7	OWNER	3		
17	Sulley Rathmeyer	Sulley Rathmeyer	4001 Geist Rd Suite 7	owner	3		
18	Judy Baird	Judy Baird	306 Slater St.				✓

PETITION

(2)

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No.Units	Tenant	Other
1	<i>[Signature]</i>	TER A. VIGORAN	1026 Evergreen #9-Flt			✓	
2	<i>[Signature]</i>	LINDA WOLTING	1025 Evergreen Apt 4			✓	
3	<i>[Signature]</i>	Andrea Gillitzer	1026 Evergreen Apt 11			✓	
4	<i>[Signature]</i>	Brian Shaw	1028 Evergreen St #2			✓	
5	<i>[Signature]</i>	George H. Wilson	Mail P.O. Box 82825-99708 Res. 116 ForgetmeNot Lane Gold Butte			✓	
6	<i>[Signature]</i>	Imogene Wilson	Res. 116 ForgetmeNot Lane			✓	
7	<i>[Signature]</i>	PATRICIA L. WRATE	1018 Dawson FBKS, AK 99709				✓
8	<i>[Signature]</i>	BENJAMIN EDWARDS	1018 Dawson 99709				✓
9	<i>[Signature]</i>	John A Pyne	1700 Lataha Cir ^{2PK} AK 99709				✓
10	<i>[Signature]</i>	JO ANN M PYNE	1700 Lataha Cir. ^{2PK} AK 99709				✓
11	<i>[Signature]</i>	Carol Hoewisch	1026 Evergreen St #2			✓	
12	<i>[Signature]</i>	MARY EBERHART	1028 EVERGREEN # 3			✓	
13	<i>[Signature]</i>	Lisa Shaw	PO Box 15511			✓	
14	<i>[Signature]</i>	RITA E GALLAGHER	3509 LISA ANN DR North Pole AK 99705				✓
15	<i>[Signature]</i>	ELAINE SIMONIS	1330 WALKWAY LP No. Pole AK 99705				✓
16	<i>[Signature]</i>	David Gunn	117 Kantishna Way				✓
17	<i>[Signature]</i>	MARY GARRETT	117 Kantishna Way				✓
18	<i>[Signature]</i>	Charney A. Garrett	117 Kantishna Way				✓

Sam Hems - 452 3849
 Ed Willis 456 3900

Terry Hassel

3

PETITION

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	Donald R Blane	Donald R Blane	415 5th Ave Fair 99701	X	66		
2	Theresa Anders	Theresa Anders	160 #2 Syracuse ^{Fols} AK 99701			X	
3	Mary Reece	Mary Reece	1725 University FBKS			X	
4	Kimberly R Salzer	Kimberly RT Salzer	1658 Fairbanks Ave ^{BI} 99701			X	
5	Brent Siegel	BRENT Siegel	533 PANORAMA DR. ^{FBKS} 99701			X	
6	Regina Thomas	Regina THOMAS	5010 Country ^{Arch 9992} NP				X
7	Nancy A Posolawski	Nancy A Posolawski	543 Craig Ave ^{Fols} AK 99701				X
8	Tami To Dake	TAMI To DAKE	1941 Christiana dr. NP				X
9	Ginnie K Zinza	Ginnie K Zinza	PO Box 74026 FAK 99707				X
10	Jackie M. Shipman	JACKIE M. SHIPMAN	P.O. Box ⁵⁶⁹⁷⁶ NP 99705				X
11	Terry Rien	TERRY RIEN	PO Box 81570				X
12	Terry Ashcraft	Terry Ashcraft	415 5th Ave Fair 99701				X
13	Sandra George	SANDRA GEORGE	415 5th Ave ^{#300} FBK. 99701			X	
14	David Salmon	David Salmon	Box 54 Chittenden AK 99701				X
15	Jim Nikolai	JIM NIKOLAI	Box 51 Nikolai 99891				X
16	Danita Dates	Danita Dates	29 Glenner Ave #2				X
17	M. Aron Blanc	M. ARON BLANC	415 5th Ave ^{Box AK} 99701	X	66		

PETITION

4

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Don Brakfield</i>	Don Brakfield	P.O. Box 73238			X	
2	<i>Lana Wegner</i>	LANA WEGNER	1031 Northwood Flks				X
3	<i>M. Wegner</i>	Michael E. Wegner	1031 Northwood Ln. FBKS AK				X
4	<i>Toni White</i>	Toni White	PO BOX 60081 Flks			X	
5	<i>G. P. Reed</i>	G. P. Reed	P.O. Box Ester AK 99725			X	
6	<i>Joanna Michells</i>	Joanna Michells	DU Box 74804 FBKS 99707			X	
7	<i>Cathy Gabriel</i>	Cathy Gabriel	PO Box 73386 FBKS	X	3		
8	<i>Larry Martin</i>	Larry Martin	506 Sprucewood FBKS			X	
9	<i>Bill Melchert</i>	Bill Melchert	3615 BRADDOCK ST FBX	X	1		
10	<i>Donald W. Winters</i>	DONALD W. WINTERS	2133 BRIDGEWATER FBX				X
11	<i>Rick Saddler</i>	Rick SADDLER	1828 KENNEDY				X
12	<i>Steve Farley</i>	STEVE FARLEY	P.O. Box 75148 FBKS 99707			X	
13	<i>Jeff Henry</i>	JEFF HENRY	2045 Lakeview Terrace			X	
14	<i>Teri Melchert</i>	TERI MELCHERT	3615 BRADDOCK ST. FBKS	X	1		
15	<i>Joe Zimmerman</i>	Joe Zimmerman	P.O. Box 56113 NP 99705				X
16	<i>Daniel L. Goreop</i>	DANIEL L. GOREOP	2292 Ptarmigan Ln NP 99705				X
17	<i>Jeff Ehler</i>	JEFF EHLER	P.O. Box 1566 FBKS 99707				X
18	<i>John F. Smith</i>	JOHN F. SMITH	2519 KEENEY NP 99705			X	

PEITION

5

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Lee Worsham</i>	Lee WORSHAM	1303 O'connor	✓	25		
2	<i>Barbara Dowdy</i>	Barbara Dowdy	1051 Eastwood Lane				✓
3	<i>Theresa O'Kelly</i>	THERESA O'Kelly	P.O. Box 70521	✓	3		✓
4	<i>Patricia Kinn</i>	Patricia Kinn	P.O. Box 24466 Ft. Worth, TX 76122	✓	4		
5	<i>Virgil Beuning</i>	VIRGIL BEUNING	996 Coppit Alley	✓	1		✓
6	<i>Donna Gatto</i>	DONNA GATTO	PO Box 58619 99711				✓
7	<i>Kay L. Hudson</i>	Kay L. Hudson	PO Box 70104 99707	✓	1		✓
8	<i>Audette Koch</i>	AUDETTE KOCH	Box 30 ESTERAK	✓	2		
9	<i>Stacia</i>	1524 STACIA	1524 STACIA	✓	7		
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PETITION

6

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Steph Butler</i>	Butler, Stephen	C Co 206 MSB				✓
2	<i>Michelle Hayes</i>	MICHELLE HAYES	3131 SERRA DRIVE	✓	3		
3	<i>[Signature]</i>	RO SLIPPER	1518 27th Ave			✓	
4	<i>[Signature]</i>	JDRM HARRIS	41053 FAIRVIEW CAMP			✓	
5	<i>Jackie Olano</i>	Jackie Olano	613 WAINWRIGHT RD				✓
6	<i>Shawn Perry</i>	SHAWN PERRY	A Co 5/9 FWA				✓
7	<i>[Signature]</i>	CARIS JOHNSON	A Co 9/9 FWA				✓
8	<i>[Signature]</i>	Kenneth R. Edwards	PO Box 72041				✓
9	<i>Kristina Pomeroy</i>	Kristina Pomeroy	1165 Greening Way				✓
10	<i>Johnny Napier</i>	Johnny Napier	240 YALE WAY				✓
11	<i>William T. Simon</i>	William T. Simon	335 Cindy Dr				✓
12	<i>Rob Graves</i>	Rob Graves	320 Wedgewood Dr. #6			✓	
13	<i>John Sawyer</i>	JOHN SAWYER	320 Wedgewood Dr #6			✓	
14	<i>Carol L. Johnson</i>	Carol L Johnson	Corral L Johnson				
15	<i>Genevieve S Gray</i>	Genevieve S Gray	807 2nd	ADP			
16	<i>MANUS MURPHY</i>	MANUS MURPHY	59 COLLEGE 210				✓
17	<i>Sonique Johnson</i>	SONIQUE JOHNSON	5256 N DEBORAH	✓			
18	<i>Marta Jones</i>	MARTA JONES	Quarters - Ft. G. Keely	✓			
	<i>Jacque Childs</i>	JACQUE CHILDS	1773 Kendall, No Pole				✓

MAR 22 '93 09:38 GOLDLINE EXPRESS 907 479 3125

P. 2

PETITION

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

7

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	Brian Cotoligan	Brian Cotoligan	1300 Moore St Fairbanks AK 99701			✓	
2	Gretta Zito	Gretta Zito	4128 6th St Sols Ft. Wainwright AK 99703				✓
3	Debra L. Thompson	Debra L. Thompson	4427 Mayfield Ct #5 Ft. Wainwright AK 99703				✓
4	Rose Smullen	Rose Smullen	124 Monterey Ct. N.P.				✓
5	Julie Mervyn	Julie Mervyn	4422-2 Mayfield Ct				✓
6	Scott Mervyn	SCOTT MERVYN	4422-2 Mayfield Ct				✓
7	Scott Disseth	SCOTT DISSETH	147 FROB BOND C.R.				✓
8	Douglas Tallon	DOUGLAS TALLON	3844 BRANCH AVE				✓
9	Christie Lower	Christie Lower	1715 Clarks Prkwy				✓
10	Angela Ballet	ANGELA BALLEET	1423 KENNICUT			✓	
11	Jerry A. Hodges	JERRY A. HODGES	11 EUREKA APT. FBK			✓	
12	Cynthia Wilder	CYNTHIA WILDER	1545 EIELSON ST #2 FBK	✓	4	✓	
13	Willard D. Horton	Willard D Horton	500 Kef. Linn. FBKS AK.				✓
14	Joni Longstrech-Thompson	Joni Longstrech-Thompson	P.O. Box 155220 WASAC				✓
15	Anthony M. Beck	Anthony M. Beck	305 Wedgewood Dr FBKS.				✓
16	Bernard A. Smith	BERNARD A. SMITH	414 Bn 901147 FBKS # 49775				✓
17	Tanya Kuhn	TANYA KUHN	Box 902217 FBY AK 99775				✓
18	John A. Roberts	John A Roberts	3040 Davis Rd 12-55				✓

MAR 22 '99 09:39 GOLDLINE EXPRESS 501 412 2167

PETITION

(8)

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Larry Dickman</i>	LARRY DICKMAN	1100 KUYUKUK 99701				X
2	<i>John Dickman</i>	JOHN A. DICKMAN	Post/Bx 11087 TWO RIV 99716	X			X
3	<i>Art Dickman</i>	ARTHUR R. DICKMAN	22 1/2 M LECHE ST TWO RIV	X			X
4	<i>Don Coumml</i>	DON COUMML	1011 DEERE ST FBK	X			
5	<i>Richard F. Koch</i>	RICHARD F. KOCH	PO Box 30 ESTERK	X	2		
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PETITION

9

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No.Units	Tenant	Other
1							
2							
3	Ben White	Renee White	320 BRANDT ST Fair AK	✓			
4	Long Hossel	Jerry Hassel	Bx 49, Ester, AK	✓			
5	Deanne Campbell	Deanne Campbell	1108 21 ST AVE. FASKS	✓	1		
6	Kim Leonard	KIM Leonard	1644 Willow Fairbanks	✓			
7	David Eklund	DAVID EKLUUD	5122 F NORTH ST EAST				✓
8	John P Rasmussen	John P Rasmussen	5128 B NORTH ST EAST				✓
9	Evelyn Franich	EVELYN FRANICH	924 KELLUM				✓
10	Billy Pappa	BILLY PAPPAS	" "				✓
11	Frank Fichter	FRANK FICHTER	" "				✓
12	Joe Franich	JOE FRANICH	924 Kellum St				✓
13	Agnes Schlotfeldt	Agnes Schlotfeldt	924 Kellum				✓
14	Tok Valenzuela	TOK Valenzuela	1910 TURNER ST				✓
15	Constance RATH	Constance RATH	PO Box 2516 Udden	1		1	
16	Jehr Petrus	Jehr Petrus	623 Wainwright Rd				✓
17	Su-Hui Stumpf	Su-Hui Stumpf	P.O. Box 60801		✓		
18							

PETITION

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#	Signature	Print Name	Address	Landlord	No.Units	Tenant	Other
1	<i>[Signature]</i>	TAMMI ISAACSON	4450 Dartmouth Fhks.			✓	
2	<i>[Signature]</i>	SUK CHA CAMPBELL	1108 21st Ave FBS			✓	
3	<i>[Signature]</i>	Rowland W. Young	1243 23rd Ave FBS			✓	
4	<i>[Signature]</i>	JOE TURNER	70 2nd Ave FBS				
5	<i>[Signature]</i>	LORENZE J. KELLY	PO BOX 55368 N.P	✓			
6	<i>[Signature]</i>	JAMES W. SCHNEF	P.O. BOX 2416 FBS	✓			
7	<i>[Signature]</i>	THOS. P. WELSBY	P.O. Box 72157, Fhks. AK-99707				
8	<i>[Signature]</i>	LAURA MCGAUGHEY	P.O. BOX 74847 FBS 99707				
9	<i>[Signature]</i>	JOYCE D. PARKS	P.O. Box 72623 FBS 99707	✓			
10	<i>[Signature]</i>	LYNNE LITTLE	1522 Cushman St Fhks.	✓			
11	<i>[Signature]</i>	Louis M. Titus II	1522 Cushman St. FBS	✓			
12	<i>[Signature]</i>	VICTOR F. SALZBERG	638 CANARD N. Fhks 99705		8		
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PETITION

(11)

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Milton Behr</i>	Milton Behr	P.O. Box 1938 FBUS-99707				✓
2	<i>John Coats</i>	John Coats	2544 Tall Knot WA Fairbanks AK 99709	✓	16		
3	<i>Daniel S Walker</i>	Daniel S Walker	1128 Hess Apt 18 Fairbanks AK			✓	
4	<i>Berline Kuehn</i>	Berline Kuehn	1608 Kennedy ST. 99707				✓
5	<i>Barney Fawcett</i>	Barney Fawcett	Box 53 Ester, AK				✓
6	<i>Primo F Bojessa</i>	Primo F Bojessa	Box 74715 Fairbanks AK				✓
7	<i>Wally Burnett</i>	Wally Burnett	1901 Cozzani	✓	140		
8	<i>James Masterson</i>	James Masterson	321 Island Dr. So. FAKE 99701			✓	
9	<i>Clay Ryan Davis</i>	CLAY RYAN DAVIS	Bx. 10412 FBKS AK.	✓	1		
10	<i>Channon D. Wilson</i>	Channon D. Wilson	Bx. 55534 No. Pole AK.			✓	
11	<i>Donna R. Hunt</i>	Donna R. Hunt	2223 20th St Fairbanks AK	✓	20		
12	<i>Genevieve Carby</i>	Genevieve CARBY	266345 Fairbanks, AK	✓	1		
13	<i>Philip J. Carby</i>	Philip J. Carby	2119 34th Fairbanks 99705	✓	1		
14	<i>Mark Schuber</i>	Mark Schuber	3629 Miller ST Fairbanks AK				✓
15	<i>Mark Schuber</i>	Mark Schuber	427 Shore Rd Fairbanks AK			✓	
16	<i>M. Ronald Sheets</i>	M. RONALD SHEETS	1028 EVERGREEN ST FAIRBANKS AK	✓	7		
17							
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PETITION

12

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>[Signature]</i>	Cathy S Boitz	PO Box 875241 WKS 119 AL 36117			X	
2	<i>[Signature]</i>	Marcus TAVARES	1318 23 Ave #4 FBKS, AK 99701			X	
3	<i>[Signature]</i>	Tiffany Slaughter	1217 Hampstead AVE FBKS, AK 99701			X	
4	<i>[Signature]</i>	Erin Hill	815 McGrath rd. 2-J FBKS, AK 99712			X	
5	<i>[Signature]</i>	Dorinda Owens	3040 ALISA AVE #A-58			X	
6	<i>[Signature]</i>	Diane M Hebert	PO Box 10188 FBKS AK 99710			X	
7	<i>[Signature]</i>	Noma R Johnson	PO Box 7-333 FBKS, AK 99707			X	
8	<i>[Signature]</i>	SHAUNON BUTLER	PO Box 836 C1 Flx AL 99708			X	
9	<i>[Signature]</i>	Aaron Malzahn	P.O. Box 70863 FBKS, AK 99707			X	
10	<i>[Signature]</i>	Susan Rieckmann	1200 W. Diamond Hill Ave Anch AK 99515			X	
11	<i>[Signature]</i>	Bois Ramer	PO Box 103 Kaslof AK 99610			X	
12	<i>[Signature]</i>	James Houston	330 wedge wood dr			X	
13	<i>[Signature]</i>	Cecilia Davis	P.O. Box 58953 FBKS, 99711				X
14	<i>[Signature]</i>	Cathy L Clements	P.O. Box 2074 FBKS 99701	X	L		
15	<i>[Signature]</i>	Tessa Beecher	PO Box 853 Sitka AK	X	L		
16	<i>[Signature]</i>	Kim Brady	1318 23rd Ave			X	
17	<i>[Signature]</i>	Susan Prehike	99855 Curtis St Sitka AK 99779	X	1		
18	<i>[Signature]</i>	Nileen McClayton	154 Fell L Dr E. Ft. McKinley				X

PETITION

13

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No.Units	Tenant	Other
1	<i>Rebecca B. McAuley</i>	Rebecca B. McAuley	925 Joyce Dr Flks ⁹⁹⁷⁰¹			X	
2	<i>Art Saaroods</i>	ART SAAROODS	P.O. BOX 197 D J AK ⁹⁹⁷³⁷			X	
3	<i>Michael G. Ridley</i>	MICHAEL G. RIDLEY	GEN. DELIVERY ^{ESTER AK.} 99725			X	
4	<i>John A. Wilson</i>	John A. Wilson	1004 Julia Dr. Flks AK				X
5	<i>John A. Wilson</i>	John A. Wilson	4820 Palo Ovidette Flks ⁹⁹⁷⁰¹				X
6	<i>Charles Warden</i>	Charles Warden	Box 2275 - Flks AK ⁹⁹⁷⁰¹			X	
7	<i>Mee Jung Takak</i>	Mee JUNG TAKAK	1318 23AVE # 99707				X
8	<i>Dave Brenner</i>	Dave Brenner	1038 Pasque St. 99712			X	
9	<i>Sonya Paschal</i>	Sonya Paschal	4427 Mayfield Ct. #1	X	2		
10	<i>Melissa Applebee</i>	Melissa Applebee	1816 Bridgewater 99709			X	
11	<i>Lois Easterling</i>	LOIS EASTERLING	5 KATHRYN				X
12	<i>Candy Duer</i>	Candy Duer	1226 20 th Ave	X	4		
13	<i>Rod V. Wakefield</i>	Rod V. Wakefield	560 Hilltop Ave. Flks				X
14	<i>Charles H. Wallace</i>	Charles H. Wallace	4051 Mallard Way, Flks	X	3		
15	<i>Joseph J. Milner</i>	JOSEPH J. MILNER	PSC 5 BOX 85 EAK AK				X
16	<i>Brenda D. Sautera</i>	BRENDAD SAUTERA	P.O. Box 8358.3 Flks AK				X
17	<i>John R. Burnett</i>	John R. Burnett	318 Wagonwheel Rd				X
18	<i>Pearl Johnson</i>	Pearl Johnson	18 15 Kathryn St.			✓	

PETITION

14

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Darlene Means</i>	Darlene Means	1232 20th Apt #4			X	
2	<i>Robert King</i>	Robert King	1803 Coastal				owner
3	<i>John Smith</i>	JOHN SMITH	1505 HASELTON RD				OWNER
4	<i>Sody Rimmer</i>	Sody Rimmer	11023 LAURENCE			X	
5	<i>Betty R Johnson</i>	Betty R Johnson	1508 Haselton Rd				owner
6	<i>David E. Pennington</i>	David E. Pennington	P.O. 425 Healy			X	
7	<i>Teresa L Pennington</i>	Teresa L Pennington	PO 425 Healy			X	
8	<i>Gary W. McQueen</i>	Gary W. McQueen	207 Steelhead Rd.	X			
9	<i>Melvin T. Apassingole</i>	Melvin T. Apassingole	P.O. Box 91 Gambell, AK.				X
10	<i>Clement Ungott</i>	Clement Ungott	P.O. Box 75 Gambell, AK				✓
11	<i>Jan Spang</i>	Jan Spang	Box 3914 Palmer, AK				✓
12	<i>GARY W SPANG</i>	GARY W SPANG	" " "				✓
13	<i>Dorey J. Good</i>	Dorey J. Good	PO Box 7504, Fids Ik				✓
14	<i>Hedra A Stullman</i>	Hedra A Stullman	830 Highgate Way Fids AK				owner
15	<i>Todd A. Ingstad</i>	Todd A. Ingstad	524 Crainy St. Fids				✓
16	<i>Marvin Sluka</i>	MARVIN SLUKA	3450 Airport Way FBS	X			
17	<i>Jan A. Thies</i>	JAN A. THIES	4750 Yvonne Ave FBS			X	
18	<i>RODNEY L. HAKEL</i>	RODNEY L. HAKEL	1015 DUTCH ST FBS			X	

PETITION

15

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No.Units	Tenant	Other
1	<i>Marvin J Lund</i>	MARVIN L LUND	^{NORTH POLE} 3, KALTAG DR				HOME OWNER
2	<i>Carolyn J Lund</i>	Carolyn J Lund	3431 Kaltag Dr.				HOME OWNER
3	<i>David M Magar</i>	DAVID M MAGAR	352 (POSS) [unclear]			✓	
4	<i>A Harry Lygka</i>	A Harry Lygka	P.O. Box 71093, FBAS 99707				Home Owner
5	<i>David Magar</i>	DAVID MAGAR	P.O. BOX 75251 FBK, AK 99707			✓	
6	<i>Roger L Moore</i>	Roger L. Moore	288 Gambing Rd #26 ⁹⁹⁷⁰² FBAS	✓	72		
7	<i>Don Beauzouwig</i>	DON BEAUZOUWIG	643 Hays St FBK 99701	✓	1		Home Owner
8	<i>James P Sullivan</i>	JAMES P SULLIVAN	125 INH FBK AK 99701	✓	1		Home Owner
9	<i>Charles A. Creamer</i>	Charles A. Creamer	339 CHURCH ST			✓	
10	<i>James J Thomas</i>	JAMES J THOMAS	1739 PROSSON ST				HOME OWNER
11	<i>Jay W Sadler</i>	JAY W SADLER	390 HAMILTON		NONE		HOME OWNER
12	<i>Don Elbert</i>	DON ELBERT	1544 SCENIC LP	✓	4		
13	<i>Juliet Shier</i>	JULIET SHIER	475 [unclear] FBK		12		Home Owner
14	<i>Peter M Shier</i>	PETER M SHIER	475 [unclear] #4		12		Home Owner
15	<i>Eugene E Reed</i>	EUGENE E. REED	66W. DGL ESTER	✓	2		
16	<i>S. CLAY CAMPBELL</i>	S. CLAY CAMPBELL	1481 BLACKBERRY	✓	1		
17	<i>Janet A. Thompson</i>	JANET A. THOMPSON	457 Wellhouse Rd.				Home Owner
18	<i>Mark Blong</i>	Mark Blong	1625 Parks Hwy			✓	

PETITION

(16)

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Irene K. Hotaling</i>	IRENE K. HOTALING	990 Deere St Fbics			X	
2	<i>Barbara Keber</i>	BARBARA KEBER	404 BETTY				X
3	<i>Karl Jones</i>	KARL JONES	1500 Fools Gold Rd				X
4	<i>Ralph Aiken</i>	Ralph Aiken	218 Bently			X	
5	<i>Bob Walsh</i>	BOB WALSH	P.O. Box 70044			X	
6	<i>Woodward Hill</i>	Woodward Hill	435 2nd Ave Nt 5193			X	
7	<i>Rick Mensik</i>	Rick Mensik	462 Carlton	X	2	X	
8	<i>Harold A Johnson</i>	Harold A Johnson	P.O. Box ^{Fairbanks AK.} 10440				X
9	<i>Nelson B. Miles</i>	Nelson B. Miles	P.O. Box 75006 ^{Fairbanks AK 99707}	X	1	X	
10	<i>Cindy Armstrong</i>	Cindy Armstrong	4379 Bishop Cir				X
11	<i>Jolcen Cooper</i>	Jolcen Cooper	615 Ginko Rd			X	
12	<i>Dennis v. Smith</i>	Dennis v. Smith	440 old Rich #217			X	
13	<i>Garry Lee Hobson</i>	Garry Lee Hobson	1910 Turner			X	
14	<i>Wanda Lee Davis</i>	Wanda Lee Davis	1910 Turner			X	
15	<i>Rosalind C. Perez</i>	Rosalind C. Perez	1141 Cuppet St ⁹⁹⁷⁰⁹ Fbics			X	
16	<i>Daniel Day</i>	DANIEL DAY	440 Old Richardson Hwy.			X	
17	<i>Edward W. Rorch</i>	Edward W. Rorch	440 Old Richardson Hwy			X	
18	<i>Jeanette Hopson</i>	Jeanette Hopson	440 Old Richardson Hwy			X	

PETITION

(17)

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	Mike Rice	MICHAEL RICE	1732 Tamarack				✓
2	Stacey Eggers	Stacey Eggers	120 Charles St			✓	
3	Beverly J. Millinal	BEVERLEY J. MILLINAL	5765 Gordon Rd.	✓	4		
4	Virginia M. Neal	Virginia Neal	227 Woodridge Dr.			✓	
5	Rose Marie Smith	ROSE MARIE SMITH	3371 STOREY DR	✓			
6	Barbara Moore	Barbara Moore	23 BUREKA	✓	2	✓	
7	Jeffrey J. Ball	Jeffrey J. Ball	356 Driveway			✓	
8	Marina M. Ball	MARINA G. BALL	356 DRIVEWAY PK			✓	
9	Heleen Lugaile	Heleen Lugaile	97 Timberland Dr	✓	2		
10	Marie A. Bablinska	MARIE A. BABLINSKA	P.O. BOX 74043			✓	
11	Dennis P. Gall	DENNIS P GALL	2509 LISA ANN DR N. H. HK				✓
12	Parnellia O'Neill	PARNELLEA O'NEILL	231 CRAIG AVE	✓	✓	✓	✓
13	Vonda K Brown	VONDA K BROWN	2843 Bd Rd North Palo	✓			
14							
15							
16							
17							
18							

PETITION

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No.Units	Tenant	Other
1	<i>Doyle Gabriel</i>	Doyle Gabriel	1904 pages	✓	5		
2	<i>Christa Gabriel</i>	Anita C Gabriel	2058 Donald Ave #3			✓	
3	<i>Debra Sinclair</i>	DEBRA SINCLAIR	1048 28th #2			✓	
4	<i>Carl Ralt</i>	CARL RALT	1270 Ritzmond ave.				✓
5	<i>Curtis Chamberlain</i>	Curtis Chamberlain	850 mc greech Rd			✓	
6	<i>Ruth V Long</i>	RUTH V LONG	P.O. Box 1 ESTER				✓
7	<i>Kathleen Selinger</i>	KATHLEEN SELINGER	P.O. Box 81147			✓	
8	<i>Jeffrey A. Campbell</i>	JEFFREY A. CAMPBELL	508 Monroe st. Folsom AK				
9	<i>Thomas Nelson</i>	Thomas Nelson	P.O. Box 70648 99707 1-bike	✓	15		✓
10	<i>Juanita Helms</i>	JUANITA HELMS	1524 STACIA ST.	✓	7		
11							
12							
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PETITION

19

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Don Ward</i>	Don Ward	20. 10674 - 79710	✓			
2	<i>Denise Tompkins</i>	Denise Tompkins	DO 701.14 707			✓	
3	<i>Sharon Mensik</i>	SHARON MENSIK	462 CARLTON DR. 99701	✓	1		
4	<i>Zoe Parrish</i>	ZOE PARRISH	1117 26th Ave. 99701		1	✓	
5	<i>George K. Shiner</i>	GEORGE-K-SHINER	913 O'CONNOR RD 99701				✓
6	<i>Vanessa Navarro</i>	Vanessa Navarro	518 "A" st 99701			✓	
7	<i>Meredith A. Coats</i>	Meredith A. Coats	2546 Talkeetna 99709	✓	20		
8	<i>Myrna Sheets</i>	MYRNA SHEETS	1028 E. ... st	✓	7		
9							
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PETITION

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Lathonia Fleckman</i>	LATHONIA FLECKMAN	440 Old Rich Hwy	X	62		
2	<i>Virgil A Hardin</i>	VIRGIL A HARDIN	440 OLD RICH HWY		62	✓	
3	<i>Ed Kincheloe</i>	Ed Kincheloe	440 OLD RICH HWY			X	
4	<i>John S. Vostilla</i>	John S. Vostilla	440 Old Rich. Hwy			X	
5	<i>Wm M Stewart</i>	WM M STEWART	1777 CROSSON ST	✓	450		
6	<i>Bart Wigger</i>	Bart Wigger	440 old Rich			X	
7	<i>Helen Powell</i>	HELEN POWELL	1913 JACK ST	X		X	
8	<i>Mary DeLowe</i>	MARY DELOWE	579 Woodmont Ln			X	
9	<i>Duane S. Peterson</i>	DUANE S. PETERSON	2554 5th Ave NE 44113				X
10	<i>William T. Ellis</i>	WILLIAM T. ELLIS	440 Old Rich Hwy	X		X	
11							
12							
13							
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18							

Spenard Community Patrol Incorporated

200 West 34th Avenue, #895 Anchorage, Alaska 99503 (907) 243-3777

March 22, 1993

RE. Senate Bill No. 155

MAR 25 1993

Dear Senator Leman

I am pleased that hearings have begun on this important bill that will allow landlords some relief to the problems generated by individuals using business and rental property for illegal purposes. I have participated in attempts to close down numerous illegal businesses fronting for prostitution in Spenard using AS 9.50.170 and can provide you with some valuable information on the course the trial has taken. Some sections of this bill are very well written and will, if implemented, make the closure of illegal businesses a simpler task.

I would recommend the following changes and additions to SB 155

Page 5 line 5 (1) prostitution; or

Change to: (1) prostitution, assignation; or

Reason: prostitution is a much more difficult standard to prove, most arrests are made under the term assignation. If Anchorage police officers were required to physically engage in sexual contacts with a prostitute, very few if any arrests for "prostitution" would ever occur at any illegal business fronting for prostitution.

(From Chapter 8.14 MOA Definitions:

"Assignation" means the making of an appointment or engagement for prostitution or an act in furtherance of such appointment or engagement.

"Prostitution" means the giving or receiving of the body for sexual conduct for hire.

Page 5 line 16 - 17 In an action brought under AS 09.50.170 (a), the court may consider evidence of reputation within a community to prove the existence of a nuisance.

Change to: (1) In an action brought under AS 09.50.170 (1) (2a) the court may consider evidence of reputation within a community to prove the existence of a nuisance and;
 (2) May consider hearsay evidence from the courts own records for previous complaints, arrests or convictions under Federal, State or Municipal laws pertaining to violations for prostitution, assignation or illegal activity involving alcoholic beverages.

Reason: This section provides for the court to consider not only the reputation of the establishment but for example in the on going case "Spenard Action Committee vs Lot 9 Blk 3" the case has dragged on for years in the courts. The fact no current arrests for prostitution have occurred at the properties in question for 3 to 4 years, (this does not mean prostitution no longer takes place at these businesses, simply stated is the fact, that for some reason the Anchorage Police Department has not attempted to make a case in over 4 years) and now makes proving to the court that a nuisance "exists" somewhat a difficult task for some judges. Perhaps adding additional language to line 20 page 5 to include the word "existed" and perhaps add some additional language.

The term "exists" has no definition as to length of intervening time from when the act of said assignation occurred on the property to when it no longer exists. (If the girl that was arrested for assignation is fired the next morning, does that purport to mean that prostitution no longer occurs on the property) Perhaps defining along with "existed" include "provided that, the nature or character of the business has not appreciably changed subsequently to the order seeking abatement under AS 09.50.170 was first initiated."

Page 9 line 31: involving alcoholic beverages, an illegal activity involving a controlled substance, or

Change to: involving prostitution, assignation, or an illegal activity involving alcoholic beverages, an illegal activity involving a controlled substance, or

Page 11 line 19: Add to Sec. 24 a definition under (22) "prostitution or assignation" means

Reason: By leaving out prostitution and assignation in this section assumes prostitution and assignation is not a problem. when in fact most if not all illegal prostitution operations are now setting up in residential apartment units.

Page 12 line 4: in an illegal activity involving alcoholic beverages, an illegal activity involving a

Change to: in an illegal activity involving prostitution or assignation, an illegal activity involving alcoholic beverages, an illegal activity involving a controlled substance.

Also add to Page 12 line 13: illegal activity involving prostitution, assignation changes if needed

In closing I would be interested in attending any hearings on SB 155. Please feel free to contact me at 243-7768 anytime or during days I can also be reached at 248-2828. The Spenard Action Committee has redefined AS 09.50.170 over the past 4 years through the Courts. It has been a long and costly experience. Well written laws that judges can understand and interpret saves the court valuable time and the litigants incredible sums of money in attorney fees and court costs. Thanks again Loren for your time and help with our concerns at the Spenard Community Council and the Spenard Community Patrol.

Sincerely



Dave Erlich

CREDIT SERVICES, INC.

Alaska's TRANS UNION Serviced Credit Bureau

Fairbanks Ph. (907) 456-1749 • Fax (907) 456-6203
Anchorage Ph. (907) 561-7272 • Fax (907) 561-7278

770 8th Avenue, Suite D
P.O. Box 72739
Fairbanks, AK 99707

100 West International Airport Rd.
Suite 207
Anchorage, Alaska 99518

March 23, 1993

Sen. Steve Frank
P.O. Box V
Juneau, AK 99801-1182

RE: Support for SB155

Dear Sen. Frank:


I have read SB155, I have listened to several hundred landlords in Fairbanks, Anchorage and Juneau, I have had discussions with several organizations which help consumers, and I have read the discussions surrounding Sen. Pourchet's bill, SB35. To borrow text from Mr. Clockson, "this letter is submitted by me on my own behalf and on behalf of the thousands of tenants who live in" Alaska and on behalf of the approximately two hundred landlords who use our services.

I support SB155; it is reasonable. Furthermore, SB155 is beneficial to our communities. When tenants understand that their responsibility to their landlords is as important as paying their charge cards, or their automobile, bills on time--and certainly far more important than buying more beer and partying--then perhaps we'll have more civil neighborhoods. As property destruction is reduced, so, too, rents may be reduced because landlords won't have to pay out of pocket for unrecoverable damages. Our communities will become more livable, once again when tenants understand that landlords have been empowered to more quickly respond to tenants' negligent, illegal, or malicious behavior.

I will be available to testify via teleconference at tomorrow's State Affairs Committee hearing and may address further, more substantial, comments in a follow-up letter.

Thank you for your sponsorship and continued support of this bill.

Sincerely,


Douglas W. Isaacson
Alaska Statewide Director

phone 463-5580

MYRON W. KLEIN
3264 PIONEER AVENUE
JUNEAU, ALASKA 99801-1964

March 18, 1993

Honorable Steve Frank
P. O. Box V
Juneau, Alaska 99811

Dear Ser.ator Frank:

I am writing in support of passage of SB 155, an act relating to landlords and tenants. I am in the business of renting apartments, mobile homes, mobile home space and commercial space in Juneau and Anchorage to over 150 tenants.

Prior to 1990, I rented apartments to tenants if the tenant could pay a security deposit of \$300. With such a small security deposit, over 70% of the tenants would move out owing unpaid rent, cleaning charges and damages. After applying the security deposit against the unpaid balance the average unpaid balance was about \$500. Even after sending the accounts to a collection agency, I am still owed over \$50,000 by former tenants.

Beginning in 1990, I required a tenant to pay a security deposit of approximately 1.5 times the monthly rent rate. Tenants who pay these larger deposits exhibit better financial and living conduct while living in my apartments. Tenants with large deposits leave an apartment owing very little rent, cleaning charges or damages. These tenants usually receive most of their security deposit back. I seldom lose money to tenants with large deposits.

Unfortunately for potential tenants, many can not find a place to live because of the large security deposit requirement. My records show that approximately 1 in eighteen callers is able to afford the security deposit and out of the 1 in eighteen callers, only half will qualify for the apartment based on income and rent history.

SB 155 will benefit landlords because it will enable them to protect their assets against losses and will benefit tenants because the amount of security deposit can be reduced. The shorter time cycles to evict non-paying, disruptive or abusive tenants will help reduce the potential loss a landlord may have to incur. Indeed, if a landlord could remove a non-paying, disruptive or abusive tenant as promptly as a hotel can, the amount of security deposit could be drastically reduced from its present level. Any reduction in the amount of time required to remove a non-paying,

disruptive or abusive tenant reduces the cost of doing business. By reducing the cost and risk of doing business, the return on investment for rental property will improve and it will be that much sooner when new rental property is constructed.

A landlord is in the credit granting business because a consumer is allowed to take possession of an asset typically worth up to 100 times the amount of monthly rent. An apartment renting for \$850 in Juneau, presently costs about \$42,500 to acquire and about \$68,000 to build new. There is no other business where a consumer can take possession of such a valuable asset on so little security. A \$25,000 rental car can not be rented unless a major credit card is posted as security or a significant cash deposit is made. However, the rental company has a clause in its contract that treats the unauthorized retention of the car beyond the rental period as a theft. Consequently, the rental car company need only call the police and report the car as stolen to obtain prompt return. If prompt return is not obtained, the rental car company can claim a full loss against its insurance carrier. On the other hand, a landlord with twice as valuable an asset in the possession of a consumer, is required to go to court to repossess his asset. It is ironic that a landlord is the largest consumer credit grantor in the business community, but is denied the legal right to promptly repossess his property when its use is not being compensated for or the property is undergoing daily damage by the possessor.

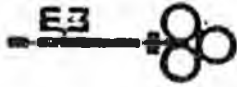
SB will help reduce that disparity. It will reduce the cost of doing business for landlords. It will improve the opportunity for potential tenants to find affordable living accommodations. Prompt pay, non-disruptive or non-abusive tenants will have better access to housing and will not have to tolerate a noisy disruptive neighbor for as long a period as under present law. A landlord will be able to take quicker action to evict a tenant whose drug or alcohol activity is affecting children in neighboring apartments.

I urge passage of SB 155.

Sincerely,

Myron W. Klein
Myron W. Klein

Helms Properties



1434 Lacey Street
Fairbanks, Alaska 99701
(907) 452-2905

March 7, 1993

SENATOR: STEVE FRANK

I have been a landlord in Alaska for over thirty years. I have come to the conclusion that there needs to be some changes made in the current law to give protection to the landlord. As the law reads now the landlord has basically no rights.

I would like to encourage you to support the working draft introduced by Senator Steve Frank. The proposed changes are fair and reasonable. I hope you would also come to the same conclusion as I and give this proposed bill your enthusiastic support.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Charles Helms'.

Charles Helms
1434 Lacey St.
Fbks, AK 99701

March 5, 1993

RECEIVED MAR - 8 1993

Senator Steve Frank
State Capitol
Juneau, Alaska 99801-1182

Hon. Frank Alaska State Senator;

I am writing asking your support of the bill dealing with tenant landlord relations.

I along with my son-inlaw and daughter own one hundred and twenty four rental units--located in apartments from a twenty seven unit down to four plexs in the Fairbanks area.

The present law is totally inadequate. Good tenants have no fear of the proposed new law--only the drunks and irresponsible people who create unreasonable situations.

In 1988 I purchased my first 4/plex. It had two tenants and three bitch dogs who had produced thirty-six pups in the apartment that year. After taking possession I hand gave them a ten day eviction notice. With the help of a lawyer and a judge they were finally evicted seventy days after my eviction notice.

The cost to redo the two bedroom apartment extended well over \$5,000. Welcome to being a landlord.

I believe this new bill could address some of these problems.

Thanks for your consideration.

Sincerely yours,


Donald R. Blanc

415 5th Ave.

Fairbanks, Alaska 99701

PETITION

We, the undersigned, are supporters of SB155/HB222, as introduced. These bills revise the Landlord Tenant Act to make the laws apply more equally between landlords and tenants.

#	Signature	Print Name	Address	Landlord	No. Units	Tenant	Other
1	<i>Holly Hoff</i>	HOLLY HOFF	99801 JUNEAU 1050 Salmn Ct NW B202	✓	26		
2	<i>[Signature]</i>	DOUGLAS W. ISAACSON	PO BOX 70739 FOK 99707				✓
3	<i>Cathy Crawford</i>	Cathy Crawford	8085 Glacier Hwy #101				
4	<i>Jim Wilcox Sr</i>	Jim Wilcox Sr	1914 Church St #104	✓	200		
5	<i>Victoria Wilson</i>	Victoria Wilson	P.O. Box 28847	✓	2		✓
6	<i>Maria Mattson</i>	Maria Mattson	8800-219 Glacier Hwy	✓	100		
7	<i>John Williams</i>	John Williams	" " " "	✓			
8	<i>Marty Holmberg</i>	Marty Holmberg	7873 N. Douglas Hwy	✓	9		
9	<i>J. Lingert</i>	J. Lingert	1113 Columbia Blvd.				✓
10	<i>Dale R. Mazzei</i>	Dale R. MAZZEI	1717 Douglas Hwy #10	✓	10		
11	<i>Cindy K. Flanigan</i>	Cindy K. Flanigan	8363 Old Glacier Dairy Rd				✓
12	<i>Lorilyn E Swanson</i>	Lorilyn E Swanson	" " "		75		✓
13	<i>Donald E. Schultz</i>	DONALD E. SCHULTZ	P.O. Box 34662, JUNO 99803	✓	200		
14	<i>Judy Schultz</i>	JUDY SCHULTZ	P.O. Box 34662, JUN 99803				✓
15							
16							
17							
18							

P.2

MAR 23 1999 09:06 CREDIT SERVICES INC

March 19, 1993

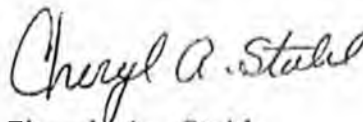
Senator Steve Frank
State Capitol
Juneau, AK 99801-1182

Dear Senator Frank:

I am in support of SB155 to change the landlord/tenant laws. These changes are not meant to hurt the good tenant, but would help support the landlords in keeping their apartments in good shape for all tenants when and if there is one bad apple in the bunch. As it stands right now, the good tenants are also in jeopardy when there is someone that is being obnoxious and knows that the landlord can't do anything legally to evict them.

The new changes are not meant to help the landlord have the upper hand but to make the laws more equal, both for the good tenant and the landlord. I do not believe that these laws are too outrageous as most other states have similar and sometimes stricter laws to protect the landlord from vandalism, violence and non-payment of rent.

Sincerely,



Cheryl A. Stahl
P.O.B 56627

North Pole, AK 99705

March 9, 1993

Mr. Steve Frank
Alaska State Legislature
P.O. Box V
Juneau, Alaska

Dear Mr. Frank,

I understand that you are going to introduce a landlord-tenant bill. As you know, Mr. Pouchot introduced SB-35 in the last session, which unfortunately died in the house in the last days of the session.

Landlords need help with the delinquent, disturbing, and destructive type of tenant, and we hope that your bill will pass. I would like to see a copy of your proposal.

Enclosed are two copies of newspaper articles pertaining to bad tenants.

Sincerely,

Charles Lipsitt
2203 Mc Kinley Ave.
Spencer, Alaska

03/24/93 09:48:32 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCJEN IN ANCHORAGE

LTN1120
JNU

RE TCN: 30398 SCHEDULED FOR:03/24/93 09:30 TO 11:00
SPONSOR: SENATE STATE AFFAIRS PURPOSE: PUBLIC HEARING

MESSAGE TEXT: D. EHRLICH & KRIS GRATRICK HAVE CHNGS



TELECOPY COVER SHEET

Fairbanks Legislative Information Office

Office - (907) 452-4448

Fax - (907) 456-3346

TO: gnu h10 FAX: _____ PHONE: _____

FROM: gbox h10 PHONE: _____

INSTRUCTIONS: _____

Written Comments from S. STATE AFFAIRS
cmte teleconference 3/24/93

RECEIVED: Date _____ Time _____

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SENT BY: Crush

Please forward to Committee



Alaska State Legislature

Please enter into the record my testimony to the STATE AFFAIRS/JUDICIARY
 committee name
 committee on SB 155/URLTA, dated 3/10/93 (3/23/93)
 bill/subject

PLEASE ADD TO MY TESTIMONY THE FOLLOWING
 PROPOSED AMMENDMENTS:

- 1) A CHANGE IN WORDING, WHEREVER FIVE DAYS IS PROPOSED TO REPLACE 10 DAYS, CHANGE FIVE DAYS TO FIVE WORKING DAYS.

THIS CHANGE WOULD SAFEGUARD FAIR NOTIFICATION BY LANDLORD TO TENANT BY AVOIDING NOTIFICATION PRIOR TO A WEEKEND OR EXTENDED HOLIDAY.

- 2) A CHANGE IN WORDING OF SEC. 23 (p.11 line 17) FROM "MAY" (the party "may" be entitled) TO "SHALL."

THIS CHANGE WOULD CLARIFY FOR THE JUDGE THE INTENT OF THIS BILL FOR DAMAGE RECOVERY ENTITLED TO THE LANDLORD. (HOWEVER DISREGARD THIS CHANGE IF THE LANGUAGE IS CONSTRUED TO BE AN AMMENDMENT TO COURT PROCEDURES).

Signed: DOUGLAS ISAACSON
 Testifier

SELF / TENANT WASH (CREDIT SERVICES INC)
 Representing (Optional)

PO BOX 72739 FBKS 99707
 Address

456-1749
 Phone No.

STATE AFFAIRS MEETING - WEDNESDAY, MARCH 24

1. Call meeting to order at 9:00 am sharp if we can !!
2. If have majority, take up **SB 168, Newspaper bill**, first and ask for motion to move STA CS for SB 168 out of Committee with individual recommendations (draft CS was distributed yesterday afternoon)
3. Take up SB 158, Relating to Exemption amounts (we have a draft STA CS pending). Changes were requested by Dept. of Labor, and Representatives from Labor will be there to answer questions.

AT 9:30 AM, go to SB 155, Landlord-Tenant Act, for testimony and teleconference.

4. SB 155 - Testimony in Juneau:
 - a. Senator Steve Frank or David, Senator Frank's Office
 - b. Jack Chenoweth, Legislative Legal
 - c. Teleconference and public testimony

~~5. If have time, go back to SB 158, Exemption Amounts Bill.~~

6. Distribute draft STA bills (two) that you would like the members to review and get back to your office if anyone has questions or problems.
7. Announce schedule for next week.

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Official Business

Alaska State Legislature

SENATE STATE AFFAIRS COMMITTEE

State Capitol
Juneau, AK 99801-1182

COMMITTEE SCHEDULE

STATE AFFAIRS

BUTROVICH ROOM

Monday, March 29

9:00 AM

No Meeting Scheduled

Wednesday, March 31

9:00 AM

**** Confirmation Hearing ****
Sigurd E. Murphy, Jr.

SB 33, Grants For Local Emergency Planning

SB 161, Relating to Interest Rates, Taxes, Royalties, Net Profit Shares

Bills Previously Heard

Friday, April 2

9:00 AM

Bills Previously Heard

SB155

Myrna Sheets
1028 Evergreen St. #1
Fairbanks, Alaska 99709

April 2, 1993

APR 13 1993

Dear Senator Loren Leman,

I would like to take this opportunity to say I strongly support SB155/HB222.

As a Landlord, I feel the laws should be altered to give the Landlords equality with the Tenants.

The small percentage of bad Tenants really make it hurtful for the good Tenants as well as the Landlords.

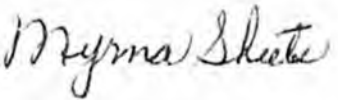
This bill does not hurt good Tenants and takes nothing away from Tenants as a whole.

To sit by and watch a Tenant do grave damage to your property or be unable to collect rents due to the Landlord, with such long waiting periods to evict, is just plain senseless.

Please consider the investment the Landlord has made, and we should be able to protect that investment.

Your support for this bill will be greatly appreciated.

Respectfully,



Myrna Sheets
Taku Apartments
Owner/Manager

April 12, 1993

APR 12 1993

TO: SENATORS AND REPRESENTATIVES OF THE STATE OF ALASKA:

Re: House Bill 222 and Senate Bill No. 115:

"Relating to landlords and tenants, etc."

This Bill is similar to one which was introduced two years ago, with the addition of Alcohol to the reasons to terminate a rental agreement. That does not happen to be MY concern. What I AM concerned about, is the termination period for being late with rent. In this State, with all the weather problems which can interfere with delivery of Social Security checks, and other sources of support, a 10 day "grace" period for payment of rent is reasonable. I have no objection to a fee being attached to the late rent (a "reasonable" fee), but DO object to the time being shortened to 5 days.

I am aware that this Bill(s) is aimed at illegal drug/alcohol use, but am concerned that some other, innocent, folks can be affected, the way it is written.

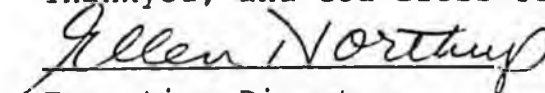
Since I run a homeless shelter, perhaps I am a bit more aware of what conditions precipitate the homeless situation.

I am in sympathy with those landlords who do not know how to screen prospective tenants well enough to avoid these situations, but feel the time of 10 days for late rent is the most reasonable time period for this state.

I am a bit concerned about the financial arrangements, since this puts more work on law enforcement officers, in that they are required to go look up owners, etc.

Please address these concerns.

Thankyou, and God Bless You,



Executive Director



food ♡ shelter ♡ hospitality

Alaska State Legislature

STEVE FRANK

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701
(907) 452-3421



While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 417

Senate

SPONSOR STATEMENT FOR SB 155

TO: Senator Loren Leman, Chair
Senate State Affairs Committee

FROM: Senator Steve Frank, Co-Chair
Senate Finance Committee

DATE: 15 March, 1993

SB 155, based in part on SB 35 from the 1992 session of the 17th Legislature, addresses several aspects of the landlord-tenant relationship. This bill was prepared in response to widespread concern that current law is excessive in its protection of the rights of abusive tenants.

SB 155 has three principal purposes. First, the bill amends the forcible entry and detainer statutes to expedite a landlord's ability to evict a tenant who has committed certain violations of a rental agreement (failing to pay rent when due, damaging the premises, or holding the premises without a rental agreement or upon expiration of the lease). Second, the bill makes the tenant's responsibility to maintain the dwelling unit more stringent and adds to the ability of a landlord to seek removal of an abusive tenant. Third, the bill amends the nuisance abatement statutes to include relief from criminal offenses involving alcohol or drugs and also to provide a landlord with the opportunity to recover possession of premises under the forcible entry and detainer remedy for such criminal activity by the tenant.

This bill would serve to protect landlords and responsible tenants from the damage caused by abusive tenants. I strongly urge you to support SB 155.

Alaska State Legislature

STEVE FRANK

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701
(907) 452-3421



White in Juneau
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DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 12, 1993

SUBJECT: Senate Bill 155. amending the state's landlord-tenant laws (AS 34.03) and the related civil remedy of forcible entry and detainer (AS 09.45.060 - 09.45.160), and making related changes (Work Order No. 8-LS0376K)

TO: Senator Steve Frank
ATTN: David Skidmore

FROM: Jack Chenoweth
Legislative Counsel

Senate Bill 155 duplicates and extends changes proposed by the Senate-passed version of last session's Senate Bill 35 (CSSB 35 [Judiciary]).

This memo is by way of response to your request for a sectional analysis of the bill.

* * *

The bill has three principal purposes, all applicable to the landlord-tenant relationship:

First, the measure substantially amends statutes applicable to the forcible entry and detainer remedy (AS 09.45.060 - 09.45.160) to expedite a landlord's ability to evict a tenant for failure to pay rent when due and for a tenant's damage to the landlord's property.

Second, provisions of the bill revise the obligation of a tenant under the state's Uniform Residential Landlord and Tenant Act (AS 34.03) and add to the ability of a landlord to seek removal of an abusive tenant.

Third, 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

Senator Steve Frank
March 12, 1993
Page 2

to seek redress under the nuisance abatement law for criminal activity in premises that constitutes a nuisance. As a supplemental remedy, the measure amends statutes to give a landlord the opportunity to recover possession under the forcible entry and detainer remedy for that criminal activity by the tenant.

I propose to address the measure's provisions topically rather than sequentially.

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

Proposed bill section 2 amends AS 09.45.090 in part as follows: The amendment to (1)(A) 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. No notice separate from that required to be given under the Uniform Residential Landlord and Tenant Act (AS 34.03), as amended by bill section 21, is required.

Bill sections 3 and 4 make related changes. These sections, read together, carry forward the current requirement of allowing three days additional notice if, under the forcible entry and detainer remedy, notice to the tenant to quit is provided by mail.

Bill section 5 adds authority by which, at the end of a forcible entry and detainer action, the court may enter an order to vacate against the tenant and, at the same time, may provide a landlord who requests a writ of assistance to recover possession of the premises.

As has been previously noted, a related change is made in the Uniform Residential Landlord and Tenant Act (AS 34.03) by bill section 21. 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 rent nonpayment.

REVISION OF TENANT OBLIGATIONS:

I

Several bill sections are included to respond to your concern that a tenant be held "responsible for damage done by him/her or by his/her guests." Current law--AS 34.03.120--assigns certain responsibilities in the landlord-tenant relationship to the tenant. Among them are the duty to use facilities and appliances in a reasonable manner, and the duty not to deliberately or negligently abuse the premises or to knowingly allow others to do so. Changes to AS 34.03.120 made by bill section 18

make the tenant's obligations more stringent by eliminating the qualifying adjectives from AS 34.03.120.

Additionally, making the tenant's obligations more stringent implicates the definition of "damages" for purposes of ascertaining whether or not a tenant is due a refund of all or any portion of a security deposit. "Damages" is, in current law, a term whose definition is divided between AS 34.03.070(b) and AS 34.03.360(18). Bill section 15 reworks the definition of "damages," and bill section 26 repeals AS 34.03.360(18). As a result, if this bill passes in this form, no one need worry about whether a tenant acted intentionally or negligently. Rather, if the tenant caused any damage beyond wear and tear due to "normal, nonabusive living," the tenant may be held responsible for damages.

II

Per instruction, the bill incorporates a checklist approach "that lists the items in the apartment and describes the condition of these items and of the apartment itself." It distinguishes between a premises condition statement and a contents inventory. Bill section 14 gives the landlord the right to require preparation of these documents and indicates how the documents may be made part of the rental agreement. Bill section 16 gives the landlord the right to require the tenant to execute a statement and inventory before making possession of the premises available. At the same time, the landlord is required to indicate to the tenant how the information on the statement/inventory may be used. Bill section 23 establishes the statement/inventory as "presumptive evidence of the condition of the premises and its contents at the commencement of the term of the period of occupancy" in order to support any later claim for damages. Bill section 17 addresses the status of a statement/inventory in the event a landlord sells to a purchaser leaving the tenant in residence.

III

As to the landlord's having the ability to seek summary eviction, see the revision of AS 34.03.220(a) in bill section 20 and the addition made to AS 09.45.110(2) in bill section 5. The changes to AS 34.03.220(a) made by bill section 20 reflect the toughening of the tenant obligation requirements of current AS 34.03.120--it becomes AS 34.03.120(a) by this bill--so that any noncompliance with an element of the rental agreement or of a requirement set down in AS 34.03.120(a) would allow the landlord to commence proceedings to recover tenancy on minimal notice, replacing the 20 day notice of current law. The tenant has an opportunity to take corrective action to remedy the breach but the remedies need not be just "adequate" but, instead, must "satisfy the landlord."

NUISANCE ABATEMENT:

Bill section 8 revises AS 09.50.170. It deletes in that section outdated references to "lewdness, assignation, . . . or any other immoral act"--currently part of the existing basis for nuisance abatement relief--retaining the reference in the current law to "prostitution" and adding an illegal activity involving alcoholic beverages, a controlled substance, or an imitation controlled substance as grounds for relief under the nuisance abatement statutes.

Bill section 9 defines the three additional criminal activities that may trigger nuisance abatement relief, cross-referencing them to the meanings of those terms set out in the Uniform Residential Landlord and Tenant Act.

Following the California statutory model recommended to me while the bill was under consideration during the 17th Legislature, I have included bill section 10, 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.

Bill section 11 recasts existing law under which a court may issue a nuisance abatement order. The principal substantive change adds the underlined material in (a)(1) and directs the termination of the lease or rental agreement on premises subject to the abatement order if the tenant has been given notice of the nuisance abatement proceedings.

The substantive change made by bill section 12 adds flexibility in the abatement remedy by giving 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 maintaining the requirement that the value of that bond reflect the full value of the property. The provision also adds, as a new subsection (c), a statement to clarify that, if an abatement order is subsequently canceled because of compliance with (a) of that section, the related lease or rental agreement--terminated with the issuance of the abatement order under the authority of AS 09.50.210(a)(1) [bill section 10]--is not automatically revived.

Bill section 22 directs that, under the Uniform Residential Landlord and Tenant Act, an order of abatement entered by the court terminates the related rental agreement.

Bill section 24 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. The measure uses reference to "a violation" of one of the criminal statutes cited.

FORCIBLE ENTRY AND DETAINER REMEDY AS ALTERNATIVE OR SUPPLEMENT TO NUISANCE ABATEMENT:

Proposed bill section 2 amends AS 09.45.090 in part as follows:

-- The amendment made to subparagraph (1)(B) sets five days as the period in which a landlord must wait after giving notice to quit and making written demands for possession of rented premises to commence a forcible entry and detainer proceeding in the event the tenant has violated provisions of the Uniform Residential Landlord and Tenant Act against knowing engagement in certain illegal activities involving alcohol or drugs on premises or for violation of a similar provision in rented premises not covered by that Act.

-- The amendment made to paragraph (3) authorizes the landlord to use the forcible entry and detainer remedy to enforce an order of abatement. Under the provision, the landlord may, after obtaining the abatement order under AS 09.50.-210(a), seek immediate relief.

A related provision, bill section 7, a new section, authorizes the use of an abatement order, obtained at the end of a trial under the nuisance abatement statute, to serve as prima facie evidence of unlawful holding of premises by force for purpose of the hearing required by the forcible entry and detainer process.

OTHER RELATED CHANGES:

Bill sections 1 and 13, adding AS 04.21.075 and AS 17.30.160, respectively, impose on peace officers the requirement to notify a landlord when a tenant has been arrested for violation of one of the identified criminal offenses involving alcohol or drugs.

Proposed bill section 2 amends AS 09.45.090 in part as follows: The addition of material in (2)(B) is included in order to authorize a landlord to recover premises after a notice to quit is given for the tenant's breach of a condition or covenant **other than** nonpayment of rent or engaging in identified criminal activity involving alcohol or drugs.

Bill section 19 adds as a tenant's duty the obligation of the tenant not to engage in illegal activities on rented premises or to knowingly allow others in the premises to do so.

The measure's bill section 25 adds a 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

Senator Steve Frank
March 12, 1993
Page 6

basis for seeking relief through the nuisance abatement process and, as with bill section 22 above, an order of abatement covering a premises that falls within this section terminates the rental agreement.

* * *

JBC:pl
93-190.plm

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
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(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
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LEGAL SECTIONAL

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Senator Steve Frank
March 12, 1993
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* * *

JBC:pl
93-190.plm

Fairbanks
April 5, '93

APR 8 1993

Senator Leman,
Think about it and I'm
SURE you'll agree —

the only persons who object
to or want to ammend SB-155
are greedy Lawyers who want
Job security and high legal
Fees.

Please Help!!

Please Support SB-155

Thank you,

MR. JERRY HASEL
-P.O. BOX 49
ESTER, AK 99725-0049

Jerry

(a landlord seeking
equal rights.)

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BELLEVUE • PORTLAND • SEATTLE • WASHINGTON, D.C.

February 16, 1994

Senator Loren Lehman
716 W. 4th Ave.
Anchorage, AK 99501

Re: Swanner v. Anchorage Equal Rights Comm'n
Anchorage Municipal Code 5.20.020
AS 18.80.240

Dear Senator Lehman:

Enclosed is a copy of the Alaska Supreme Court's recent decision in Swanner v. Anchorage Equal Rights Comm'n, Slip Op. 4049 (Alaska February 11, 1994). By this decision the Court (1) interpreted the provisions of the Anchorage Municipal Code and the Alaska Statutes which prohibit discrimination against individuals based upon their marriage status to provide civil rights protection to single individuals who choose to cohabitate (live together in a sexual relationship outside of marriage), and (2) refused to grant a Christian landlord an exemption, based upon his constitutional right to free exercise of religion, from being required to rent his property to single individuals who choose to cohabitate.

In essence, the Court determined that it is illegal for a Christian individual, church, or organization which rents property to refuse to rent the property to individuals who desire to live in that property in a relationship which the Christian individual, church or organization believes is sinful. The Court, in its amazing wisdom, calls the Christian landlord's conduct "discrimination based upon **irrelevant characteristics**" and an "independent social evil." Swanner, Slip Op. at pp. 16-18 (emphasis added). In other words, the Court tells us to forget the break down of family and moral values because the real "evil" in our society is people with Christian beliefs and moral conviction.

By our court's reasoning, a sincere Christian landlord cannot decline to facilitate conduct which he believes is sinful (sexual relations outside the marriage relationship); our wise Court's response to the Christian landlord is "if you don't want to rent to unmarried cohabitators then either forfeit your livelihood and get out of the rental business or

February 16, 1994
Page 2

forfeit your religious convictions and shut up." I also believe that it is not too far fetched to anticipate that, by our Court's reasoning, it will decide that it is illegal for a Christian landlord to refuse to rent property to a homosexual couple because that constitutes discrimination based upon marriage status; i.e., that would be discrimination based upon "irrelevant characteristics" (such as the fact that the couple is unmarried and of the same sex). According to our Court, that Christian landlord's conduct would constitute an "independent social evil."

Because the Alaska Supreme Court refuses to protect the right of Alaska's citizens to the free exercise of religion, perhaps the Alaska Legislature should. I believe that Title 18 should be amended to correct the Supreme Court's absurd and outrageous decision in Swanner. I request that you take action to introduce legislation to amend Title 18 to correct this situation; for example, by exempting from the State anti-marriage status discrimination law those individuals with religious convictions against cohabitation or by amending the statute's definition of "marriage status" to not include "cohabitation" or "homosexuality" (after all, wasn't the primary focus of this law to protect single parent families from discrimination in housing and single individuals from discrimination in employment?)

I would also appreciate hearing from you as to how I might assist in rectifying this situation. Is there a member of the Anchorage Municipal Assembly that will lend a friendly ear to a request that AMC 5.20.020 be amended? Thank you for your consideration.

Yours truly,



Kevin G. Clarkson

This, I believe is the approach easier to pass - we need to draft an amendment to a bill that is moving (ie, SB155)

*Cheryl Clementson
Bob Bell
Craig Campbell*

KGC:ljc

Notice: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, AK 99501.

THE SUPREME COURT OF THE STATE OF ALASKA

TOM SWANNER, d/b/a)	Supreme Court
WHITEHALL PROPERTIES,)	No. S-5362
)	
Appellant,)	Superior Court
)	No. 3AN-91-1898 CI
vs.)	
)	
ANCHORAGE EQUAL RIGHTS)	<u>O P I N I O N</u>
COMMISSION, PAUL L.)	
CONNERTY, EXECUTIVE)	
DIRECTOR, ex rel. JOSEPH)	
BOWLES, WILLIAM F. HARPER,)	
and DEE MOOSE,)	
)	[No. 4049 - February 11, 1994]
Appellees.)	
<hr/>		

On Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Karen L. Hunt, Judge.

Appearances: Stephen S. DeLisio, Staley DeLisio & Cook, Anchorage, for Appellant. Constance E. Livsey, Faulkner, Banfield, Doogan & Holmes, Anchorage, for Appellees.

Before: Moore, Chief Justice, Rabinowitz, Burke, Matthews, and Compton, Justices.

BURKE, Justice.
MOORE, Chief Justice, dissenting.

Swanner, d/b/a Whitehall Properties, appealed the superior court's decision which affirmed the Anchorage Equal Rights Commission's (AERC) order that Swanner's policy against renting to unmarried couples constituted unlawful discrimination based on marital status. Swanner disputes the decision and contends that

enforcing the applicable statute and municipal ordinance violates his constitutional right to free exercise of his religion under the United States and Alaska Constitutions. Swanner claims the AERC deprived him of due process by adopting the hearing examiner's recommended decision and proposed order without itself conducting an independent review of the case on its merits and by failing to notify him that it would do so.

We hold that Swanner discriminated against the potential tenants based on their marital status. We further hold that enforcing the fair housing laws does not deprive him of his right to free exercise of his religion. The proceedings of the AERC did not deprive Swanner of his right to due process of law. We affirm the AERC and superior court decisions.

I. FACTS AND PROCEEDINGS BELOW

Joseph Bowles, William F. Harper, and Dee Moose filed three separate complaints of marital status discrimination in the rental of real property in Anchorage. The complainants alleged that Tom Swanner, doing business as Whitehall Properties, violated municipal and state anti-discrimination laws, Anchorage Municipal Code (AMC) 5.20.020 and AS 18.80.240. Swanner refused to rent or allow inspection of residential properties after learning that each complainant intended to live with a member of the opposite sex to whom he or she was not married.

While Swanner did not specifically recall having conversations with Bowles, Harper, or Moose, he readily admitted having a policy of refusing to rent to any unmarried couple who

intend to live together on the property. Swanner's refusal to rent or show property to unmarried couples is based on his Christian religious beliefs. Under Swanner's religious beliefs, even a non-sexual living arrangement by roommates of the opposite sex is immoral and sinful because such an arrangement suggests the appearance of immorality. It is undisputed that Swanner rejected each complainant as a tenant because of this policy and for no other reason.

A. Proceedings before the Anchorage Equal Rights Commission

The AERC consolidated the three cases for hearing and appointed Robert W. Laudau as hearing examiner on April 6, 1990. Laudau conducted a hearing on October 9 and 11, 1990 and issued a 25-page Recommended Decision and proposed order in favor of the complainants on January 7, 1991. He served the recommended decision to Swanner's counsel and the AERC on January 7, 1991.

Pursuant to the AERC's administrative rules of procedure in effect at the time, each party had ten days after receipt of the recommended decision to submit written objections. AMC 5.10.015(A). When the AERC receives objections, the regulations provide for its review of the record and modification of the recommended decision where appropriate. AMC 5.10.015(B). If the parties fail to object, the proposed decision automatically becomes final. AMC 5.10.015(A). Neither Swanner nor the AERC submitted written objections. On January 23, 1991, the AERC issued a memorandum stating that, pursuant to AMC 5.10.015(A), the parties' failure to object to the hearing examiner's recommended

decision resulted in his proposed order becoming final on January 22, 1991. On January 31, 1991, Cheri C. Jacobus, AERC Chairperson, issued a Notice of Final Order which affirmed that the proposed order became final on January 22, 1991.

B. Proceedings before the Superior Court

Swanner appealed to the superior court on March 8, 1991. Judge Karen L. Hunt heard oral argument on May 15, 1992 and issued a written decision and order on August 31, 1992. She affirmed the AERC's decision, holding that (a) Swanner's conduct constituted unlawful discrimination based upon marital status; (b) enforcement of the state and municipal anti-discrimination laws does not violate Swanner's constitutional rights, pursuant to the U.S. Supreme Court's decision in Employment Division, Department of Human Resources v. Smith, 494 U.S. 872 (1990), and our decisions in Frank v. State, 604 P.2d 1068 (Alaska 1979) and Seward Chapel, Inc. v. City of Seward, 655 P.2d 1293 (Alaska 1982); and (c) the automatic finalization of the AERC's decision did not violate Swanner's due process rights.

C. Proceedings before this Court

Swanner appealed to this court on September 18, 1992. He contends that the superior court erred in finding that he discriminated against the complainants on the basis of marital status. He claims that he does not discriminate based on marital status, but even if he does, he is excused from compliance with the anti-discrimination laws because of his fundamental right to the free exercise of his religion, guaranteed by the Alaska and

United States Constitutions. He also claims that the automatic finalization of the AERC's decision violates his due process rights under the Alaska and United States Constitutions.¹

II. DISCUSSION

A. Swanner Violated AMC 5.20.020 and AS 18.80.240 by Discriminating Based on Marital Status

Swanner argues that he does not discriminate against individuals based on their marital status because he will rent to people who are single, married, widowed, divorced, or separated. However, he will not rent to those whom he expects will engage in conduct repugnant to his religious beliefs, namely cohabitation outside of marriage. Swanner considers such cohabitation to be fornication and immoral.

The AERC responds that the laws at issue do not recognize a distinction between "marital status" and "cohabitation." The AERC claims the statutes' plain language demonstrates that "marital status" includes cohabitating couples.

In Foreman v. Anchorage Equal Rights Comm'n, 779 P.2d 1199, 1201-03 (Alaska 1989), we looked at the plain language of

¹ Each issue involves the interpretation and construction of laws and regulations. On questions of law arising on appeal which do not involve particularized agency expertise, this court is to apply its own independent judgment. Kodiak Island Borough v. State of Alaska, Dep't of Labor, 853 P.2d 1111, 1113 (Alaska 1993); Alaska Transp. Comm'n v. Airpac, Inc., 685 P.2d 1248, 1252 (Alaska 1984). Thus, as the superior court found and both parties agree, the substitution of judgment standard is the appropriate standard of review on the issues Swanner has raised.

AS 18.80.240² and AMC 5.20.020³ and reviewed the intent behind the

² AS 18.80.240 states:

Unlawful practices in the sale or rental of real property. It is unlawful . . .

(1) to refuse to sell, lease, or rent the real property to a person because of sex, marital status, changes in marital status,

. . .

(3) to make a written or oral inquiry or record of the sex, marital status, changes in marital status . . . of a person seeking to buy, lease or rent real property;

. . .

(5) to represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to allow a person to inspect real property because of the . . . marital status, change in marital status . . . of that person

. . . .

³ AMC 5.20.020 provides:

Except in the individual home wherein the renter or lessee would share common living areas with the owner, lessor, manager, agent or other person, it is unlawful. . .

A. To refuse to . . . rent the real property to a person because of . . . marital status . . . ;

. . .

C. To make a written or oral inquiry or record of the . . . marital status . . . of a person seeking to . . . rent real property;

. . .

E. To represent to a person that real property is not available for inspection . . . [or] rental . . . when in fact it is available, or

(continued...)

anti-discrimination laws. In Foreman, a landlord who refused to rent to an unmarried couple argued that the laws did not protect the interests of unmarried couple. . Id. at 1201. We held that the landlord's policy against renting to unmarried couples unlawfully discriminated on the basis of marital status. Id. at 1203. We reasoned that because the landlord would have rented to the prospective tenants had they been married, and he refused to rent the property only after learning the couple was not married, "[t]his constitutes unlawful discrimination based on marital status." Id. The same reasoning applies here. Because Swanner would have rented the properties to the couples had they been married, and he refused to rent the property only after he learned they were not, Swanner unlawfully discriminated on the basis of marital status.⁴

³(...continued)
to refuse a person the right to inspect real
property, because of the . . . marital status
. . . of that person . . . ;

⁴ Swanner agrees that the laws at issue forbid discrimination on the basis of marital status. However, he contends that he did not discriminate against anyone on the basis of his or her marital status. Instead, he asserts that he discriminates on the basis of conduct, which is not prohibited by the statutes.

The definition of "cohabit" demonstrates that marital status and conduct are inextricably combined. "Cohabit" means "to live together in a sexual relationship when not legally married." The American Heritage Dictionary 259 (1980). Swanner cannot reasonably claim that he does not rent or show property to cohabitating couples based on their conduct (living together outside of marriage) and not their marital status when their marital status (unmarried) is what makes their conduct immoral in his opinion. The undisputed facts demonstrate that Swanner would have rented to the prospective tenants if they were married.
(continued...)

B. Enforcement of AMC 5.20.020 and AS 18.80.240 Does Not Violate Swanner's Constitutional Right to the Free Exercise of His Religion Under the United States Constitution

Swanner contends that enforcement of AMC 5.20.020 and AS 18.80.240 against him has a coercive effect on the free exercise of his religious beliefs. He believes that compliance with these laws forces him to choose between his religious beliefs and his livelihood. He requests that we accommodate his religious beliefs by creating an exemption to the statute and ordinance. The AERC responds that "it is not Swanner's religious beliefs per se which run afoul of our anti-discrimination laws, but rather his actions and conduct in a commercial setting."

The First Amendment to the United States Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . ." U.S. Const. amend. I. The Free Exercise Clause applies to the states by its incorporation into the Fourteenth Amendment. See Cantwell v. Connecticut, 310 U.S. 296, 303 (1940). It grants absolute protection to freedom of belief and profession of faith, but only limited protection to conduct dictated by religious belief. See Employment Div., Dep't of Human Resources v. Smith, 494 U.S. 872 (1990) (narrowing the scope of religious exemptions under the Free Exercise Clause by upholding a statute

⁴(...continued)

Swanner's argument that he discriminated against the prospective tenants based on their conduct and not their marital status is without merit.

that criminalized peyote use, as applied to Native American religious ceremonies).

Swanner claims that we should apply the "compelling state interest" test set forth in Sherbert v. Verner, 374 U.S. 398 (1963) to determine whether the laws at issue violate his right to free exercise of religion under the United States Constitution.⁵ However, in Smith, the United States Supreme Court expressly rejected applying the Sherbert test where the law being challenged is generally applicable, or, in other words, where the law is not directed at any particular religious practice or observance.⁶ Smith, 494 U.S. at 885. "[A] law that is neutral and of general applicability need not be justified by a compelling governmental

⁵ Under this balancing test, a law that incidentally burdens a religious practice must be justified by a compelling governmental interest. See Sherbert, 374 U.S. at 403, 406.

⁶ The Court stated:

We conclude today that the sounder approach, and the approach in accord with the vast majority of our precedents, is to hold the test inapplicable to such challenges. The government's ability to enforce generally applicable prohibitions of socially harmful conduct, like its ability to carry out other aspects of public policy, "cannot depend on measuring the effects of a governmental action on a religious objector's spiritual development." To make an individual's obligation to obey such a law contingent upon the law's coincidence with his religious beliefs, except where the State's interest is "compelling" -- permitting him, by virtue of his beliefs, "to become a law unto himself," -- contradicts both constitutional tradition and common sense.

494 U.S. at 885 (citations and footnote omitted).

interest even if the law has the incidental effect of burdening a particular religious practice." Church of Lukumi Babalu Aye v. City of Hialeah, 113 S. Ct. 2217, 2226 (1993) (citing Smith, 494 U.S. 872 (1990)).⁷ "Neutrality and general applicability are interrelated. . . . [F]ailure to satisfy one requirement is a likely indication that the other has not been satisfied. A law failing to satisfy these requirements must be justified by a compelling governmental interest and must be narrowly tailored to advance that interest." Id. at 2226.

The first step in determining whether a law is neutral is whether it discriminates on its face. "A law lacks facial neutrality if it refers to a religious practice without a secular meaning discernable from the language or context." Id. at 2227. Neither the ordinance nor the statute contain any language singling out any religious group or practice.

Even when a law is facially neutral, however, it may not be neutral if it is crafted to impede particular religious conduct. Id. These laws clear that hurdle as well. The purpose of AMC 5.20.020 and AS 18.80.240 is to prohibit discrimination in the

⁷ In Church of Lukumi Babalu Aye v. City of Hialeah, 113 S. Ct. 2217 (1993), the Court used the Free Exercise Clause to strike down city ordinances that regulated animal sacrifice, but effectively prohibited only sacrifice practices of the Santeria religion. The Court held the ordinances failed to satisfy the Smith requirements because they were not neutral, generally applicable, nor narrowly tailored, and did not advance compelling governmental interests.

rental housing market.⁸ Swanner does not claim that the purpose of the laws is to discriminate against people based on religion; in fact, he contends that the laws do not even cover this kind of discrimination. Therefore, the laws satisfy the requirement of neutrality.

Additionally, these laws are generally applicable. They apply to all people involved in renting or selling property, and do not specify or imply applicability to a particular religious group. Therefore, at least under the general rule, no compelling state interest is necessary.

⁸ AS 18.80.200 states the purpose of the anti-discrimination laws:

(a) It is determined and declared as a matter of legislative finding that discrimination against an inhabitant of the state because of race, religion, color, national origin, age, sex, physical or mental disability, marital status, changes in marital status, pregnancy or parenthood is a matter of public concern and that this discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety and general welfare of the state and its inhabitants.

(b) Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination in employment, in credit and financing practices, in places of public accommodation, in housing accommodations and in the sale, lease, or rental of real property because of race, religion, color, national origin, sex, age, physical or mental disability, marital status, changes in marital status, pregnancy or parenthood.

Smith provides one ground for judicial exemptions from compliance with neutral laws of general applicability. A court may exempt an individual from a law where the facts present a hybrid situation where an additional constitutionally protected right is implicated. Smith, 494 U.S. at 881-82. Like the appellant in Smith, Swanner does not contend that the laws in question here infringe on any constitutional right other than his right to free exercise of religion. Consequently, this case does not present such a "hybrid" situation.

We conclude that enforcing AMC 5.20.020 and AS 18.80.240 against Swanner does not violate his right to free exercise of religion under the United States Constitution.

C. Enforcement of AMC 5.20.020 and AS 18.80.240 Does Not Violate Swanner's Constitutional Right to the Free Exercise of His Religion Under the Alaska Constitution

Swanner does not dispute that the ordinance and statute are generally applicable and neutral under Smith, but asserts that "this decision does not mandate use of a less restrictive standard by state courts in interpreting state constitutional protection."

Swanner is correct in asserting that a state court may provide greater protection to the free exercise of religion under the state constitution than is now provided under the United States Constitution. See, e.g., Roberts v. State, 458 P.2d 340, 342 (Alaska 1969) ("We are not bound in expounding the Alaska Constitution's Declaration of Rights by the decisions of the United States Supreme Court, past or future, which expound identical or closely similar provisions of the United States Constitution.").

Thus, even though the Free Exercise Clause of the Alaska Constitution is identical to the Free Exercise Clause of the United States Constitution, we are not required to adopt and apply the Smith test to religious exemption cases involving the Alaska Constitution merely because the United States Supreme Court adopted that test to determine the applicability of religious exemptions under the United States Constitution.⁹ We will apply Frank v. State, 604 P.2d 1068 (Alaska 1979), to determine whether the anti-discrimination laws violate Swanner's right to free exercise under the Alaska Constitution.¹⁰

⁹ Although the Smith decision is presently valid in analyzing free exercise challenges under the United States Constitution, legal scholars have criticized the decision. See Douglas Laycock, The Remnants of Free Exercise, 1990 Sup. Ct. Rev. 1.

In the recently enacted Religious Freedom Restoration Act of 1993, 107 Stat. 1488 (1993), the United States Congress stated that in Smith, the "Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion" and that "the compelling interest test in prior Federal court rulings is a workable test."

¹⁰ Swanner notes that two jurisdictions have held that a landlord may refuse to rent to unmarried couples because of his/her religious beliefs. He cites to decisions from Minnesota and California for the proposition that enforcement of the anti-discrimination laws against him violates his right to free exercise. In Minnesota v. French, 460 N.W.2d 2 (Minn. 1990), the Minnesota Supreme Court held that a landlord's refusal to rent to an unmarried couple did not violate Minnesota's anti-discrimination laws and enforcing such laws would violate the landlord's free exercise right. However, in French, the anti-discrimination laws at issue did not define or otherwise explain the term "marital status." The court concluded that the Minnesota Legislature did not intend to include unmarried couples in the definition. Cf. Foreman, 779 P.2d at 1203 (holding unmarried couples are included within the state and municipal prohibitions against discrimination based on marital status). Moreover, the Minnesota court relied on
(continued...)

In Frank v. State, we adopted the Sherbert test to determine whether the Free Exercise Clause of the Alaska Constitution requires an exemption to a facially neutral law.¹¹ 604 P.2d at 1070. We held that to invoke a religious exemption, three requirements must be met: (1) a religion is involved, (2) the conduct in question is religiously based, and (3) the claimant is sincere in his/her religious belief. Id. at 1071 (citing Wisconsin v. Yoder, 406 U.S. 205, 215-16 (1972)). Once these three requirements are met, "[r]eligiously impelled actions can be forbidden only 'where they pose some substantial threat to public

¹⁰(...continued)

the criminal anti-fornication statute then in effect. In contrast, Alaska's fornication provision was repealed well before the discriminatory conduct giving rise to this case occurred. Compare French, 460 N.W.2d at 10, with Foreman, 779 P.2d at 1202. Further, the French court relied on the Minnesota Constitution, article I, section 16, which contains very different language from the Alaska Constitution. See French, 460 N.W.2d at 9.

In Donahue v. Fair Employment Housing Comm'n, 2 Cal. Rptr. 2d 32 (Cal. App. 1991), review granted and opinion superseded, 825 P.2d 766 (Cal. 1992), dismissed as improvidently granted, No. S-024538 (Oct. 1, 1993), the California Court of Appeal held that although the landlords' conduct did constitute prohibited marital status discrimination, the landlords were entitled to an exemption from the anti-discrimination laws because of their religious beliefs. The court based its decision "on independent state constitutional grounds." 2 Cal. Rptr. 2d at 40. However, the California Supreme Court depublished the court of appeal's opinion, thereby rendering the decision uncitable.

Neither case provides this court with meaningful guidance in interpreting the Free Exercise Clause of the Alaska Constitution.

¹¹ In Seward Chapel, Inc. v. City of Seward, this court held, "Our ruling in Frank establishes that there are situations in which the Alaska Constitution requires the state or a municipality to except from a facially neutral law persons whose religious beliefs dictate that they not comply with the law." 655 P.2d 1293, 1301 (Alaska 1982) (footnote omitted).

safety, peace or order, or where there are competing governmental interests 'of the highest order and . . . [are] not otherwise served. . . .'" Seward Chapel, Inc. v. City of Seward, 655 P.2d 1293, 1301 n.33 (Alaska 1982) (quoting Frank, 604 P.2d at 1070).

Swanner clearly satisfies the first and third requirements to invoke an exception to the laws under the Free Exercise Clause. No one disputes that a religion is involved here (Christianity), or that Swanner is sincere in his religious belief that cohabitation is a sin and by renting to cohabitators, he is facilitating the sin. However, the superior court held that he did not meet the second requirement that his conduct was religiously based because "[n]othing in the record permits a finding that refusing to rent to cohabiting unmarried couples is a religious ritual, ceremony or practice deeply rooted in religious belief." Swanner's claim that the superior court misinterpreted Frank v. State as limiting free exercise rights only to ritual or ceremony has merit. In Frank, we determined that the action at issue was a practice deeply rooted in religion. 604 P.2d at 1072-73. However, we did not intend to limit free exercise rights only to actions rooted in religious rituals, ceremonies, or practices. To meet the second requirement, a party must demonstrate that the conduct in question is religiously based; this determination is not limited to actions resulting from religious rituals. Swanner's refusal to rent to unmarried couples is not without an arguable basis in some tenets of the diverse Christian faith, and therefore, his conduct is sufficiently religiously based to meet our

constitutional test. Although Swanner meets the three preliminary requirements to invoke an exception to the anti-discrimination laws, the analysis does not end here.

As discussed previously, a religious exemption will not be granted if the religiously impelled action poses "some substantial threat to public safety, peace or order or where there are competing state interests of the highest order." Frank, 604 P.2d at 1070. The question is whether Swanner's conduct poses a threat to public safety, peace or order, or whether the governmental interest in abolishing improper discrimination in housing outweighs Swanner's interest in acting based on his religious beliefs.

In our view, the second part of the test adopted in Frank is applicable here. Under this part of the Frank test, we must determine whether "a competing state interest of the highest order exists." "The question is whether that interest, or any other, will suffer if an exemption is granted to accommodate the religious practice at issue." Frank, 604 P.2d at 1073. The government possesses two interests here: a "derivative" interest in ensuring access to housing for everyone, and a "transactional" interest in preventing individual acts of discrimination based on irrelevant characteristics. Most free exercise cases, including Frank, involve "derivative" state interests. In other words, the State does not object to the particular activity in which the individual would like to engage, but is concerned about some other variable that the activity will affect. This can be contrasted with a

"transactional" interest in which the State objects to the specific desired activity itself.

For example, in Frank, this court exempted a Central Alaska Athabascan Indian needing moose meat for a funeral potlatch from state hunting regulations. The State did not object to killing moose per se (indeed, it expressly allows moose hunting in season); the State's derivative interest was in maintaining healthy moose populations. In the instant case, the government's derivative interest is in providing access to housing for all. One could argue that if a prospective tenant finds alternative housing after being initially denied because of a landlord's religious beliefs, the government's derivative interest is satisfied. However, the government also possesses a transactional interest in preventing acts of discrimination based on irrelevant characteristics regardless of whether the prospective tenants ultimately find alternative housing.

We look to Prince v. Commonwealth of Massachusetts, 321 U.S. 158 (1943), as an analogy. In Prince, the United States Supreme Court refused to grant an exemption to child labor laws for children distributing religious literature. As in this case, the state had a transactional interest: preventing exploitation of children in employment. Thus, the state objected to child labor, the particular activity at issue, per se, not to an effect of that activity. The state legislature had prohibited children from working under certain conditions. Therefore, permitting any child to work under such conditions resulted in harming the government's

transactional interest. This transactional government interest does not involve a numerical cutoff below which the harm is insignificant unlike in Frank.

Similarly, in the instant case, the legislature and municipal assembly determined that housing discrimination based on irrelevant characteristics should be eliminated. See Hotel, Motel, Restaurant, Etc. Union Local 879 v. Thomas, 551 P.2d 942, 945 (Alaska 1976) ("[T]he statutory scheme constitutes a mandate to the agency to seek out and eradicate discrimination in . . . the rental of real property."); Loomis Electronic Protection, Inc. v. Schaefer, 549 P.2d 1341, 1343 (Alaska 1976) (recognizing the Alaska Legislature's "strong statement of purpose in enacting AS 18.80, and its avowed determination to protect the civil rights of all Alaska citizens."); see also AS 18.80.200; AMC 5.10.010. The existence of this transactional interest distinguishes this case from Frank and most other free exercise cases where courts have granted exemptions. The government's transactional interest in preventing discrimination based on irrelevant characteristics directly conflicts with Swanner's refusal to rent to unmarried couples. The government views acts of discrimination as independent social evils even if the prospective tenants ultimately find housing. Allowing housing discrimination that degrades individuals, affronts human dignity, and limits one's opportunities results in harming the government's transactional interest in preventing such discrimination. Under Frank, this interest will

clearly "suffer if an exemption is granted to accommodate the religious practice at issue."

The dissent attempts to prove that the state does not view marital status discrimination in housing as a pressing problem by pointing to other areas in which the state itself discriminates based on marital status. However, those areas are easily distinguished. The government's interest here is in specifically eliminating marital status discrimination in housing, rather than eliminating marital status discrimination in general. Therefore, the other policies which allow marital status discrimination are irrelevant in determining whether the government's interest in eliminating marital status discrimination in housing is compelling.

In the examples the dissent cites, treating married couples differently from unmarried couples is arguably necessary to avoid fraudulent availment of benefits available only to spouses. The difficulty of discerning whose bonds are genuine and whose are not may justify requiring official certification of the bonds via a marriage document. That problem is not present in housing cases: as this case demonstrates, if anything, an unmarried couple who wish to live together are at a disadvantage if they claim to be romantically involved.

It is important to note that any burden placed on Swanner's religion by the state and municipal interest in eliminating discrimination in housing falls on his conduct and not his beliefs. Here, the burden on his conduct affects his commercial activities. In United States v. Lee, 455 U.S. 252

(1982), the United States Supreme Court stated the distinction between commercial activity and religious observance:

When followers of a particular sect enter into commercial activity as a matter of choice, the limits they accept on their own conduct as a matter of conscience and faith, are not to be superimposed on the statutory schemes which are binding on others in that activity.

Id. at 261.

Swanner complains that applying the anti-discrimination laws to his business activities presents him with a "Hobson's choice" -- to give up his economic livelihood or act in contradiction to his religious beliefs. A similar argument was advanced in Seward Chapel, where Seward Chapel argued that applying the city zoning ordinances to prohibit construction of a parochial school impermissibly burdened the chapel's free exercise rights. 655 P.2d at 1299. We concluded that "there has been no showing of a religious belief which requires members of Seward Chapel to locate in [a specific place]. . . . [T]he inconvenience and economic burden of which Seward Chapel now complains is caused largely by the choice to build in [a specific place]. . ." Id. at 1302 (footnote omitted).

Swanner has made no showing of a religious belief which requires that he engage in the property-rental business. Additionally, the economic burden, or "Hobson's choice," of which he complains, is caused by his choice to enter into a commercial activity that is regulated by anti-discrimination laws. Swanner is voluntarily engaging in property management. The law and ordinance regulate unlawful practices in the rental of real

property and provide that those who engage in those activities shall not discriminate on the basis of marital status. See AS 18.80.240; AMC 5.20.020. Voluntary commercial activity does not receive the same status accorded to directly religious activity. Cf. Frank v. State, 604 P.2d at 1075 (exempting an Athabascan Indian from state hunting regulations "to permit the observance of the ancient traditions of the Athabascans.")

"As [James] Madison summarized the point, free exercise should prevail in every case where it does not trespass on private rights or the public peace." Michael W. McConnell, Free Exercise Revisionism and the Smith Decision, 57 Chi. L. Rev. 1109, 1145 (1990) (citation omitted). Because Swanner's religiously impelled actions trespass on the private right of unmarried couples to not be unfairly discriminated against in housing, he cannot be granted an exemption from the housing anti-discrimination laws. Therefore, we conclude that enforcement of AMC 5.20.020 and AS 18.80.240 against Swanner does not violate his right to free exercise of religion under the Alaska Constitution.

D. The AERC Did Not Deprive Swanner of Due Process of Law

1. AMCR 5.10.015(A) is not an unconstitutional delegation by the AERC.

Anchorage Municipal Code 5.10.040 authorizes the AERC: (a) to hold public hearings; (b) to administer oaths and issue subpoenas; (h) to delegate to its executive director all powers and duties except the power to hold hearings and issue orders; and (i) to adopt procedural and evidentiary rules necessary to fulfill the intent of Title 5. AMC 5.10.040. The AERC's power to "adopt

procedural and evidentiary rules" is effectuated by promulgating municipal regulations.

Anchorage Municipal Code of Regulations (AMCR) provides the scope of the hearing examiner's recommendation.

The hearing examiner . . . shall rule on the admissibility of evidence and other procedural matters. On any question which would be determinative of the jurisdiction of the commission or of the culpability of any party, the hearing examiner . . . may only make recommendations to the full commission.

AMCR 5.10.013(C)(2).¹² Additionally, "[a]ll recommendations of the hearing examiner . . . shall be consistent with commission decisions and regulations." AMCR 5.10.013(C)(4).

AMCR 5.10.015(A) states:

After a party . . . receives the hearing examiner's . . . proposed findings of fact, conclusions of law and proposed order, that person or his/her representative may, within 10 days or such other time fixed by the chair, present written objections to the commission. If no party files an objection within ten days, the proposal shall become final.

Swanner claims that AMCR 5.10.015(A) directly conflicts with AMCR 5.10.013(C)(2) because "[Section] 5.10.015 appears to permit the commission to adopt the hearing examiner's recommendations without ever considering its content, rationale or rectitude." He interprets AMCR 5.10.013(C)(2) as authorizing only "the full commission" to determine a question which is

¹² On February 16, 1993, the AERC repealed AMCR 5.10.013 and 5.10.015. See AMCR 5.60.003(F), 5.60.012(C), (D) for the new regulations replacing these sections.

We apply the regulations as they existed when Swanner's case began at the agency level.

determinative of jurisdiction or of the culpability of a party; Swanner asserts that his culpability in housing discrimination was at issue. He contends that the AERC abdicated its responsibility by adopting the hearing examiner's recommendation, and, therefore, the AERC violated AMCR 5.10.013.

Swanner is correct that the hearing examiner did not have the authority to determine Swanner's culpability. Instead he had the authority to make a recommendation, which is exactly what he did. Hearing Examiner Landau made a recommendation to the AERC and the AERC decided to adopt it. Therefore, no conflict exists between AMCR 5.10.013(C)(2) and AMCR 5.10.015(A), and the AERC followed its own regulations in adopting the hearing examiner's recommendation.¹³

2. The regulations do not require an independent review by the AERC.

Swanner finds fault with this process and complains that the AERC's regulations do not grant it authority to approve a hearing examiner's decision without conducting an independent review. No rule of procedure provides that the AERC must independently review the hearing examiner's recommendations. AMCR 15.10.015(B) expressly provides for the AERC's review of the hearing examiner's recommendations after a party timely files an

¹³ Where an agency interprets its own regulations, a deferential standard of review properly recognizes that the agency is best able to discern its intent in promulgating the regulation at issue. Rose v. Commercial Fisheries Entry Comm'n, 647 P.2d 154, 161 (Alaska 1982) (citing Kenneth C. Davis, Administrative Law Treatise § 7.22, at 105-08 (2d ed. 1979)).

objection. Swanner did not file an objection; therefore, the regulations required no independent review by the AERC.

3. Due process did not require that the AERC personally notify Swanner that it would adopt the hearing examiner's recommendation absent an objection within ten days.

Swanner claims the AERC's adoption of the hearing examiner's recommendation violated his constitutional right to due process of law. Both the Alaska and United States Constitutions provide that a person shall not be deprived of "life, liberty, or property, without due process of law." Alaska Const., Art. 1, § 7; U.S. Const. amend. XIV, § 1. "Due process requires 'that deprivation of life, liberty or property by adjudication be proceeded by notice . . . appropriate to the nature of the case.'" Wickersham v. State Com. Fisheries Entry Comm'n, 680 P.2d 1135, 1144 (Alaska 1984) (quoting Mullane v. Central Hanover Bank and Trust Co., 229 U.S. 306, 313 (1950)). This court held "[a]n elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action." Aquchak v. Montgomery Ward Co., Inc., 520 P.2d 1352, 1356 (Alaska 1974) (adopting Mullane language for analysis under the Alaska Constitution).

Swanner states that he did not receive notice that his failure to object to the hearing examiner's recommended decision would result in the AERC making the decision final. He claims that he became aware of the AERC's intent to approve the hearing

examiner's recommended decision the day after objections to the proposed order were due, when the AERC issued a memorandum stating the proposed order became final. Therefore, he claims he was not given "notice reasonably calculated, under all the circumstances, to apprise [him] of the pendency of the action, as required by Alaska law."

Swanner cannot claim that he was unaware of the pendency of this action. The actual hearing in this matter occurred on October 9 and 11, 1990, and Swanner participated in seven months of formal pre-hearing procedures and discovery. Swanner was clearly aware of the "pendency of this action." Moreover, AMCR 5.10.015 was readily available to Swanner and the public from both the AERC and the State Law Library. Accordingly, the AERC did not deny Swanner due process.

III. CONCLUSION

We hold that Swanner impermissibly discriminated against Bowles, Harper, and Moose because he would not rent to them based on their marital status. The Free Exercise Clause of the United States and Alaska Constitutions do not permit Swanner to disobey the state and municipal anti-discrimination laws by entitling him to an exemption. The AERC did not deny Swanner his right to due process by following its procedural regulations.

The AERC's final order and the superior court's opinion are AFFIRMED.

MOORE, Chief Justice, dissenting.

Article I, section 4 of the Alaska Constitution declares that "[n]o law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof." As the majority correctly recognizes, this provision may provide greater protection of free exercise rights than is now provided under the United States Constitution. Opinion at 12-13. Accordingly, while the United States Supreme Court has adopted a new test to analyze free exercise claims such as the one at issue here,¹ the majority agrees that we will continue to apply the compelling interest test in interpreting the free exercise clause of the Alaska Constitution. Opinion at 13.

Our decision in Frank v. State, 604 P.2d 1068 (Alaska 1979), sets forth the framework from which we must determine whether AMC 5.20.020 and AS 18.80.240 violate Swanner's right to the free exercise of his religion. As we stated in Frank, "[n]o value has a higher place in our constitutional system of government than that of religious freedom." 604 P.2d at 1070. For this reason, a facially neutral statute or ordinance which interferes with religious-based conduct must be justified by a compelling state interest. Id. Absent such an interest, our constitution requires an exemption from the laws at issue to accommodate religious practices. Id. at 1070-71.

¹ See Employment Div., Dep't of Human Resources v. Smith, 494 U.S. 872, 884-90 (1990).

The majority acknowledges that Swanner's actions fall within the ambit of the free exercise clause. Swanner has shown that his refusal to rent apartments to unmarried individuals who plan to live with a member of the opposite sex is based on his Christian faith, which strictly proscribes such cohabitation. No one questions the sincerity of his religious belief that he facilitates a sin by renting to unmarried individuals such as the complainants in this case. See Opinion at 15-16. For this reason, Swanner's religiously impelled conduct must be protected under Alaska law unless the AERC can show that the conduct poses "some substantial threat to public safety, peace or order," or that there exist competing governmental interests "of the highest order" which are not otherwise served without limiting Swanner's conduct. Frank, 604 P.2d at 1070 (citing Wisconsin v. Yoder, 406 U.S. 205, 215 (1972) and Sherbert v. Verner, 374 U.S. 398, 403 (1963)); Seward Chapel, Inc. v. City of Seward, 655 P.2d 1293, 1301 n.33 (Alaska 1982). I do not believe the AERC has met its burden in this case. I would therefore grant Swanner an exemption to accommodate his religious beliefs.

First, I note that in determining that the governmental interest in this case is "of the highest order," the majority announces an entirely new and unnecessary test examining the state's "transactional" and "derivative" interests. Opinion at 16-17. Under this analysis, the majority concludes that the state has a transactional, or per se, interest in preventing "individual acts of discrimination based on irrelevant characteristics" which

overrides Swanner's free exercise rights in this case. Because the interest is "transactional," the majority concludes that no evidentiary basis is required to show that rental housing for unmarried couples has become scarce. However, before the court would enforce the state's "derivative" interest in "ensuring access to housing for everyone," the AERC apparently would have to make an evidentiary showing that cohabitating couples have experienced hardship in finding available housing, i.e., that Swanner's conduct poses a "substantial threat to public safety, peace or order." Frank, 604 P.2d at 1070.

In my opinion, this amorphous analysis of the state's interests ultimately will prove to be useless in resolving future free exercise cases. Even in this case, I do not believe it provides a useful distinction of the interests at issue. For example, the majority determines that the state has a per se objection to marital status discrimination in housing which overcomes Swanner's free exercise rights. The majority defines this interest as that in "preventing acts of discrimination based on irrelevant characteristics." Opinion at 17. Such an articulation of the state's interest poses myriad questions. Who is to determine what is an "irrelevant" characteristic? Obviously, marital status is not "irrelevant" to Swanner. It is central to the question whether he will be committing a sin under the dictates of his religion. Is the legislative branch the final arbiter of relevancy or irrelevancy? Further, the discrimination at issue here is not based on innate "characteristics" but rather

on the conduct of potential tenants. While this conduct is worthy of some protection, it does not warrant the same constitutional protection given to religiously compelled conduct. I am not willing to place the right to cohabit on the same constitutional level as the right to freedom from discrimination based on either innate characteristics -- such as race or gender -- or constitutionally protected belief, such as freedom of religion.

In addition, it remains unclear to me how the state's "derivative" interests are to be identified. Here, that interest is defined with little explanation as being the state's interest in "providing access to housing for all." Opinion at 17. Does this mean the state has no per se objection to the fact that some individuals may have limited access to housing? In Frank, could it not be said that the state had a per se interest in enforcing its hunting regulations?

In Frank, this court set forth a workable and sufficient guide to determine whether a governmental interest is sufficiently compelling to overcome an individual's free exercise rights. 604 P.2d at 1070. It seems to me that the majority's effort to expand this analysis adds little to the actual analysis of interests at stake. To the contrary, I see the majority's expansion of Frank as little more than a strained effort to distinguish Frank from the present situation when such a distinction is not logically justified. In this effort, the majority totally ignores the record in this case, and it engages in a game where the

"transactional" or "derivative" label attached to any given state interest predetermines the outcome of the case.

There is no governmental interest "of the highest order" to justify the burden on Swanner's fundamental rights.

Even applying the framework announced by the court in analyzing whether the state's interest is "of the highest order," I cannot agree with the court's reasoning and resulting decision. In essence, the majority's conclusion is that marital status discrimination constitutes such an affront to human dignity that the state has a per se obligation "of the highest order" to prevent it. Based on my analysis of free exercise jurisprudence and the issues surrounding marital status discrimination, I cannot conclude that eradication of marital status discrimination in the rental housing industry constitutes a governmental interest of such high order as to justify burdening Swanner's fundamental constitutional rights.²

There can be no question that the state has a compelling interest in eradicating discrimination against certain

² Significantly, the majority cites no cases to support the proposition that the state has a compelling interest in eradicating marital status discrimination, particularly when the discrimination at issue must be balanced against interests of constitutional magnitude. Both Loomis Elec. Protection, Inc. v. Schaefer, 549 P.2d 1341 (Alaska 1976), and Hotel, Motel, Restaurant, Constr. Camp Employees and Bartenders Union Local 879 v. Thomas, 551 P.2d 942 (Alaska 1976), cite the general purpose statement of AS 18.80.200; however, neither case does so to establish the existence of a compelling state interest. Both cases involved gender discrimination, the eradication of which has been held to be a compelling interest, as I discuss infra. Neither case is applicable to the instant case, where marital status discrimination is involved and where the discriminating party is asserting a core constitutional freedom.

historically disadvantaged groups. See, e.g., Bob Jones University v. United States, 461 U.S. 574, 593-95 (1983) (racial discrimination); Roberts v. United States Jaycees, 468 U.S. 609, 625 (1984) (gender discrimination). This compelling interest has been found to exist based on a determination that the discrimination at issue is so invidious to personal dignity and to our concept of fair treatment as to warrant strict protection. There is no question that Swanner's right to freely exercise his religion could and should be burdened if he engaged in such discrimination as a result of his religious beliefs.

This fact does not mean, however, that every form of discrimination is equally invidious or that the state's interest in preventing it necessarily outweighs fundamental constitutional rights. Rather, the cases which have upheld an imposition on free exercise have articulated certain specific reasons that some forms of discrimination are of particular governmental interest and deserving of heightened judicial scrutiny. In Bob Jones University v. United States, 461 U.S. 574 (1983), for example, the Supreme Court refused to grant tax-exempt status to schools that maintained racially discriminatory policies under their interpretation of the Bible. In doing so, the Court discussed this nation's long history of officially sanctioned racial segregation and discrimination in education. It further noted that, since the late 1950s, every pronouncement of the Supreme Court and myriad Acts of Congress and Executive Orders attested to a national policy prohibiting such discrimination. Id. at 594-

95, 604. It therefore concluded that "[t]here can no longer be any doubt that racial discrimination in education violates deeply and widely accepted views of elementary justice." Id. at 592. Accordingly, the government's interest in eradicating racial discrimination in education was found to be compelling.

Similarly, in Roberts v. United States Jaycees, 468 U.S. 609 (1984), the Supreme Court declared that the state's compelling interest in eradicating discrimination against its female citizens justified any minimal interference with an all-male organization's freedom of expressional association. In analyzing the weight of the state's interest, the Court discussed the invidious nature of gender bias, stating:

[D]iscrimination based on archaic and overbroad assumptions about the relative needs and capacities of the sexes forces individuals to labor under stereotypical notions that often bear no relationship to their actual abilities. It thereby both deprives persons of their individual dignity and denies society the benefits of wide participation in political, economic, and cultural life.

Id. at 625 (citations omitted). The Court also observed that society generally had recognized the importance of removing "the barriers to economic advancement and political and social integration that have historically plagued certain disadvantaged groups, including women." Id. at 626. Based on these conclusions, it was no stretch to find that the state possessed a compelling interest in eradicating gender discrimination, and that this interest was sufficient to overcome the Jaycees' First Amendment claim. Id. at 626-29.

The majority today avoids engaging in any similar analysis of marital status discrimination to explain why or how it is so damaging to human dignity to become of such governmental import as to overcome a fundamental constitutional right.³ This analysis is critical. The majority cites no evidence that marital status classifications have been associated with a history of unfair treatment that would warrant heightened governmental protection.⁴ To the contrary, I believe the law is clear that marital status classifications have been accorded relatively low import on the scale of interests deserving governmental protection. For instance, the government itself discriminates based on marital status in numerous regards, and there is no suggestion that this

³ While the majority contends that its decision today affects only Swanner's conduct, not his religious beliefs, Opinion at 19-20, I do not believe that the Alaska Constitution distinguishes so clearly between religious belief and religious conduct. See Frank, 604 P.2d at 1070 (because of the close relationship between conduct and belief, and because of the high value we assign to religious beliefs, religiously impelled actions can be forbidden only where they are outweighed by a compelling governmental interest). See also Wisconsin v. Yoder, 406 U.S. 205, 220 (1972) ("[B]elief and action cannot be neatly confined in logic-tight compartments."); Smith, 494 U.S. at 893 (O'Connor, J., concurring) ("Because the First Amendment does not distinguish between religious belief and religious conduct, conduct motivated by sincere religious belief, like the belief itself, must therefore be at least presumptively protected by the Free Exercise Clause."). I would hold that conduct that is motivated by sincere religious belief is presumptively protected by Article I, section 4.

⁴ The majority pronounces that "the government views acts of discrimination as independent social evils. . . ." Opinion at 18. This analysis ignores the specific issue here: discrimination in housing based on marital status. Had Swanner's religious beliefs compelled him to discriminate based on characteristics such as race or gender, I clearly would vote to deny an exemption. However, I am not convinced that marital status discrimination is or should be treated as comparable in any way to race or gender discrimination.

practice should be reexamined. Alaska law explicitly sanctions such discrimination. See, e.g., AS 13.11.015 (intestate succession does not benefit unmarried partner of decedent); AS 23.30.215(a) (workers' compensation death benefits only for surviving spouse, child, parent, grandchild, or sibling); Alaska R. Evid. 505 (no marital communication privilege between unmarried couples); Serradell v. Hartford Accident & Indemn. Co., 843 P.2d 639, 641 (Alaska 1992) (no insurance coverage for unmarried partner under family accident insurance policy).

In addition, marital status classifications have never been accorded any heightened scrutiny under the Equal Protection Clause of either the federal or the Alaska Constitutions. Disparate treatment of individuals based on classifications such as race, on the other hand, are reviewed under the highest scrutiny. See, e.g., Korematsu v. United States, 323 U.S. 214 (1944) (restrictions curtailing the civil rights of a single racial group are immediately suspect and deserve strict scrutiny analysis). Gender-based classifications are similarly analyzed under a heightened level of scrutiny at the federal level. See, e.g., Wenqler v. Druggists Mut. Ins. Co., 446 U.S. 142, 150 (1980) (gender-based discrimination must serve important governmental objectives and the discriminatory means employed must be substantially related to the achievement of those objectives). The sliding scale approach to equal protection analysis under the Alaska Constitution similarly applies a heightened level of scrutiny to laws burdening racial minorities or other suspect

classifications. See State v. Ostrosky, 667 P.2d 1184, 1193 (Alaska 1983) ("[L]aws which embody classification schemes that are more constitutionally suspect, such as laws discriminating against racial or ethnic minorities, are more strictly scrutinized."); State v. Erickson, 574 P.2d 1, 11-12 (Alaska 1978) (where fundamental rights or suspect categories are involved, equal protection analysis under the Alaska Constitution requires a compelling state interest).

At the federal level, the eradication of marital status discrimination in the housing context clearly has not been treated as a compelling interest.⁵ Neither the Federal Fair Housing Act, 42 U.S.C. § 3604 (1988), nor the Federal Civil Rights Act, 42 U.S.C. §§ 1981 and 1982 (1988), would prohibit the precise form of marital status discrimination at issue here, unless it was being used as a pretext for a more egregious form of discrimination, such as that based on race. See Marable v. H. Walker & Assocs., 644 F.2d 390, 397 (5th Cir. 1981) (finding a violation of the fair housing and civil rights statutes only after concluding that, although the landlord asserted that he refused to rent housing based on the applicant's marital status, this excuse was a mere pretext for racial discrimination); see also James A. Kushner, The Fair Housing Amendments Act of 1988: The Second Generation of Fair

⁵ While I recognize that Alaska's antidiscrimination legislation is not substantially similar to comparable federal laws -- see, e.g., Hotel, Motel, Restaurant, Constr. Camp Employees and Bartenders Union Local 879 v. Thomas, 551 P.2d 942, 945 (Alaska 1976) -- the majority's failure to cite any authority for a compelling interest at the state level in this case leads me to make this comparison for further guidance.

Housing, 42 Vand. L. Rev. 1049, 1106 (1989) (the Fair Housing Act does not protect unmarried couples from a landlord's refusal to rent unless a case can be made that the marital status discrimination is merely a pretext for racial, ethnic, religious or gender-based discrimination).

My research has not revealed a single instance in which the government's interest in eliminating marital status discrimination has been accorded substantial weight when balanced against other state interests, let alone fundamental constitutional rights. I find nothing to suggest that marital status discrimination is so invidious as to outweigh the fundamental right to free exercise of religion.

The majority comments that its result today is justified because Swanner's right to the free exercise of his religious beliefs must be accorded less weight since he has entered the commercial arena. Opinion at 19-21. As discussed above, it is well-accepted that an individual's right to religious freedom will not and cannot always override other interests. See, e.g., United States v. Lee, 455 U.S. 252, 261 (1982) (rejecting Amish employer's claim that imposition of social security taxes violated his free exercise rights). However, neither Lee nor any other case of which I am aware stands for the proposition that individuals like Swanner altogether waive their constitutional right to the free exercise of religion simply because a conflict between their religious faith and some legislation occurs in a commercial context. To the contrary, the Lee Court recognized that, even in a commercial

setting, the state must justify its limitation on religious liberty by showing the limitation is "essential to accomplish an overriding governmental interest." Id. at 257-58. The AERC has simply failed to meet that burden here.

The majority suggests that Swanner's constitutional rights must be accorded lesser weight because he voluntarily engages in the property management industry, and his right to engage in that business is not entitled to judicial protection. Opinion at 20-21. However, this court has stated that "the right to engage in an economic endeavor within a particular industry is an 'important' right for state equal protection purposes." State v. Enserch Alaska Constr., Inc., 787 P.2d 624, 632 (Alaska 1989) (citing Commercial Fisheries Entry Comm'n v. Apokedak, 606 P.2d 1255, 1266 (Alaska 1980)). The ability to participate in a particular industry, such as rental property management, is therefore entitled to more protection under our state constitution than the majority acknowledges.

The majority incorrectly relies on Seward Chapel to arrive at its contrary conclusion. Unlike the present case, Seward Chapel did not involve a forced decision between giving up one's livelihood or violating one's religious beliefs. In Seward Chapel, we merely found that no religious belief required an exception to city zoning laws prohibiting the location of a parochial school on a specific site. 655 P.2d at 1302. No activity was totally prohibited; only the place in which it could be conducted was being regulated. I believe that there is a significant difference

between the inconvenience placed upon Seward Chapel and the total abrogation of Mr. Swanner's right to earn a living in his chosen profession while abiding by his sincerely held religious beliefs.

There is no basis in the record to conclude that an exemption in this case would create a substantial threat of harm.

In Frank, this court required that the state establish precisely how its interest would suffer if an exemption was granted to accommodate the religious conduct at issue. 604 P.2d at 1073. Thus, even accepting that the government has a strong interest in assuring available housing, the AERC must show how this interest will suffer in real terms if an exemption is granted to Swanner.

I see no evidence whatsoever in the record to suggest that Swanner's conduct poses a substantial threat to public safety, peace or order such that the burden on Swanner's rights is justified. For this reason, I fail to see why an exemption to accommodate Swanner's religious beliefs is not warranted. Mere speculation that housing for unmarried couples may become scarce if an exemption is granted is insufficient to establish a compelling governmental interest. In Fran, we specifically criticized the state for speculating, without any supporting data, that an exemption to moose hunting regulations for an Athabascan funeral potlatch would open the flood gates to widespread poaching. Id. at 1074. We stated: "'Justifications founded only on fear and apprehension are insufficient to overcome rights asserted under the First Amendment.'" Id. (quoting Teterud v. Burns, 522 F.2d 357, 361-62 (8th Cir. 1975)). We further found that, since the

state had not presented any evidence that so many moose would be taken for funeral potlatch ceremonies as to jeopardize appropriate population levels, it had not met its burden to justify curtailing the religious practice at issue. Id.⁶

As in Frank, the record here is completely devoid of any evidence to suggest that there are so many landlords or property managers in Anchorage whose religious beliefs are identical to Swanner's as to constitute a substantial threat to available housing. In a city the size of Anchorage, it is difficult to conclude based on intuition alone that housing availability for unmarried couples will become so scarce as to constitute a substantial threat to community welfare. If there were some persuasive evidence to support such a conclusion, I may well have arrived at a different conclusion today.

Conclusion

I believe Swanner has been presented with a Hobson's choice of either complying with the law or abandoning the precepts of his religion. Since the government's interest in this

⁶ Our requirement of evidentiary support for the state's refusal to grant an exemption is well-supported by United States Supreme Court precedent. See Thomas v. Review Bd. of Indiana Employment Sec. Div., 450 U.S. 707, 719 (1981) (rejecting state's asserted reasons for refusing a religious exemption due to lack of evidence in the record); Wisconsin v. Yoder, 406 U.S. 205, 224-29 (1972) (rejecting state's argument concerning the dangers of a religious exemption as speculative and unsupported by the record); Sherbert v. Verner, 374 U.S. 398, 407 (1963) ("[T]here is no proof whatever to warrant such fears . . . as those which the [state] now advance[s]."); see also Smith, 494 U.S. at 911 (Blackmun, J., dissenting) (state's assertion that religious exemption for peyote use would harm health and safety of state citizens is unsupported and speculative).

particular law does not outweigh Swanner's fundamental religious rights, Swanner should be granted an exemption to accommodate his beliefs. The AERC relies on nothing more than a pure conclusion that the state has a compelling interest in preventing marital status discrimination in housing. It has not presented any evidence that an exemption in this case would result in a substantial threat to housing availability. Nor does it explain exactly what is so invidious about marital status discrimination as to make its proscription a governmental interest of the highest order, comparable with the state's interest in eradicating racial or gender discrimination. For these reasons, I fail to see how a limited exemption for Swanner and others similarly situated is not justified. In my opinion, the analysis and result set forth in this case will return to haunt this court in future decisions.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SB 155

Revision Date: 3/23/93 Dept. Affected: Public Safety
 Title: "An act relating to landlords and tenants termination." BRU: Alaska State Troopers
 Sponsor: Senators Frank, Leman, Pearce Component: Criminal Investigations Bureau
 Requestor: Senator Frank COMPONENT SERIAL NO. 830

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	19.0	19.0	19.0	19.0	19.0	19.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	19.0	19.0	19.0	19.0	19.0	19.0
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal receipts						
1003 GF Match						
1004 GF	19.0	19.0	19.0	19.0	19.0	19.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	19.0	19.0	19.0	19.0	19.0	19.0

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 (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: Francis C. Allan Phone: 269-5691

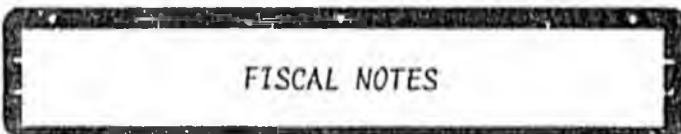
Division: Alaska State Troopers Date: 3/23/93

Approved by Commissioner: *[Signature]* Date: 3/23/93

Agency: Richard T. Burton, Dept. of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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SB 155 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 peace 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 the peace officer(s).

The notice requirement found in Sec. 1 applies to alcohol violation arrests for sales from unlicensed premises where prohibited by local option; notice requirements found in Sec. 13 apply 1) to drug violations involving the manufacture or distribution of all drugs except small amounts of marijuana; 2) to imitation drug violations involving the manufacture or distribution of imitation drugs, or 3) possession of certain precursor chemicals used in the manufacture of imitation drugs.

Although the Alaska State Troopers estimates approximately 130 arrests for violation of the "local option" laws annually, they find no arrests for violation of the statute AS 04.11.010(b) cited in Sec. 24. The Troopers make approximately 500 arrests annually for applicable drug offenses. It is expected that approximately 85% of the drug offenders reside in rented property.

Based upon past arrests for these offenses, it is estimated that the Department of Public Safety will have to notify approximately 425 property owners per year.

There will be fiscal impact upon the Alaska State Troopers. For arrests requiring a written notice, we estimate that research required to identify the property owner, determine the last address listed on tax roles and any other addressed known to police, and to prepare the written notice, will take approximately two (2) staff hours of research time per occurrence. 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 the detachment personnel handling the cases. Overtime will be needed for this additional work.

Overtime calculations

425 Incidents x 2hrs x \$22.31per hr.*= \$18,963.50
*Clerk Typist III, Range 8/A overtime rate per PACS.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 155

Revision Date: March 16, 1993
Title: ...relating to landlords and tenants...termination of tenancies...recovery of rental premises...*
Sponsor: Senator Frank
Requestor: Senator Frank

Department Affected: Department of Law
BRU: Legal Services
Component: Fair Business Practices
COMPONENT SERIAL NO. 1823

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	10.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	10.0	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: March 16, 1993
Date: March 16, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 155

ANALYSIS (Continued):

This bill amends several statutes relating to termination of tenancies and recovery of rental premises for nonpayment of rent and certain illegal activities. The bill adds illegal activity involving alcoholic beverages, a controlled substance, or an imitation controlled substance to the list of activities that constitute a nuisance that may be enjoined and abated in a place used for the activity. All of the changes will have the effect of substantially changing the information the Department of Law provides to the public in its pamphlet on landlord and tenant rights. The department's publication of the pamphlet is mandated by AS 44.23.020(b)(3).

The department therefore requests \$10,000 to revise and republish the information pamphlet. Of this amount, \$2,500 will be used to publish a pamphlet supplement in the state Bar Association's monthly newsletter, and \$7,500 will be used to publish a revised pamphlet for use by the general public. These funds should be sufficient to publish between 7,500 and 10,000 pamphlets.

SECTIONAL ANALYSIS OF
SB 161 OR HB 226

Prepared by Joseph Geldhof
Assistant Attorney General
Department of Law

INTRODUCTION

SB 161 and HB 226 were introduced at the request of the Governor. The proposed legislation contains two measures relating to interest rates.

SECTIONAL ANALYSIS

Section 1. This section repeals and reenacts the general statutory interest provisions. The proposed version basically adopts a market rate scheme for postjudgment interest based on the formula used by federal courts. In addition, this measure extends market rates for prejudgment interest in addition to past-judgment interest. Consistent with existing law, interest rates set out in contracts are not altered.

Section 2. This section alters the interest rate for "royalty oil" or "net profit share" overpayments. Basically, interest on overpayments is tied closely to market interest rates in order to reduce overpayment incentives for persons required to make royalty oil or net profit share payments under current law.

Section 3. This section makes a similar amendment to the one described in Section 2 for overpayments of state

taxes. However, a different (higher) interest rate is assessed when the overpayment results from a corrected tax assessment made by the Department of Revenue.

Section 4. This section provides for an effective date for the postjudgment interest provision discussed in Section 1. Basically, postjudgment interest on judgment or decrees entered before the effective date of this measure, if enacted, would remain unaffected.

Section 5. This section provides for an effective date for the prejudgment interest provision discussed in Section 1. Basically, prejudgment interest on judgments or decrees entered before the effective date of this measure, if enacted, would remain unaffected.

Section 6. This section provides for an immediate effective date for the provisions relating to interest payments made on overpayments of royalties, net profit share payments and taxes.

Section 7. This section provides for this entire proposal to take effect immediately.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SR 155

Revision Date: 3/23/93 Dept. Affected: Public Safety
 Title: "An act relating to landlords and tenants termination." BRU: Alaska State Troopers
 Sponsor: Senators Frank Leman Pearce Component: Criminal Investigations Bureau
 Requestor: Senator Frank COMPONENT SERIAL NO. 830

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	19.0	19.0	19.0	19.0	19.0	19.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	19.0	19.0	19.0	19.0	19.0	19.0
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	19.0	19.0	19.0	19.0	19.0	19.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	19.0	19.0	19.0	19.0	19.0	19.0

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 (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: Francis C. Allan Phone: 259-5691
 Division: Alaska State Troopers Date: 3/23/93
 Approved by Commissioner: *[Signature]* Date: 3/23/93
 Agency: Richard L. Burton, Dept. of Public Safety

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SB 155 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 peace 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 the peace officer(s).

The notice requirement found in Sec. 1 applies to alcohol violation arrests for sales from unlicensed premises where prohibited by local option; notice requirements found in Sec. 13 apply 1) to drug violations involving the manufacture or distribution of all drugs except small amounts of marijuana; 2) to imitation drug violations involving the manufacture or distribution of imitation drugs, or 3) possession of certain precursor chemicals used in the manufacture of imitation drugs.

Although the Alaska State Troopers estimates approximately 130 arrests for violation of the "local option" laws annually, they find no arrests for violation of the statute AS 04.11.010(b) cited in Sec. 24. The Troopers make approximately 500 arrests annually for applicable drug offenses. It is expected that approximately 85% of the drug offenders reside in rented property.

Based upon past arrests for these offenses, it is estimated that the Department of Public Safety will have to notify approximately 425 property owners per year.

There will be fiscal impact upon the Alaska State Troopers. For arrests requiring a written notice, we estimate that research required to identify the property owner, determine the last address listed on tax roles and any other addressed known to police, and to prepare the written notice, will take approximately two (2) staff hours of research time per occurrence. There will be costs for materials, preparation time, and postage.

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 155

Revision Date: March 16, 1993
Title: '...relating to landlords and tenants...termination of tenancies...recovery of rental premises...'
Sponsor: Senator Frank
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Department Affected: Department of Law
BRU: Legal Services
Component: Fair Business Practices
COMPONENT SERIAL NO. 1823

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LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
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OTHER						
TOTAL	10.0	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: March 16, 1993

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: March 16, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 155

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This bill amends several statutes relating to termination of tenancies and recovery of rental premises for nonpayment of rent and certain illegal activities. The bill adds illegal activity involving alcoholic beverages, a controlled substance, or an imitation controlled substance to the list of activities that constitute a nuisance that may be enjoined and abated in a place used for the activity. All of the changes will have the effect of substantially changing the information the Department of Law provides to the public in its pamphlet on landlord and tenant rights. The department's publication of the pamphlet is mandated by AS 44.23.020(b)(8).

The department therefore requests \$10,000 to revise and republish the information pamphlet. Of this amount, \$2,500 will be used to publish a pamphlet supplement in the state Bar Association's monthly newsletter, and \$7,500 will be used to publish a revised pamphlet for use by the general public. These funds should be sufficient to publish between 7,500 and 10,000 pamphlets.

8-LS0832N
Chenoweth
3/25/94

CS FOR HOUSE BILL NO. 222()

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Porter

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to landlords and tenants and to the applicability of the Uniform
2 Residential Landlord and Tenant Act, to termination of tenancies and recovery
3 of rental premises, to tenant responsibilities, and to the civil remedies of forcible
4 entry and detainer and nuisance abatement; and amending Rule 62(a) of the
5 Alaska Rules of Civil Procedure and Rule 24(a) of the Alaska District Court
6 Rules of Civil Procedure."

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

8 * Section 1. AS 09.45.090 is repealed and reenacted to read:

9 Sec. 09.45.090. UNLAWFUL HOLDING BY FORCE. (a) For property to
10 which the provisions of AS 34.03 (Uniform Residential Landlord and Tenant Act)
11 apply, unlawful holding by force includes each of the following:

12 (1) when, for failure or refusal to pay rent due on the lease or
13 agreement under which the tenant or person holds, and after service, under

1 AS 09.45.100(b), of the written notice required by AS 34.03.220(b) by the landlord for
2 recovery of possession of the premises if the rent is not paid, the tenant or person in
3 possession fails or refuses to vacate or pay the rent within 10 days;

4 (2) when,

5 (A) after a violation of a condition or covenant set out in
6 AS 34.03.120(a), other than a breach of AS 34.03.120(a)(5) due to the
7 deliberate infliction of substantial damage to the premises, or after a breach or
8 violation of a condition or covenant in a lease or rental agreement, and
9 following service of written notice to quit, the tenant fails or refuses to remedy
10 the breach or to deliver up the possession of the premises within the number
11 of days provided for termination under AS 34.03.220(a)(2);

12 (B) after a violation of AS 34.03.120(a)(5) by deliberate
13 infliction of substantial damage to the premises, following service of written
14 notice to quit, the tenant fails or refuses to deliver up the possession of the
15 premises by the date set out in the written notice to quit under
16 AS 34.03.220(a)(1);

17 (C) the landlord requires the tenant to vacate the premises for
18 a reason set out in AS 34.03.310(c)(2) or (c)(4) - (7), following service of
19 written notice to quit, the tenant fails or refuses to deliver up the possession of
20 the premises within the longer of 30 days or the period of notice for the
21 landlord's recovery of possession of the premises set out in the rental
22 agreement;

23 (D) in a mobile home park, there is to be a change in the use
24 of land for which termination of tenancy is authorized by AS 34.03.225(a)(4),
25 following service of written notice to quit, the mobile home dweller or tenant
26 fails or refuses to vacate within the number of days provided for termination
27 under AS 34.03.225(a)(4);

28 (E) after termination of a periodic tenancy as prescribed by
29 AS 34.03.290(a) or (b), following service of written notice to quit, the tenant
30 remains in possession without the landlord's consent after expiration of the
31 term of the rental agreement or after the date of its expiration;

1 (F) after the tenant has violated AS 34.03.120(b) or the tenant
2 has used the dwelling unit or allowed the dwelling unit to be used for an illegal
3 purpose in violation of AS 34.03.310(c)(3), other than a breach of
4 AS 34.03.120(b), following service of written notice to quit, the tenant fails or
5 refuses to deliver up the possession of the premises within five days; or

6 (G) following service of written notice to quit, a person in
7 possession continues in possession of the premises without a valid rental
8 agreement, as that term is defined in AS 34.03.360, and without the consent of
9 the landlord; or

10 (3) when, without a notice to quit, a tenant or person in possession
11 continues in possession of the premises after the tenancy has been terminated by
12 issuance of an order of abatement under AS 09.50.210(a).

13 (b) For property to which the provisions of AS 34.03 (Uniform Residential
14 Landlord and Tenant Act) do not apply, unlawful holding by force includes each of
15 the following:

16 (1) when, for failure or refusal to pay rent due on the lease or
17 agreement under which the tenant or person in possession holds, after service, under
18 AS 09.45.100(c), of demand made in writing by the landlord for the possession of the
19 premises if the rent is not paid, the tenant or person in possession fails or refuses to
20 vacate or pay the rent due within 10 days;

21 (2) when, following service of a written notice to quit,

22 (A) after the tenant or person in possession has breached or
23 violated a condition or covenant of the lease or rental agreement other than
24 breach of a covenant or condition set out in (B) of this paragraph, the tenant
25 or person in possession of a premises fails or refuses to deliver up the
26 possession of the premises within 10 days;

27 (B) after the tenant or person in possession has deliberately
28 inflicted substantial damage to the premises, the tenant or person in possession
29 of a premises fails or refuses to deliver up the possession of the premises on
30 the date required by the landlord; the date specified may not be less than 24
31 hours after demand for possession of the premises by the landlord;

1 (C) after the tenant or person in possession has violated
2 AS 34.05.100(a) or has used the premises for or allowed the premises to be
3 used for an illegal purpose, the tenant or person in possession fails or refuses
4 to deliver up the possession of the premises within five days;

5 (D) for premises the lease or occupation of which is primarily
6 for the purpose of farming or agriculture, after the tenant or person in
7 possession has violated of AS 34.05.025, other than a violation that is a breach
8 under (B) or (C) of this paragraph, the tenant fails or refuses to deliver up
9 possession of the premises within 30 days;

10 (E) a tenancy based upon an estate at will terminates, and the
11 tenant or person in possession continues in possession of the premises; or

12 (F) a person in possession continues in possession of the
13 premises

14 (i) at the expiration of the time limited in the lease or
15 agreement under which that person holds; or

16 (ii) without a written lease or agreement and without the
17 consent of the landlord; or

18 (3) when, without a notice to quit, a tenant or person in possession
19 continues in the possession of the premises after the tenancy has been terminated by
20 issuance of an order of abatement under AS 09.50.210(a).

21 (c) When a landlord who is required to provide written notice to a tenant or
22 person in possession under (a) or (b) of this section, provides notice by mail,
23 notwithstanding any other provision of law, three days must be added to the period set
24 out in (a) or (b) of this section to determine the date on and after which the tenant or
25 person in possession unlawfully holds by force.

26 * Sec. 2. AS 09.45.100 is amended to read:

27 Sec. 09.45.100. [REQUISITES OF] NOTICE TO QUIT. (a) Except where
28 service of written notice is made under AS 09.45.090(a)(1) or (b)(1), or except
29 when notice to quit is not required by AS 09.45.090(a)(3) or (b)(3), a person
30 entitled to the premises who seeks to recover possession of the premises may not
31 commence and maintain an action to recover possession of premises under

1 AS 09.45.060 - 09.45.160 unless the person first gives a notice to quit to the person
 2 in possession.

3 (b) To recover possession of premises after a tenant or person in
 4 possession has failed or refused to pay rent due, for purposes of (c) of this section.
 5 AS 09.45.110 and AS 34.03.310(c), service of the written notice required by
 6 AS 34.03.220(b) or of a demand in writing for possession of the premises
 7 constitutes notice to quit, and service of a separate notice to quit is not required.

8 (c) A notice to quit shall be in writing and shall be served upon the tenant or
 9 person in possession by being

10 (1) delivered to the tenant or person;

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

12 or

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

16 * Sec. 3. AS 09.45 is amended by adding a new section to read:

17 Sec. 09.45.105. CONTENT OF NOTICE TO QUIT. Notice to quit served
 18 upon the tenant or person in possession must

19 (1) state

20 (A) the nature of the breach or violation of the lease or rental
 21 agreement or other reason for termination of the tenancy of the tenant or person
 22 in possession;

23 (B) in circumstances in which the breach or violation described
 24 in (A) of this paragraph may be corrected by the tenant or person in possession
 25 to avoid the termination of the tenancy, the nature of the remedial action to be
 26 taken, and the date and time by which the corrective actions must be completed
 27 in order to avoid termination of the tenancy;

28 (C) the date and time when the tenancy of the tenant or person
 29 in possession under the lease or rental agreement will terminate;

30 (2) direct the tenant or person in possession to quit the premises not
 31 later than the date and time of the termination of the tenancy; and

1 (3) give notice to the tenant or person in possession that, if the tenancy
2 terminates and the tenant or person in possession continues to occupy the premises, the
3 landlord may commence a civil action to remove the tenant or person and recover
4 possession.

5 * Sec. 4. AS 09.45.110 is repealed and reenacted to read:

6 Sec. 09.45.110. TIME WHEN ACTION TO RECOVER POSSESSION MAY
7 BE BROUGHT. An action for the recovery of the possession of the premises may be
8 commenced on or after the date the tenant or person in possession unlawfully holds
9 possession of the dwelling unit or rental premises by force, as determined under
10 AS 09.45.090.

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

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

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

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

25 * Sec. 7. AS 09.50.170 is amended to read:

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

1 which the activity [LEWDNESS, ASSIGNATION, OR PROSTITUTION] is
 2 conducted, permitted, [OR] carried on, continues, or exists, and its [THE] furniture,
 3 fixtures, and other contents, constitute a nuisance and may be enjoined and abated;

4 (1) prostitution;

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

6 (3) an illegal activity involving

7 (A) alcoholic beverages;

8 (B) a controlled substance; or

9 (C) an imitation controlled substance.

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

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

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

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

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

19 (1) evidence of reputation within a community;

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

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
 26 enters [UPON] judgment that a nuisance exists, the court shall enter an order of
 27 abatement. The order of abatement must direct

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

1 (2) [SHALL BE ENTERED DIRECTING] the removal from the
2 building or place of the fixtures, furniture, and movable property used in the nuisance
3 and their sale in the manner provided for the sale of chattels under execution;

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

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

10 * Sec. 11. AS 09.50.230 is amended to read:

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

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

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

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

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

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

27 * Sec. 12. AS 34.03.020 is amended by adding a new subsection to read:

28 (e) If required by the landlord, the landlord and the tenant shall include within
29 the rental agreement, incorporate by reference in the rental agreement, or add as a
30 separate attachment to the rental agreement a premises condition statement, setting out
31 the condition of the premises, including fixtures but excluding reference to any of the

1 other contents of the premises, and, if applicable, a contents inventory itemizing or
2 describing all of the furnishings and other contents of the premises and specifying the
3 condition of each of them. In the premises condition statement and contents inventory,
4 the parties shall describe the premises and its contents at the commencement of the
5 term of the period of the occupancy covered by the rental agreement. When signed
6 by the parties, the premises condition statement and contents inventory completed
7 under this subsection become part of the rental agreement.

8 * Sec. 13. AS 34.03.070(b) is amended to read:

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

17 (1) means deterioration of the premises and, if applicable, of the
18 contents of the premises;

19 (2) does not include deterioration

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

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

25 * Sec. 14. AS 34.03.090 is amended to read:

26 Sec. 34.03.090. LANDLORD TO SUPPLY POSSESSION OF THE
27 DWELLING UNIT. At the commencement of the term the landlord shall deliver
28 possession of the premises to the tenant in compliance with the rental agreement and
29 AS 34.03.100. The landlord may, after serving a notice to quit under AS 09.45.100
30 - 09.45.105 to a person who is wrongfully in possession.

31 (1) bring an action for possession against any person wrongfully in

1 possession; and

2 (2) [MAY] recover the damages provided in AS 34.03.290.

3 * Sec. 15. AS 34.03.090 is amended by adding a new subsection to read:

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

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

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

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

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

19 * Sec. 16. AS 34.03.110(a) is amended to read:

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

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

28 (2) the provisions of

29 (A) a premises condition statement prepared under
30 AS 34.03.020(e) between the landlord and the tenant remains valid as
31 between the purchaser and the tenant until a new premises condition

1 statement is entered into between the purchaser and the tenant; and

2 (B) a contents inventory prepared under AS 34.03.020(e)
3 between the landlord and the tenant remains valid as between the
4 purchaser and the tenant for the contents remaining on the premises after
5 the conveyance of the premises until a new contents inventory is entered
6 into between the purchaser and the tenant.

7 * Sec. 17. AS 34.03.120 is amended by adding a new subsection to read:

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

13 * Sec. 18. AS 34.03.220(a) is amended to read:

14 (a) Except as provided in this chapter,

15 (1) if the tenant or someone in the tenant's control deliberately
16 inflicts substantial damage to the premises in breach of AS 34.03.120(a)(5), the
17 landlord may deliver a written notice to quit to the tenant under AS 09.45.100 -
18 09.45.105 specifying the act constituting the breach and specifying that the rental
19 agreement will terminate upon a date that is not less than 24 hours after service
20 of the notice: for purposes of this paragraph, damage to premises is "substantial"
21 if the loss, destruction, or defacement of property attributable to the deliberate
22 infliction of damage to the premises exceeds \$400 or the amount of the security
23 deposit held by the landlord under AS 34.03.070, whichever is greater;

24 (2) if there is a material noncompliance by the tenant with the rental
25 agreement, or if there is noncompliance with AS 34.03.120, other than deliberate
26 infliction of substantial damage to the premises, materially affecting health and
27 safety, the landlord may deliver a written notice to quit to the tenant under
28 AS 09.45.100 - 09.45.110 specifying the acts and omissions constituting the breach and
29 specifying that the rental agreement will terminate upon a date not less than 10 [20]
30 days after service [RECEIPT] of the notice; if [. IF] the breach is not remedied [IN
31 10 DAYS], the rental agreement terminates as provided in the notice subject to the

1 provisions of this section; if [. IF] the breach is remediable by repairs or the payment
2 of damages or otherwise and the tenant adequately remedies the breach before the date
3 specified in the notice, the rental agreement will not terminate; in [. IN] the absence
4 of due care by the tenant, if substantially the same act or omission that constituted a
5 prior noncompliance of which notice was given recurs within six months, the landlord
6 may terminate the rental agreement upon at least five [10] days written notice to quit
7 specifying the breach and the date of termination of the rental agreement.

8 * Sec. 19. AS 34.03.220 is amended by adding a new subsection to read:

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

11 * Sec. 20. AS 34.03.225 is amended by adding a new subsection to read:

12 (c) When, under (a) of this section, a mobile home park owner is required to
13 give notice to evict a mobile home owner or a mobile home park dweller or tenant,
14 provision of notice to quit under AS 09.45.100 - 09.45.105 satisfies the requirement
15 of notice.

16 * Sec. 21. AS 34.03.290(c) is amended to read:

17 (c) If the tenant remains in possession without the landlord's consent after
18 expiration of the term of the rental agreement or after its termination under (a) or (b)
19 of this section, the landlord may, after serving a notice to quit to the tenant under
20 AS 09.45.100 - 09.45.105, bring an action for possession and if the tenant's holdover
21 is wilful and not in good faith the landlord, in addition, may recover an amount not
22 to exceed one and one-half times the actual damages. If the landlord consents to the
23 tenant's continued occupancy, AS 34.03.020 applies.

24 * Sec. 22. AS 34.03.310(c) is amended to read:

25 (c) Notwithstanding (a) and (b) of this section, after serving a notice to quit
26 to the tenant under AS 09.45.100 - 09.45.105, a landlord may bring an action for
27 possession if

28 (1) the tenant is in default in rent;

29 (2) compliance with the applicable building or housing code requires
30 alteration, remodeling, or demolition that would effectively deprive the tenant of use
31 of the dwelling unit;

1 (3) the tenant is committing waste or a nuisance, or is using the
2 dwelling unit for an illegal purpose or for other than living or dwelling purposes in
3 violation of the rental agreement;

4 (4) the landlord seeks in good faith to recover possession of the
5 dwelling unit for personal purposes;

6 (5) the landlord seeks in good faith to recover possession of the
7 dwelling unit for the purpose of substantially altering, remodeling, or demolishing the
8 premises;

9 (6) the landlord seeks in good faith to recover possession of the
10 dwelling unit for the purpose of immediately terminating for at least six months use
11 of the dwelling unit as a dwelling unit; or

12 (7) the landlord has in good faith contracted to sell the property, and
13 the contract of sale contains a representation by the purchaser corresponding to (4), (5)
14 or (6) of this subsection.

15 * Sec. 23. AS 34.03.330(b) is amended to read:

16 (b) Unless created to avoid the application of this chapter, the following
17 arrangements are not governed by this chapter:

18 (1) residence at an institution, public or private, or in premises used
19 as temporary housing, public or private, if incidental to detention or the provision
20 of medical, geriatric, educational, counseling, religious, or similar services;

21 (2) occupancy under a contract of sale of a dwelling unit or the
22 property of which it is a part [,] if the occupant is the purchaser or a person who
23 succeeds to the interest of a purchaser;

24 (3) occupancy by a member of a fraternal or social organization in the
25 portion of a structure operated for the benefit of the organization;

26 (4) transient occupancy in a hotel, motel, lodgings, or other transient
27 facility;

28 (5) occupancy by an employee of a landlord whose right to occupancy
29 is conditioned upon employment substantially for services, maintenance, or repair to
30 the premises;

31 (6) occupancy by an owner of a condominium unit or a holder of a

1 proprietary lease in a cooperative;

2 (7) occupancy under a rental agreement covering premises used by the
3 occupant primarily for agricultural purposes.

4 * Sec. 24. AS 34.03 is amended by adding a new section to read:

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

15 * Sec. 25. AS 34.03 is amended by adding a new section to read:

16 Sec. 34.03.345. MEDIATION. A landlord and a tenant may agree to mediate
17 disputes between them as to an obligation of either of them arising out of the rental
18 agreement. If the landlord and tenant agree to mediate disputes, they shall include the
19 scope of the agreement within the executed rental agreement, incorporate a reference
20 to that agreement within the rental agreement, or add the text of the agreement as a
21 separate attachment to the rental agreement.

22 * Sec. 26. AS 34.03.360 is amended by adding new paragraphs to read:

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

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

31 (21) "illegal activity involving an imitation controlled substance" means

1 a violation of AS 11.73.010 - 11.73.030;

2 (22) "illegal activity involving a place of prostitution" means a violation
3 of AS 11.66.120(a)(1) or 11.66.130(a^{vv}) or (4);

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

5 * Sec. 27. AS 34.05 is amended by adding a new section to read:

6 ARTICLE 3. ILLEGAL ACTIVITIES IN PREMISES NOT
7 SUBJECT TO UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT.

8 Sec. 34.05.100. TENANT RESPONSIBILITIES IN PREMISES NOT
9 SUBJECT TO AS 34.03. (a) In rented premises other than premises to which the
10 provisions of AS 34.03 apply, the tenant may not knowingly engage at the premises
11 in prostitution, an illegal activity involving a place of prostitution, an illegal activity
12 involving alcoholic beverages, an illegal activity involving a controlled substance, or
13 an illegal activity involving an imitation controlled substance, or knowingly permit
14 others in the premises to engage in one or more of those activities at the rental
15 premises.

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

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

21 (d) In this section,

22 (1) "illegal activity involving alcoholic beverages," "illegal activity
23 involving a controlled substance," "illegal activity involving an imitation controlled
24 substance," "illegal activity involving a place of prostitution," and "prostitution" have
25 the meanings given in AS 34.03.360;

26 (2) "premises" means a structure or the structure of which it is a part,
27 and facilities and appurtenances in it, and grounds, areas, and facilities held out for the
28 use of persons entitled to possession under an agreement that relates to its use.

29 * Sec. 28. AS 34.03.360(18) is repealed.

30 * Sec. 29. AS 09.45.125, added by sec. 5 of this Act, allowing orders to vacate and writs
31 of assistance to issue at the same time as the entry of judgment or at any later date, has the

1 effect of amending Rule 62(a) of the Alaska Rules of Civil Procedure and Rule 24(a) of the
2 Alaska District Court Rules of Civil Procedure by eliminating the respective periods of
3 automatic stays of enforcement upon judgment for orders to vacate premises.

4 * Sec. 30. AS 09.45.125, added by sec. 5 of this Act, takes effect only if sec. 29 of this
5 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
6 Constitution of the State of Alaska

SENATE BILL NO. 155
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS FRANK, Leman, Pearce

Introduced: 3/10/93
Referred: STA, JUD

A BILL
FOR AN ACT ENTITLED

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

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

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

8 Sec. 04.21.075. NOTICE TO LANDLORD FOLLOWING ARREST. (a) A
9 peace officer who arrests a person for illegal activity involving alcoholic beverages on
10 premises that the peace officer believes are occupied by a person who is not the owner
11 of the premises shall
12 (1) make a reasonable attempt to discover the identity of the owner of
13 the 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
4 maintained by the municipality under AS 29.45.160 if the premises are located
5 within a municipality that levies and collects a property tax; if an address is not
6 available, notice of the person's arrest may be sent to the property owner at
7 any other address known to the peace officer.

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

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

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

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

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

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

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

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

31 (B) [, OR] contrary to a condition or covenant in the lease or

1 agreement, including the breach of a condition or covenant set out in
2 AS 34.03.120(a) but not including the breach of a condition or covenant to
3 which (1) of this section applies; or

4 (C) without a written lease or agreement;

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

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

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

12 (1) delivered to the tenant or person;

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

14 or

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

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

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

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

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

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

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

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

1 Sec. 09.45.110. PERIOD BETWEEN SERVICE OF NOTICE AND ACTION
2 BROUGHT. An action for the recovery of the possession of the premises may be
3 maintained

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

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

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

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

19 * Sec. 7. AS 09.45 is amended by adding a new section to read:

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

*(at first
right)
Before closer
inspection*

26 * Sec. 8. AS 09.50.170 is amended to read:

27 Sec. 09.50.170. ABATEMENT OF PLACES USED FOR CERTAIN ACTS
28 [IMMORAL ACT]. A person who erects, establishes, continues, maintains, uses,
29 owns, or leases a building, structure, or other place used for one of the following
30 activities [THE PURPOSES OF LEWDNESS, ASSIGNATION, OR PROSTITUTION
31 OR ANY OTHER IMMORAL ACT] is guilty of maintaining a nuisance, and the

1 building, structure, or place, or the ground itself in or upon which or in any part of
2 which the activity [LEWDNESS, ASSIGNATION, OR PROSTITUTION] is
3 conducted, permitted, [OR] carried on, continues, or exists, and its [THE] furniture,
4 fixtures, and other contents, constitute a nuisance and may be enjoined and abated:

5 (1) prostitution; or

6 (2) an illegal activity involving

7 (A) alcoholic beverages;

8 (B) a controlled substance; or

9 (C) an imitation controlled substance.

*- any illegal activity?
- does this need to be stated here?*

10 * Sec. 9. AS 09.50.170 is amended by adding a new subsection to read:

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

14 * Sec. 10. AS 09.50 is amended by adding a new section to read:

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

16 In an action brought under AS 09.50.170(a), the court may consider evidence of
17 reputation within a community to prove the existence of a nuisance.

18 * Sec. 11. AS 09.50.210 is amended to read:

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

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

26 (2) [SHALL BE ENTERED DIRECTING] the removal from the
27 building or place of the fixtures, furniture, and movable property used in the nuisance
28 and their sale in the manner provided for the sale of chattels under execution;

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

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

4 * Sec. 12. AS 09.50.230 is amended to read:

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

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

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

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

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

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

21 * Sec. 13. AS 17.30 is amended by adding a new section to read:

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

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

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

30 (A) in person; or

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

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

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

8 * Sec. 14. AS 34.03.020 is amended by adding a new subsection to read:

9 (e) If required by the landlord, the landlord and the tenant shall include within
10 the rental agreement, incorporate by reference in the rental agreement, or add as a
11 separate attachment to the rental agreement a premises condition statement, setting out
12 the condition of the premises, including fixtures but excluding reference to any of the
13 other contents of the premises, and, if applicable, a contents inventory itemizing or
14 describing all of the furnishings and other contents of the premises and specifying the
15 condition of each of them. In the premises condition statement and contents inventory,
16 the parties shall describe the premises and its contents at the commencement of the
17 term of the period of the occupancy covered by the rental agreement. When signed
18 by the parties, the premises condition statement and contents inventory completed
19 under this subsection become part of the rental agreement.

20 * Sec. 15. AS 34.03.070(b) is amended to read:

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

29 (1) means deterioration of the premises and, if applicable, of the
30 contents of the premises;

31 (2) does not include deterioration

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

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

6 * Sec. 16. AS 34.03.090 is amended by adding a new subsection to read:

7 (b) As a condition of delivery of possession of the premises to the tenant, the
8 landlord may require the tenant to acknowledge or verify by the tenant's signature the
9 accuracy of the premises condition statement and contents inventory prepared under
10 AS 34.03.020(c). Before requiring the tenant's signature, the landlord shall first advise
11 the tenant that the premises condition statement and contents inventory

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

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

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

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

22 * Sec. 17. AS 34.03.110(a) is amended to read:

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

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

31 (2) the provisions of

1 (A) a premises condition statement prepared under
2 AS 34.03.020(e) between the landlord and the tenant remains valid as
3 between the purchaser and the tenant until a new premises condition
4 statement is entered into between the purchaser and the tenant; and

5 (3) a contents inventory prepared under AS 34.03.020(e)
6 between the landlord and the tenant remains valid as between the
7 purchaser and the tenant for the contents remaining on the premises after
8 the conveyance of the premises until a new contents inventory is entered
9 into between the purchaser and the tenant.

10 * Sec. 18. AS 34.03.120 is amended to read:

11 Sec. 34.03.120. TENANT TO MAINTAIN DWELLING UNIT. The tenant
12 shall

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

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

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

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

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

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

28 (7) maintain smoke detection devices as required under AS 18.70.095.

29 * Sec. 19. AS 34.03.120 is amended by adding a new subsection to read:

30 (b) The tenant may not knowingly engage at the premises in an illegal activity
31 involving alcoholic beverages, an illegal activity involving a controlled substance, or

1 an illegal activity involving an imitation controlled substance, or knowingly permit
2 others in the premises to engage in one or more of those activities at the rental
3 premises.

4 * Sec. 20. AS 34.03.220(a) is amended to read:

5 (a) Except as provided in this chapter, if there is [A MATERIAL]
6 noncompliance by the tenant with the rental agreement or noncompliance with
7 AS 34.03.120(a) [AS 34.03.120 MATERIALLY AFFECTING HEALTH AND
8 SAFETY], the landlord may deliver a written notice to the tenant specifying the acts
9 and omissions constituting the breach and specifying that the rental agreement will
10 terminate 24 hours [UPON A DATE NOT LESS THAN 20 DAYS] after receipt of
11 the notice. If the breach is remediable by repairs or the payment of damages or
12 otherwise and the tenant remedies the breach to the satisfaction of the landlord
13 before the date specified in the notice, the rental agreement will not terminate.

14 If the breach is not remedied [IN 10 DAYS], the rental agreement terminates as
15 provided in the notice, and at that time the landlord may serve a notice under
16 AS 09.45.100 to quit the premises [SUBJECT TO THE PROVISIONS OF THIS
17 SECTION. IF THE BREACH IS REMEDIABLE BY REPAIRS OR THE PAYMENT
18 OF DAMAGES OR OTHERWISE AND THE TENANT ADEQUATELY REMEDIES
19 THE BREACH BEFORE THE DATE SPECIFIED IN THE NOTICE, THE RENTAL
20 AGREEMENT WILL NOT TERMINATE. IN THE ABSENCE OF DUE CARE BY
21 THE TENANT, IF SUBSTANTIALLY THE SAME ACT OR OMISSION THAT
22 CONSTITUTED A PRIOR NONCOMPLIANCE OF WHICH NOTICE WAS GIVEN
23 RECURS WITHIN SIX MONTHS, THE LANDLORD MAY TERMINATE THE
24 RENTAL AGREEMENT UPON AT LEAST 10 DAYS WRITTEN NOTICE
25 SPECIFYING THE BREACH AND THE DATE OF TERMINATION OF THE
26 RENTAL AGREEMENT].

27 * Sec. 21. AS 34.03.220(b) is amended to read:

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

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

4 * Sec. 22. 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
6 a rental agreement on the premises subject to the order of abatement.

7 * Sec. 23. AS 34.03 is amended by adding a new subsection to read:

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

19 * Sec. 24. AS 34.03.360 is amended by adding new paragraphs to read:

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

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

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

30 * Sec. 25. AS 34.05 is amended by adding a new section to read:

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

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

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

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

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

16 * Sec. 26. AS 34.03.360(18) is repealed.

Deborah

Please see page 13, lines 4-5
(underlined sections) for changes
made RE: abbot loop church.
Call if you have any questions.
Mike to

WORK DRAFT

WORK DRAFT

8-LS0832R
Chenoweth
3/2/94

CS FOR HOUSE BILL NO. 222()

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Porter

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to landlords and tenants and to the applicability of the Uniform
2 Residential' Landlord and Tenant Act, to termination of tenancies and recovery
3 of rental premises, to tenant responsibilities, to the civil remedies of forcible entry
4 and detainer and nuisance abatement, and to the duties of peace officers to notify
5 landlords of arrests involving certain illegal activity on rental premises; and
6 amending Rule 62(a) of the Alaska Rules of Civil Procedure and Rule 24(a) of
7 the Alaska District Court Rules of Civil Procedure."

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

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

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

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

1 the premises; and

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

3 (A) in person; or

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

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

11 * Sec. 2. AS 09.45.090 is repealed and reenacted to read:

12 Sec. 09.45.090. UNLAWFUL HOLDING BY FORCE. (a) For property to
13 which the provisions of AS 34.03 (Uniform Residential Landlord and Tenant Act)
14 apply, unlawful holding by force includes each of the following within the meaning
15 of AS 09.45.060 - 09.45.160:

16 (1) when, for failure or refusal to pay rent due on the lease or
17 agreement under which the tenant or person holds, and after receipt of demand under
18 AS 34.03.220(b) by the landlord for possession of the premises if the rent is not paid,
19 the tenant fails or refuses to vacate or pay the rent within 10 days;

20 (2) when, after receipt of demand made in writing for the possession
21 of the premises,

22 (A) because of a violation of a condition or covenant set out in
23 AS 34.03.120(a), other than a breach of AS 34.03.120(a)(5) due to the
24 deliberate infliction of substantial damage to the premises, the tenant fails or
25 refuses to deliver up the possession of the premises within the number of days
26 provided for termination under AS 34.03.220(a)(2);

27 (B) because of a violation of AS 34.03.120(a)(5) by deliberate
28 infliction of substantial damage to the premises, the tenant fails or refuses to
29 deliver up the possession of the premises by the date set out in the notice
30 provided under AS 34.03.220(a)(1);

31 (C) because the tenant has violated AS 34.03.120(b) or the

1 tenant has used the dwelling unit or allowed the dwelling unit to be used for
2 an illegal purpose, the tenant fails or refuses to deliver up the possession of the
3 premises within five days;

4 (D) because the landlord requires the tenant to vacate the
5 premises for a reason set out in AS 34.03.310(c)(2) or (c)(4) - (7), the tenant
6 fails or refuses to deliver up the possession of the premises within the longer
7 of 30 days or the period of notice for the landlord's recovery of possession of
8 the premises set out in the rental agreement; or

9 (E) because the tenancy is based upon an estate at will or by
10 sufferance, the tenant or person in possession continues in possession of the
11 premises after expiration of the time for determining the tenancy; or

12 (3) when, without a demand made in writing for the possession of the
13 premises,

14 (A) a person in possession continues in possession of the
15 premises

16 (i) *at the expiration of the time limited in the lease or*
17 *agreement under which that person holds; or*

18 (ii) without a valid rental agreement as that term is
19 defined in AS 34.03.360 and without the consent of the landlord; or

20 (B) a tenant or person in possession continues in possession of
21 the premises after the tenancy has been terminated by issuance of an order of
22 abatement under AS 09.50.210(a).

23 (b) For property to which the provisions of AS 34.03 (Uniform Residential
24 Landlord and Tenant Act) do not apply, unlawful holding by force includes each of
25 the following within the meaning of AS 09.45.060 - 09.45.160:

26 (1) when, for failure or refusal to pay rent due on the lease or
27 agreement under which the tenant or person in possession holds, after receipt of
28 demand made in writing by the landlord for the possession of the premises if the rent
29 is not paid, the tenant or person in possession fails or refuses to vacate or pay the rent
30 due within 10 days;

31 (2) when, after receipt of demand made in writing for the possession

1 of the premises,

2 (A) because the tenant or person in possession has violated a
3 condition or covenant of the lease or rental agreement other than breach of a
4 covenant or condition set out in (B) of this paragraph, the tenant or person in
5 possession of a premises fails or refuses to deliver up the possession of the
6 premises within 10 days;

7 (B) because the tenant or person in possession has deliberately
8 inflicted substantial damage to the premises, the tenant or person in possession
9 of a premises fails or refuses to deliver up the possession of the premises on
10 the date specified in the demand for possession; the date specified may not be
11 less than 24 hours after the date of receipt of the demand for possession;

12 (C) because the tenant or person in possession has violated
13 AS 34.05.100(a) or has used the premises for or allowed the premises to be
14 used for an illegal purpose, the tenant or person in possession fails or refuses
15 to deliver up the possession of the premises within five days;

16 (D) for premises the lease or occupation of which is primarily
17 for the purpose of farming or agriculture, because the tenant or person in
18 possession has violated of AS 34.05.025, other than a violation that is a breach
19 under (B) or (C) of this paragraph, the tenant fails or refuses to deliver up
20 possession of the premises within 30 days; or

21 (E) because the tenancy is based upon an estate at will or by
22 sufferance, the tenant or person in possession continues in possession of the
23 premises after expiration of the time for determining the tenancy; or

24 (3) when, without a demand made in writing for the possession of the
25 premises,

26 (A) a person in possession continues in possession of the
27 premises

28 (i) at the expiration of the time limited in lease or
29 agreement under which that person holds; or

30 (ii) without a written lease or agreement and without the
31 consent of the landlord; or

1 (B) a tenant or person in possession continues in the possession
2 of the premises after the tenancy has been terminated by issuance of an order
3 of abatement under AS 09.50.210(a).

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

5 Sec. 09.45.100. [REQUISITES OF] NOTICE TO QUIT. (a) Except where
6 demand for possession of premises is made under AS 09.45.090(a)(1) or (b)(1), in
7 addition to a demand made in writing for possession of premises required to be
8 given under AS 09.45.090, a person entitled to the premises who seeks to recover
9 possession of the premises may not commence and maintain an action to recover
10 possession of premises under AS 09.45.060 - 09.45.160 unless the person first gives
11 a notice to quit to the person in possession.

12 (b) To recover possession of premises after a tenant or person in
13 possession has failed or refused to pay rent due, for purposes of (d) of this section
14 and AS 09.45.110, demand for possession of the premises under AS 09.45.090(a)(1)
15 or (b)(1) constitutes notice to quit, and service of a separate notice to quit is not
16 required.

17 (c) Except as provided in (b) of this section, a notice to quit may not be
18 given until the number of days specified in AS 09.45.090 has expired following the
19 receipt by the person in possession of the demand in writing for possession.
20 However, if, under AS 09.45.090, there is no requirement that the person in
21 possession receive a demand in writing for the possession of the premises, the
22 person who seeks to recover possession may immediately serve a notice to quit
23 under this section.

24 (d) A notice to quit shall be in writing and shall be served upon the tenant or
25 person in possession by being

26 (1) delivered to the tenant or person;

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

28 or

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

1 * Sec. 4. AS 09.45.110 is amended to read:

2 Sec. 09.45.110. PERIOD BETWEEN SERVICE OF NOTICE AND ACTION
3 BROUGHT. An action for the recovery of the possession of the premises may be
4 commenced

5 (1) after service of [MAINTAINED IN THE CASES SPECIFIED IN
6 AS 09.45.090(2) WHEN] the notice to quit [HAS BEEN SERVED] upon the tenant
7 or person in possession

8 (A) by personal delivery of the notice to quit to the tenant
9 or person: or

10 (B) by leaving a copy of the notice to quit at the premises:
11 or

12 (2) on or after

13 (A) the 14th day following mailing of the demand for
14 possession of the premises to the tenant or person in possession by
15 registered or certified mail, when demand is made under
16 AS 09.45.090(a)(1) or (b)(1); or

17 (B) the fourth day following mailing of the notice to quit to
18 the tenant or person in possession by registered or certified mail in
19 circumstances not covered by AS 09.45.090(a)(1) or (b)(1) [FOR THE
20 PERIOD OF 10 DAYS BEFORE THE COMMENCEMENT OF THE ACTION
21 UNLESS THE LEASING OR OCCUPATION IS FOR THE PURPOSE OF
22 FARMING OR AGRICULTURE, IN WHICH CASE THE NOTICE SHALL
23 BE SERVED 90 DAYS BEFORE COMMENCEMENT OF THE ACTION].

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

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

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

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

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

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

17 (1) prostitution:

18 (2) an illegal activity involving a place of prostitution: or

19 (3) an illegal activity involving

20 (A) alcoholic beverages:

21 (B) a controlled substance: or

22 (C) an imitation controlled substance.

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

24 (b) In this section, "illegal activity involving alcoholic beverages," "illegal
25 activity involving a controlled substance," "illegal activity involving an imitation
26 controlled substance," "illegal activity involving a place of prostitution," and
27 "prostitution" have the meanings given in AS 34.03.360.

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

29 Sec. 09.50.175. ADMISSIBILITY OF EVIDENCE TO PROVE NUISANCE.
30 In an action brought under AS 09.50.170(a) to prove the existence of a nuisance, the
31 court may consider

- 1 (1) evidence of reputation within a community;
- 2 (2) evidence derived from records of the courts of the state or of the
- 3 United States that relate to previous complaints concerning alleged violations of, and
- 4 to arrests for or convictions of violations of, laws based on activity set out in
- 5 AS 09.50.170.

6 * Sec. 10. AS 09.50.210 is amended to read:

7 Sec. 09.50.210. ORDER OF ABATEMENT. (a) If the court finds and

8 enters [UPON] judgment that a nuisance exists, the court shall enter an order of

9 abatement. The order of abatement must direct

10 (1) termination of the lease or rental agreement, if any, on the

11 premises subject to the order of abatement, if the tenant who occupies under the

12 lease or rental agreement has been given notice of the proceedings under

13 AS 09.50.170 - 09.50.240;

14 (2) [SHALL BE ENTERED DIRECTING] the removal from the

15 building or place of the fixtures, furniture, and movable property used in the nuisance

16 and their sale in the manner provided for the sale of chattels under execution;

17 (3) [. THE ORDER SHALL ALSO DIRECT] the closing of the

18 building or place against its use for any purpose for a period of one year unless sooner

19 released.

20 (b) A person who breaks and enters or uses a building, structure, or other

21 place [SO] directed to be closed by an order entered under (a)(3) of this section is

22 guilty of contempt and shall be punished for contempt as provided in AS 09.50.200.

23 * Sec. 11. AS 09.50.230 is amended to read:

24 Sec. 09.50.230. RELEASE OF PREMISES TO OWNER. (a) The court may

25 order premises abated under AS 09.50.210 delivered to the owner and cancel the

26 order of abatement if [IF] the owner of the premises

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

28 (2) [, AND] appears and pays all costs, fees, and allowances that

29 [WHICH] are a lien on the premises; [,] and

30 (3) files a bond with sureties approved by the court in an amount

31 [THE FULL VALUE OF THE PROPERTY AS] determined by the court to the effect

1 that the owner will abate the nuisance that exists at the building or place and prevent
2 the nuisance from being established within a period of one year thereafter [, THE
3 COURT MAY ORDER THE PREMISES TO BE DELIVERED TO THE OWNER
4 AND CANCEL THE ORDER OF ABATEMENT].

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

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

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

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

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

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

17 (A) in person; or

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

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

26 * Sec. 13. AS 34.03.020 is amended by adding a new subsection to read:

27 (e) If required by the landlord, the landlord and the tenant shall include within
28 the rental agreement, incorporate by reference in the rental agreement, or add as a
29 separate attachment to the rental agreement a premises condition statement, setting out
30 the condition of the premises, including fixtures but excluding reference to any of the
31 other contents of the premises, and, if applicable, a contents inventory itemizing or

1 describing all of the furnishings and other contents of the premises and specifying the
2 condition of each of them. In the premises condition statement and contents inventory,
3 the parties shall describe the premises and its contents at the commencement of the
4 term of the period of the occupancy covered by the rental agreement. When signed
5 by the parties, the premises condition statement and contents inventory completed
6 under this subsection become part of the rental agreement.

7 * Sec. 14. AS 34.03.070(b) is amended to read:

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

16 (1) means deterioration of the premises and, if applicable, of the
17 contents of the premises;

18 (2) does not include deterioration

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

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

24 * Sec. 15. AS 34.03.090 is amended by adding a new subsection to read:

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

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

31 (A) to determine whether prepaid rent or a security deposit shall

1 be applied to the payment of damages to the premises when authorized by
2 AS 34.03.070(b); and

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

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

9 * Sec. 16. AS 34.03.110(a) is amended to read:

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

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

18 (2) the provisions of

19 (A) a premises condition statement prepared under
20 AS 34.03.020(e) between the landlord and the tenant remains valid as
21 between the purchaser and the tenant until a new premises condition
22 statement is entered into between the purchaser and the tenant; and

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

28 * Sec. 17. AS 34.03.120 is amended by adding a new subsection to read:

29 (b) The tenant may not knowingly engage at the premises in prostitution, an
30 illegal activity involving a place of prostitution, an illegal activity involving alcoholic
31 beverages, an illegal activity involving a controlled substance, or an illegal activity

1 involving an imitation controlled substance, or knowingly permit others in the premises
2 to engage in one or more of those activities at the rental premises.

3 * Sec. 18. AS 34.03.220(a) is amended to read:

4 (a) Except as provided in this chapter,

5 (1) if the tenant or someone in the tenant's control deliberately
6 inflicts substantial damage to the premises in breach of AS 34.03.120(a)(5), the
7 landlord may deliver a written notice to the tenant specifying the act constituting
8 the breach and specifying that the rental agreement will terminate upon a date
9 that is not less than 24 hours after receipt of the notice: at any time after the date
10 set out in the notice, the landlord may serve a notice to quit the premises: for
11 purposes of this paragraph, damage to premises is "substantial" if the loss,
12 destruction, or defacement of property attributable to the deliberate infliction of
13 damage to the premises exceeds the amount of the security deposit held by the
14 landlord under AS 34.03.070:

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

29 * Sec. 19. AS 34.03.220 is amended by adding a new subsection to read:

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

1 * Sec. 20. AS 34.03.330(b) is amended to read:

2 (b) Unless created to avoid the application of this chapter, the following
3 arrangements are not governed by this chapter:

4 (1) residence at an institution, public or private, or in premises used
5 as temporary housing, public or private, if incidental to detention or the provision
6 of medical, geriatric, educational, counseling, religious, or similar services;

7 (2) occupancy under a contract of sale of a dwelling unit or the
8 property of which it is a part [,] if the occupant is the purchaser or a person who
9 succeeds to the interest of a purchaser;

10 (3) occupancy by a member of a fraternal or social organization in the
11 portion of a structure operated for the benefit of the organization;

12 (4) transient occupancy in a hotel, motel, lodgings, or other transient
13 facility;

14 (5) occupancy by an employee of a landlord whose right to occupancy
15 is conditioned upon employment substantially for services, maintenance, or repair to
16 the premises;

17 (6) occupancy by an owner of a condominium unit or a holder of a
18 proprietary lease in a cooperative;

19 (7) occupancy under a rental agreement covering premises used by the
20 occupant primarily for agricultural purposes.

21 * Sec. 21. AS 34.03 is amended by adding a new section to read:

22 Sec. 34.03.335. PROOF OF CERTAIN PROPERTY DAMAGE CLAIMS. In
23 an action initiated by a party to recover damages or to obtain other relief to which a
24 party may be entitled under this chapter, a premises condition statement and contents
25 inventory prepared under AS 34.03.020(e) is presumptive evidence of the condition of
26 the premises and its contents at the commencement of the term of the period of
27 occupancy covered by the rental agreement between the parties. Unless its authenticity
28 is rebutted by clear and convincing evidence by the party against whom the statement
29 and contents inventory is offered, the statement and contents inventory may be offered
30 by a party, without additional supporting evidence, as the basis on which to compute
31 the recovery of damages to which the party may be entitled under this chapter.

1 * Sec. 22. AS 34.03 is amended by adding new sections to read:

2 Sec. 34.03.342. NOTICE TO LANDLORD FOLLOWING ARREST
3 RELATED TO PROSTITUTION. A peace officer who arrests a person the peace
4 officer believes is not the owner of the premises for prostitution or an illegal activity
5 involving a place of prostitution alleged to have been committed by the person on the
6 premises shall

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

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

10 (A) in person; or

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

16 Sec. 34.03.345. MEDIATION. A landlord and a tenant may agree to mediate
17 disputes between them as to an obligation of either of them arising out of the rental
18 agreement. If the landlord and tenant agree to mediate disputes, they shall include the
19 scope of the agreement within the executed rental agreement, incorporate a reference
20 to that agreement within the rental agreement, or add the text of the agreement as a
21 separate attachment to the rental agreement.

22 * Sec. 23. AS 34.03.360 is amended by adding new paragraphs to read:

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

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

31 (21) "illegal activity involving an imitation controlled substance" means

1 a violation of AS 11.73.010 - 11.73.030;

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

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

5 * Sec. 24: AS 34.05 is amended by adding a new section to read:

6 ARTICLE 3. ILLEGAL ACTIVITIES IN PREMISES NOT
7 SUBJECT TO UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT.

8 Sec. 34.05.100. TENANT RESPONSIBILITIES IN PREMISES NOT
9 SUBJECT TO AS 34.03. (a) In rented premises other than premises to which the
10 provisions of AS 34.03 apply, the tenant may not knowingly engage at the premises
11 in prostitution, an illegal activity involving a place of prostitution, an illegal activity
12 involving alcoholic beverages, an illegal activity involving a controlled substance, or
13 an illegal activity involving an imitation controlled substance, or knowingly permit
14 others in the premises to engage in one or more of those activities at the rental
15 premises.

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

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

21 (d) A peace officer who arrests a person the peace officer believes is not the
22 owner of the premises for prostitution or an illegal activity involving a place of
23 prostitution alleged to have been committed by the person on the premises shall

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

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

27 (A) in person; or

28 (B) in writing, at the last address listed on the assessment roll
29 maintained by the municipality under AS 29.45.160 if the premises are located
30 within a municipality that levies and collects a property tax; if an address is not
31 available, notice of the person's arrest may be sent to the property owner at

1 any other address known to the peace officer.

2 (e) In this section,

3 (1) "illegal activity involving alcoholic beverages," "illegal activity
4 involving a controlled substance," "illegal activity involving an imitation controlled
5 substance," "illegal activity involving a place of prostitution," and "prostitution" have
6 the meanings given in AS 34.03.360;

7 (2) "premises" means a structure or the structure of which it is a part,
8 and facilities and appurtenances in it, and grounds, areas, and facilities held out for the
9 use of persons entitled to possession under an agreement that relates to its use.

10 * Sec. 25. AS 34.03.360(18) is repealed.

11 * Sec. 26. AS 09.45.125, added by sec. 5 of this Act, allowing orders to vacate and writs
12 of assistance to issue at the same time as the entry of judgment or at any later date, has the
13 effect of amending Rule 62(a) of the Alaska Rules of Civil Procedure and Rule 24(a) of the
14 Alaska District Court Rules of Civil Procedure by eliminating the respective periods of
15 automatic stays of enforcement upon judgment for orders to vacate premises.

16 * Sec. 27. AS 09.45.125, added by sec. 5 of this Act, takes effect only if sec. 26 of this
17 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
18 Constitution of the State of Alaska.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 222() "U" Version

Page 12, line 30:

Delete "as temporary housing, public or private."

Insert "as a temporary shelter, whether public or private, for persons who meet the definition of "homeless" under applicable regulations of the Department of Housing and Urban Development"

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HB 222 Finance Subcommittee Changes

(a) Adopted Rep. Brown's Amendment J.10

(1) Divides section AS 34.03.220 into 2 subsections

A. When the tenant deliberately inflicts substantial damage to the premises, the landlord may serve notice to quit and terminate the rental agreement 24 hours after service of notice.

B. When there is material non-compliance by the tenant of AS 34.03.120(a), other than (a)(5), the landlord may serve notice to quit, and if the noncompliance is not remedied within 10 days, the landlord may terminate the rental agreement.

(2) Returns original language of AS 34.03.120(a) as it currently appears in statute.

(b) Adopted Representative Hanley's amendment J.12 (amended amendment)

Amended AS 34.03.330(b)(1), under arrangements not governed by this chapter to include, "in premises used as temporary housing, public or private,..."

(c) Adopted Amendment J.1

Adds notice of change of relevant court rules (Rule 62(a) of Alaska Rules of Civil Procedure and Rule 24(a) of Alaska District Court Rules of Civil Procedure), due to the addition of AS 09.45.125 in the draft's section 6.

(d) Modified and adopted Representative Finkelstein's amendment J.9

Adopted a new section, draft's section 27, which would require notice to landlord following arrest for activities involving prostitution or an illegal activity involving a place of prostitution alleged to have been committed by the person on the premises.

(e) Adopted Representative Brown's amendment R.1 (amended amendment)

Changed the definition of substantial damage in draft's section 20, to include "\$400.00 or" the amount of the security deposit held by the landlord under AS 34.03.070, whichever is greater.

(f) Added a new section, AS 34.03.345 "Mediation" to draft's section 27, from Representative Finkelstein's amendment K.18. Only the first two sentences of

amendment's page 2, section 26 were adopted.

(g) adopted rewrite of AS 09.45.090, "Unlawful holding by force."

(1) Cross referenced applicable provisions in Title 34 and Title 9

(2) Clarified notice required under 09.455.100-105 satisfies requirements on corresponding provisions in Title 34

(h) Adopted Representative Parnell's amendment R.4

Replaces existing references of "receipt" of notice with "service" of notice.

(i) Added definition of "peace officer" to AS 34.03.360(23) to draft's section 28.

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Sec 2 UNLAWFUL HOLDING BY FORCE includes:

a For property to which Uniform Landlord/Tenant Act DOES APPLY, UNLAWFUL HOLDING BY FORCE includes:

1. when tenant fails to pay rent 10 days after service of written notice;
2. when
  - A tenant fails to maintain premises, affecting health and safety, and fails to vacate 10 days after service of written notice
  - B tenant has deliberately inflicted substantial damage of \$400 or security deposit, whatever is greater, and has RECEIVED notice that agreement will terminate in 24 hours, and fails to vacate in specified time
  - C tenant fails to vacate 30 days after landlord gives notice of: remodeling due to code; good faith recovery for personal purposes or remodeling; or sale of property
  - D tenant in mobile home park fails to vacate in specified time after land use change
  - E tenant fails to vacate within specified time after expiration of week-to-week or month-to-month agreement
  - F tenant knowingly engages in illegal activity and fails to vacate in 5 days after service of written notice
  - G tenant has no valid rental agreement and fails to vacate.
3. when without a notice to quit, but after an order of abatement, tenant fails to vacate.

**b** For property to which Uniform Landlord/Tenant Act DOES NOT APPLY,  
UNLAWFUL HOLDING BY FORCE includes:

1. when tenant fails to pay rent 10 days after service of written notice;
2. when, following service of notice to quit
  - A tenant has breached rental agreement and fails to vacate in 10 days
  - B tenant has deliberately inflicted substantial damage and fails to vacate in 24 hours
  - C tenant has used premises for illegal purposes and fails to vacate in 5 days
  - D tenant on agricultural property breaches agreement and fails to vacate in 30 days
  - E tenant fails to vacate after estate at will terminates
  - F tenant fails to vacate
    - i. at expiration of time limited in agreement
    - ii. without written agreement or consent
3. when tenant fails to vacate after order of abatement.

**C** when landlord is required to provide written notice by mail, 3 days must be added to a and b above.

## Tenant fails to pay rent when due

Tenant fails to pay rent when due  
(Violation of AS 09.45.090(a)(1))

Landlord may serve notice  
under AS 09.45.100(b), of  
written notice required by  
AS 34.03.220(b)

If notice is served  
by being (1)  
delivered to the  
tenant or person;  
(2) left at the  
premises in case  
of absence from  
the premises

If notice is served  
by being sent by  
registered or  
certified mail

Unlawful holding of  
force occurs if the  
rent is not paid and  
the tenant or person  
in possession of  
premises fails to  
vacate within 10  
days of service of  
notice

Unlawful holding of  
force occurs if the  
rent is not paid and  
the tenant or person  
in possession of  
premises fails to  
vacate within 13  
days of service of  
notice

### 09.45.090(a)(1)

When, for failure or refusal to pay rent due on the lease or agreement under which the tenant or person holds, and after service, under AS 09.45.100(b), of the written notice required by AS 34.03.220(b) by the landlord for recovery of possession of the premises of the rent is not paid, the tenant or person in possession fails or refuses to vacate or pay the rent within 10 days;

### 09.45.100(b)

To recover possession of premises after a tenant or person in possession has failed or refused to pay rent due, for purposes of (c) of this section and AS 09.45.110, service of the written notice required by AS 34.03.220(b) or a demand in writing for possession of the premises constitutes notice to quit, and service of a separate notice to quit is not required.

### 34.03.200(b)

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

An action for the recovery of the possession of the premises may be commenced on or after the date the tenant or person in possession unlawfully holds the possession of the dwelling unit by force as determined under AS 09.45.090.

**Tenant violates condition under AS 34.03.120(a),  
other than AS 34.03.120(a)(5)**

Tenant violates condition of AS 34.03.120(a), other than AS 34.03.120(a)(5), or condition in the rental agreement

Landlord may serve notice under AS 09.45.100, of written notice required by AS 34.03.220(a)(2)

If notice is served by being (1) delivered to the tenant or person; (2) left at the premises in case of absence from the premises

If notice is served by being sent by registered or certified mail

Unlawful holding of force occurs if noncompliance is not satisfied within the number of days specified under AS 34.03.220(a)(2)

Unlawful holding of force occurs if noncompliance is not satisfied within three days added to the number of days specified under AS 34.03.220(a)(2)

An action for the recovery of the possession of the premises may be commenced on or after the date the tenant or person in possession unlawfully holds the possession of the dwelling unit by force as determined under AS 09.45.090.

**AS 34.03.120(a) Tenant to maintain dwelling unit.**  
The tenant shall  
(1) keep that part of the premises occupied and used by the tenant as clean and safe as the condition of the premises permit;  
(2) dispose all ashes, rubbish, garbage, and other waste from the dwelling unit in a clean and safe manner;  
(3) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;  
(4) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilation, air-conditioning, kitchen, and other facilities and appliance including elevators in the premises;  
(6) not unreasonably disturb, or permit others on the premises with the tenant's consent to unreasonably disturb, a neighbor's peaceful enjoyment of the premises; and  
(7) maintain smoke detection devices as required under AS 18.70.095.

**AS 34.03.220(a)(2)**  
If there is a material noncompliance by the tenant with the rental agreement, or if there is noncompliance with AS 34.03.120, other than deliberate infliction of substantial damage to the premises, materially affecting health and safety, the landlord may deliver a written notice to quit to the tenant under AS 09.45.100 - 09.45.110 specifying the acts and omission constituting the breach and specifying that the rental agreement will terminate upon a date not less than 10 days after receipt of the notice; if the breach is not remedied the rental agreement terminates as provided in the notice subject to the provisions of this section; if the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement will not terminate; if noncompliance recurs within six months, the landlord may terminate the rental agreement upon at least five days written notice to quit.

**Tenant violates condition under AS 34.03.120(a)(5),  
deliberately inflicting substantial damage to the premises**

Tenant violates condition under AS 34.03.120(a)(5), deliberately inflicting substantial damage to the premises

**AS 34.03.120(a)(5) Tenant to maintain dwelling unit.**  
The tenant shall  
(5) not deliberately or negligently destroy, deface, damage, impair, or remove a part of the premises or knowingly permit any person to do so.

Landlord may serve notice under AS 09.45.100, of written notice required by AS 34.03.220(a)(1)

**AS 34.03.220(a)(1)**  
...for purposes of this paragraph, damage to premises is "substantial" if the loss, destruction, or defacement of property attributable to the deliberate infliction of damage to the premises exceeds \$400 or the amount of the security deposit held by the landlord under AS 34.03.070, whichever is greater.

If notice is served by being (1) delivered to the tenant or person; (2) left at the premises in case of absence from the premises

If notice is served by being sent by registered or certified mail

Unlawful holding of force occurs if tenant refuses to vacate within 24 hours after receipt of notice specified under AS 34.03.220(a)(1)

Unlawful holding of force occurs if the tenant refuses to vacate the premises within 4 days of service of notice specified under AS 34.03.220(a)(1)

An action for the recovery of the possession of the premises may be commenced on or after the date the tenant or person in possession unlawfully holds the possession of the dwelling unit by force as determined under AS 09.45.090.

**Landlord requires tenant to vacate the premises for a reason set out in AS 34.03.310(c)(2) or (c)(4)-(7)**

Landlord requires tenant to vacate the premises for a reason set out in AS 34.03.310(c)(2) or (c)(4)-(7)

Landlord may serve notice under AS 09.45.100

If notice is served by being (1) delivered to the tenant or person; (2) left at the premises in case of absence from the premises

Unlawful holding of force occurs if tenant fails to vacate within the longer of 30 days or period of notice for the landlord's recovery of premises set out in rental agreement

If notice is served by being sent by registered or certified mail

Unlawful holding of force occurs if tenant fails to vacate within three days added to the longer of 30 days or period of notice for the landlord's recovery of premises set out in rental agreement

An action for the recovery of the possession of the premises may be commenced on or after the date the tenant or person in possession unlawfully holds the possession of the dwelling unit by force as determined under AS 09.45.090.

**AS 34.03.310 Retaliatory conduct prohibited**

(c) Notwithstanding (a) and (b) of this section, a landlord may bring an action for possession if

(2) compliance with the applicable building or housing code requires alteration, remodeling, or demolition that would effectively deprive the tenant of use of the dwelling unit;

(4) the landlord seeks in good faith to recover possession of the dwelling unit for personal purpose;

(5) the landlord seeks in good faith to recover possession of the dwelling unit for the purpose of substantial altering, remodeling, or demolishing the premises;

(6) the landlord seeks in good faith to recover possession of the dwelling unit for the purpose of immediately terminating for at least six months use of the dwelling unit as a dwelling unit; or

(7) the landlord has in good faith contracted to sell the property, and the contract of sale contains a representation by the purchaser corresponding to (4), (5), or (6) of this subsection.

**In a mobile home park, if there is to be a change in the use of land for which termination of tenancy is authorized by AS 34.03.225(a)(4)**

In a mobile home park, if there is to be a change in the use of land for which termination of tenancy is authorized by AS 34.03.225(a)(4)

Landlord may serve notice under AS 09.45.100

If notice is served by being (1) delivered to the tenant or person; (2) left at the premises in case of absence from the premises

Unlawful holding of force occurs if tenant fails to vacate within the longer of 180 days or period of notice for the landlord's recovery of premises set out in rental agreement

If notice is served by being sent by registered or certified mail

Unlawful holding of force occurs if tenant fails to vacate within three days added to the longer of 180 days or period of notice for the landlord's recovery of premises set out in rental agreement

An action for the recovery of the possession of the premises may be commenced on or after the date the tenant or person in possession unlawfully holds the possession of the dwelling unit by force as determined under AS 09.45.090.

**AS 34.03.225(a)(4) Limitations on mobile home park operator's right to terminate**

(a) A mobile home park operator may evict a mobile home or a mobile home park dweller or tenant only for one of the following reasons:

(4) a change in the use of the land comprising the mobile home park, or the portion of it on which the mobile home to be evicted is located; however, all dwellers or tenant so affected by a change in land use shall be given at least 180 days notice, or longer if a longer notice period is provided in a valid lease.

**Tenant remains in possession of the premises without the landlord's consent after the termination of a periodic tenancy prescribed by AS 34.03.290(a) or (b)**

Tenant remains in possession of the premises without the landlord's consent after the termination of a periodic tenancy prescribed by AS 34.03.290(a) or (b)

Landlord may serve a notice to quit under AS 09.45.100 of written notice required by AS 34.03.290(a) & (b)

If notice is served by being (1) delivered to the tenant or person; (2) left at the premises in case of absence from the premises

If notice is served by being sent by registered or certified mail

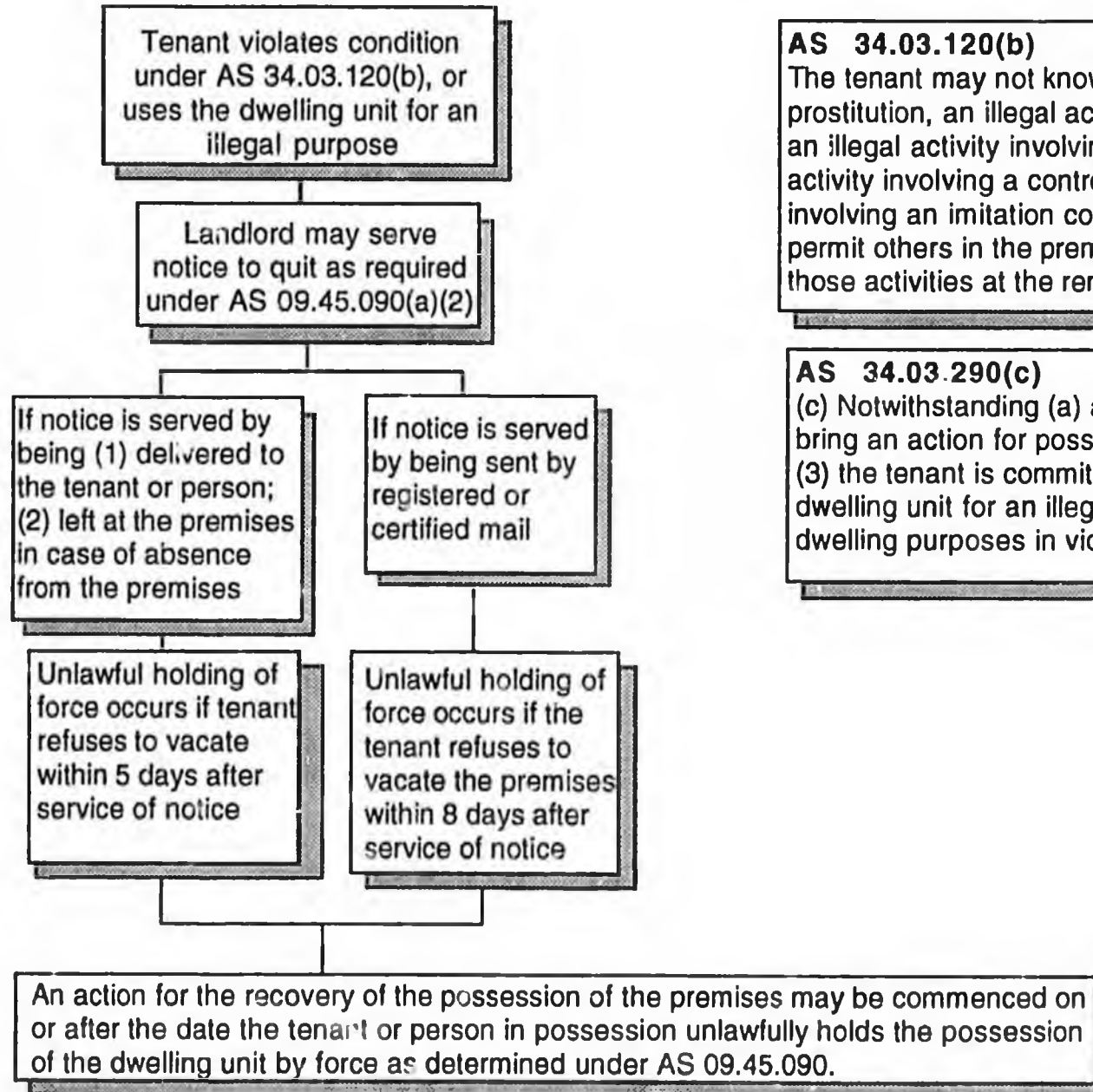
Unlawful holding of force occurs if tenant refuses to vacate within time specified under AS 34.03.290(a) & (b)

Unlawful holding of force occurs if tenant refuses to vacate within three days added to time specified under AS 34.03.290(a) & (b)

An action for the recovery of the possession of the premises may be commenced on or after the date the tenant or person in possession unlawfully holds the possession of the dwelling unit by force as determined under AS 09.45.090.

**AS 34.03.290 Periodic tenancy and holdover**  
(a) While rent is current, the landlord or the tenant may terminate a week to week tenancy by written notice given to the other at least 14 days before the termination date specified in the notice  
(b) The landlord or the tenant may terminate a month to month tenancy by written notice given to the other at least 30 days before the rental due date specified in the notice.

**Tenant violates condition under AS 34.03.120(b) or uses the dwelling unit for an illegal purpose in violation of AS 34.03.310(c)(3)**



**AS 34.03.120(b)**

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

**AS 34.03.290(c)**

(c) Notwithstanding (a) and (b) of this section, a landlord may bring an action for possession if (3) the tenant is committing waste or a nuisance, or is using the dwelling unit for an illegal purpose or for other than living or dwelling purposes in violation of the rental agreement;

**Tenant continues in possession of the premises without a valid rental agreement as defined in AS 34.03.360**

**AS 34.03.360 Definitions**

(13) "rental agreement" means all agreements, written or oral, and valid rules and regulation adopted under AS 34.03.130 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

Tenant continues in possession of the premises without a valid rental agreement as defined in AS 34.03.360

Landlord may immediately serve notice to quit under AS 09.45.100

If notice is served by being (1) delivered to the tenant or person; (2) left at the premises in case of absence from the premises

If notice is served by being sent by registered or certified mail

Unlawful holding of force occurs if tenant refuses to vacate immediately after service of notice

Unlawful holding of force occurs if tenant refuses to vacate within 3 days of service of notice

An action for the recovery of the possession of the premises may be commenced on or after the date the tenant or person in possession unlawfully holds the possession of the dwelling unit by force as determined under AS 09.45.090.

### **Problem**

Tenant fails to pay rent when due.

### **Current Procedure**

1. Landlord gives notice of nonpayment & intention to terminate rental agreement if rent is not paid.  
See AS 34.03.220(b).

2. Tenant has 10 days to pay rent or vacate premises.  
See AS 34.03.220(b).

3. If rent is not paid, then tenancy terminates, the landlord may terminate the rental agreement, & immediately seek to recover possession of the rental unit; in addition, it becomes a case of unlawful holding.  
See AS 34.03.220(b).  
Also see AS 09.45.090(1).

4. Court must schedule trial no earlier than 2 days after receipt of summons by tenant & no later than 15 days after landlord files complaint.  
See AS 09.45.120.  
Also see Civil Rule 85, Alaska Rules of Court.

5. If judge decides in favor of landlord, tenant will be served a court order to vacate premises; the time allowed varies.

6. If tenant still does not vacate premises, landlord can get writ of assistance that permits police to participate.

### **Proposed Procedure\***

1. Landlord gives notice of nonpayment & intention to terminate rental agreement if rent is not paid.

2. Tenant has 5 days to pay rent or vacate premises.  
See bill sec. 2 & 21.

3. If rent is not paid, then tenancy terminates, the landlord may terminate the rental agreement, & immediately seek to recover possession of the rental unit; in addition, it becomes a case of unlawful holding.

4. Court must schedule trial no earlier than 2 days after receipt of summons by tenant & no later than 15 days after landlord files complaint.

5. If judge decides in favor of landlord, tenant will be served a court order to vacate premises; the time allowed varies. The court may issue a writ of assistance at the same time if it so chooses.  
See bill sec. 6.

\* Changes underlined.

**Problem**

Tenant holds premises without written lease or agreement against landlord's wishes.

**Current Procedure**

1. Landlord serves tenant with notice to quit premises.  
See AS 09.45.100

2. Tenant has 10 days to vacate premises.  
See AS 09.45.110

3. If tenant remains after expiration of 10 days, it becomes a case of unlawful holding by force, & landlord may seek to recover possession of premises.  
See AS 09.45.090  
Also see AS 09.45.110

4. Court must schedule trial no earlier than 2 days after receipt of summons by tenant & no later than 15 days after landlord files complaint.  
See AS 09.45.120  
Also see Civil Rule 85, Alaska Rules of Court

5. If judge decides in favor of landlord, tenant will be served a court order to vacate premises; the time allowed varies.

6. If tenant still does not vacate premises, landlord can get writ of assistance that permits police to participate.

**Proposed Procedure\***

1. Landlord serves tenant with notice to quit premises.  
See AS 09.45.100

2. Tenant must vacate premises immediately.  
See bill sec. 2 & 5

3. If tenant remains, it becomes a case of unlawful holding by force, & landlord may seek to recover possession of premises.  
See bill sec. 2 & 5.

4. Court must schedule trial no earlier than 2 days after receipt of summons by tenant & no later than 15 days after landlord files complaint.  
See AS 09.45.120  
Also see Civil Rule 85, Alaska Rules of Court

5. If judge decides in favor of landlord, tenant will be served a court order to vacate premises; the time allowed varies. The court may issue a writ of assistance at the same time if it so chooses.  
See bill section 6

\* Changes underlined.

**Problem**

Tenant continues in possession of premises at expiration of lease against wishes of landlord.

**Current Procedure**

1. Landlord serves tenant with notice to quit premises.  
See AS 09.45.100

2. Tenant has 10 days to vacate premises.  
See AS 09.45.110

3. If tenant remains after expiration of 10 days, it becomes a case of unlawful holding by force, & landlord may seek to recover possession of premises.  
See AS 09.45.090  
Also see AS 09.45.110

4. Court must schedule trial no earlier than 2 days after receipt of summons by tenant & no later than 15 days after landlord files complaint.  
See AS 09.45.120  
Also see Civil Rule 85, Alaska Rules of Court

5. If judge decides in favor of landlord, tenant will be served a court order to vacate premises; the time allowed varies.

6. If tenant still does not vacate premises, landlord can get writ of assistance that permits police to participate.

**Proposed Procedure\***

1. Landlord serves tenant with notice to quit premises.  
See AS 09.45.100

2. Tenant has 5 days to vacate premises.  
See bill sec. 2 & 5

3. If tenant remains after expiration of 5 days, it becomes a case of unlawful holding by force, & landlord may seek to recover possession of premises.  
See bill sec. 2 & 5

4. Court must schedule trial no earlier than 2 days after receipt of summons by tenant & no later than 15 days after landlord files complaint.  
See AS 09.45.120  
Also see Civil Rule 85, Alaska Rules of Court

5. If judge decides in favor of landlord, tenant will be served a court order to vacate premises; the time allowed varies. The court may issue a writ of assistance at the same time if it so chooses.  
See bill section 6.

\* Changes underlined.

**Problem**

Tenant violates condition of lease or condition of AS 34.03.120(a).

**Current Procedure**

1. If the breach is one materially affecting health & safety, the landlord may give tenant written notice specifying both the details of the breach & that the rental agreement will terminate in 20 days. See AS 34.03.220

2. If breach is able to be remedied & tenant adequately does so, rental agreement will not terminate. See AS 34.03.220

3. If breach is not remedied in 10 days, rental agreement terminates as specified in notice. See AS 34.03.220

4. If tenant remains after expiration of 20 days, it becomes a case of unlawful holding by force, & landlord may seek to recover possession of premises. See AS 09.45.090 Also see AS 09.45.110

5. Court must schedule trial no earlier than 2 days after receipt of summons by tenant & no later than 15 days after landlord files complaint. See AS 09.45.120 Also see Civil Rule 85, Alaska Rules of Court

6. If judge decides in favor of landlord, tenant will be served a court order to vacate premises; the time allowed varies.

7. If tenant still does not vacate premises, landlord can get writ of assistance that permits police to participate.

8. If same breach occurs again within 6 mos., landlord may terminate tenancy at 10 days' notice. See AS 34.03.220

9. There is another process for breaches of this sort that is set out in AS 09.45, but AS 34.03.220 would probably have legal precedence as it was adopted at a later date.

**Proposed Procedure\***

1. Landlord serves tenant with notice to quit premises that specifies the details of the breach and that the rental agreement will terminate in 24 hours. See bill sec. 20

2. If breach is able to be remedied & tenant does so to the satisfaction of landlord, rental agreement will not terminate. See bill sec. 20

3. If breach is not remedied in 24 hrs. or is not able to be remedied, then the tenancy is terminated & the tenant must quit premises immediately. See bill sec. 20

4. If tenant remains after expiration of 24 hrs., it becomes a case of unlawful holding by force, & landlord may seek to recover possession of premises. See bill sec. 2 & 5

5. Court must schedule trial no earlier than 2 days after receipt of summons by tenant & no later than 15 days after landlord files complaint.

6. See (6) & (7) above; court may do both at same time. See bill sec. 6

\* Changes underlined.

### **Problem**

Tenant engages in an illegal activity in rental unit (or knowingly permits others to do so) involving: alcohol, controlled substances, imitation controlled substances, or prostitution.

### **Current Procedure**

1. Current statutes do not specifically address the tenant's responsibility not to engage in illegal activity involving alcohol or controlled substances.

2. If tenant is suspected of engaging in prostitution, atty. general or a citizen may bring action in court to enjoin the nuisance & person(s) maintaining it.  
See AS 09.50.180

3. If court determines that tenant is engaging in prostitution, tenant is guilty of maintaining a nuisance, & court shall issue an order of abatement that closes the bldg. where nuisance took place for one year.  
See AS 09.50.170 and AS 09.50.210

4. If landlord was unaware of activity, court may release premises to him upon fulfillment of certain conditions.  
See AS 09.50.230

### **Proposed Procedure**

1. If tenant engages at premises in illegal activity involving alcohol/controlled substances, landlord may deliver notice to quit.  
See bill sec. 2

2. Tenant has 5 days to vacate premises.  
See bill sec. 2

3. If tenant remains after expiration of 5 days, it becomes a case of unlawful holding by force, & landlord may seek to recover possession of premises.  
See bill sec. 2

4. If tenant is accused of engaging in prostitution or illegal activity involving alcohol/controlled substances, court may consider evidence of reputation w/in a community to prove the existence of a nuisance.  
See bill sec. 10

5. If court determines that tenant did commit alleged violation, then tenant is guilty of maintaining a nuisance.  
See bill sec. 8

\* Changes underlined.

(Continued on next page.)

6. The court shall enter an order of abatement that terminates the rental agreement & closes the bldg. / place where the activity took place.

See bill sec. 11

7. If landlord was unaware of illegal activity, court may release premises to him/her upon fulfillment of certain conditions.

See bill sec. 12

8. An order of abatement shall be presumptive evidence of an unlawful holding by force and if shall automatically terminate the rental agreement.

See bill sec. 7 & 22

9. If tenant fails to vacate premises after court issues order of abatement, landlord may obtain writ of assistance from the court.

# The Accidental Landlord

These Anchorage homeowners didn't necessarily want strangers in their houses, but negative equity and a weak economy made the choice for them.



By WESLEY LOY  
Daily News Business reporter

Could somebody buy Frank Singleton's extra house? Please? He's tired of renting out the blasted thing.

Listen to this story. Once, after a long war with a bad tenant, Singleton was forced to hire a locksmith to help him get into the place, a duplex in South Anchorage. He knew he had big trouble when he

cracked open the door and heard growling.

Mean, nasty, rip-your-face-off *grrrrrr*. The tenant had abandoned a pair of pit bulls inside, and they'd been scrapping. They'd tried to kill each other, in fact, gnawing ears to bits and spluttering blood all over the walls, the floors, everything.

As for the duplex, well, it was a wreck. The washing machine had been hurled down some steps into a wall. Trash was piled everywhere. The carpet was a matted mess. It took Singleton, a 37-year-old public-relations manager, almost a month of working nights and weekends to clean the place. He started the job with a leaf rake and a wheelbarrow.

"You didn't want to touch things in there," Singleton said. "It was just funky."

This all happened in 1987. Since then, other tenants have similarly misbehaved, balking on rent or slipping away after only a month or two.

Why does Singleton put up with this? He and lots of other people in Anchorage don't have much choice. They are reluctant landlords, people who own homes they would like to sell, but can't.

The sad plight of most reluctant landlords in Anchorage stems from an evil called "negative equity." That's the gap between what a home is worth today, and what the owner still owes on the mortgage.

For people who need to move because of a growing family, or a lost job, or marriage, the question then becomes: How can you sell the house if the gap's too big?

You can't, Singleton said, bitten hard by the negative equity bug. You just can't.

Please see Page F-3, RELUCTANT



Frank Singleton poses in front of his duplex rental property, where a series of unsavory tenants have lived.



## So you want to be a landlord

Here's a rundown of agencies, businesses and other sources to help you do the job right.

**U.S. Department of Housing and Urban Development** — HUD can give you the rules on how to legally choose a tenant, as well as evict one. Basically, you must treat everyone the same. Screening based on race, religion, sex, disability, nationality or whether a person has children is not legal. For information or advice call (202) 220-6170 or write HUD, Seattle Federal Office Building, 909 First Ave., Suite 200 (10E), Seattle, WA 98104-1000.

**Anchorage Equal Rights Commission** — For further, local rules on housing discrimination, contained in Title 5 of the municipal code, call 343-4342 or write Equal Rights Commission, 620 E. 10th Ave., Anchorage 99501.

**Alaska's Landlord Tenant Act** — A copy of the act, with a straightforward booklet on terms from rental agreements to damage deposits to privacy, available from the state Department of Law, 1031 W. Fourth Ave., Suite 200, Anchorage 99501.

**Rental agreements** — Forms good at least as a starting point are available at Arctic Office Products, 100 W. Fireweed Lane, or from Adams Stationers, 4200 Old Seward Highway.

**Internal Revenue Service** — For rules on reporting rental income, and writing off rental property expenses. Ask for Publication 527, "Residential Rental Property," or call the agency's toll-free Tele-Tax number, 800-829-4477, and follow the directions to hear topic 213 on rental income and expenses.

**"Pearlie Heights"** — This movie about a "tenant from hell," and a landlord who makes lots of mistakes, is available from most any video store. Watch it at your own peril.

# RELUCTANT LANDLORDS: Negative equity is major culprit

Continued from Page F-1

## THE BIG CRASH

Not too many years ago, negative equity ran rampant in Anchorage. It's still fairly widespread today, casting dozens if not hundreds of people into the unwanted role of landlord, real estate professionals say.

Here's what happened. In the early 1980s, when Singleton bought his duplex, Alaska's economy was booming. The state was flush with oil money, and builders were busy as could be. Houses, condominiums and other residential properties were much in demand, and property values were shooting up, up, up. People thought nothing of dropping big bucks for a nice place to live; they were sure it would be worth even more in a few years if they decided to sell and move to a roomier place, or leave town for a new job.

"Nothing could go wrong," said James Kuntz, general manager at Marston Property Management Inc.

Well, something did go wrong. Terribly wrong. In 1986, world oil prices crashed. The construction boom had, by then, left the town in a flood of housing space. Banks folded. Property values crumbled. Almost overnight, a \$100,000 house wasn't worth anywhere near that. The same thing happened to commercial property.

One study at the time found that the average house fell 25 percent in value, the average condo 50 percent.

Lots of people just walked away, defaulting on their mortgage loans. The rest opted to salvage their credit ratings and cope with high mortgage payments, often stranded in houses too small for their growing families, Kuntz said.

But some, especially those forced to move because of kids, or because they lost a job in Alaska, turned landlord to make payments on their old places.

It was a growing family that drove Singleton into bigger digs in Eagle River in 1987. But he couldn't get anywhere near the \$90,000 he paid for the duplex. So, he rents it out.

The good news is that the negative equity problem is dissipating. It's not nearly as bad as it was three or four years ago, Kuntz said. Many houses have fully recovered, meaning their market value today is equal to the balance of the mortgage, he said.

"Some reluctant landlords have been able to sell and get out from underneath," he said.

But for some the problem persists, especially those owning condos or duplexes or row houses. And just closing the gap between a property's worth and what's still owed on it isn't enough, noted real estate lawyer and radio talk show host Bill McNall.

"You have to cover the cost of sale," he said. That includes paying a real estate agent to handle the sale, title insurance, recording fees, and a few other items. Typically, it costs 10 percent of the sale price just to sell a place, McNall said.

## NO LEISURE

Dr. Aron Wolf is a psychiatrist at the Langdon Psychiatric Clinic. It's probably a handy trade, self-help for the aggravation he sometimes feels as a reluctant landlord.

Wolf rents out two places — a ski cabin at Alyeska, and a small house downtown. He's tried to sell these places. And he probably could "if I was willing to take a real shellacking. And I'm not."

Some tenants have been kind to Wolf, like the ones he has now. Some have not, like the guy who stuck him with a \$1,700 electricity bill on the cabin. Or the one who stayed less than two months in the house then disappeared, leaving the place in a shambles. The walls were nicked and dirty, dog feces all over.

"It was just like, whoa, how could anybody live like this?" Wolf recalled thinking at the time. He had to repaint and clean all the rugs before he could rent it out again.

The worst thing about being a landlord, though, Wolf said, has to be the nagging calls you get — the roof is leaking, the boiler's busted, the power's out. "Those are

the things that are just real annoying," he said.

Not everyone reports a bad experience. Take Tom Walker, a retired Air Force colonel. He started out as a reluctant landlord and later discovered he actually liked it.

Walker found himself in a fix back in 1988. A costly divorce left him unable to make the payments on his four-bedroom house in east Anchorage. And he couldn't sell because of a serious negative equity problem — the gap was about \$40,000.

So he rented the place, and then found an apartment for himself. Things went so well that he decided to invest in two bargain apartment houses and rent those, too. "Don't fight 'em, join 'em," he figured.

Not for everyone

Ever seen the movie "Pacific Heights"? If you haven't, and you're a landlord, beware: This film could give you nightmares.

Wise-cracking actor Michael Keaton takes on a decidedly nasty attitude here, playing a psychotic fraud who rents an apartment in a nice San Francisco couple's spacious house. The couple, living upstairs, spent \$750,000 for the house, and they need renters to help them make the mortgage payments.

Keaton seems like a good tenant — dressed smartly in suits and driving a Porsche. The nice couple doesn't bother to check him out, though. And pretty soon, he's not paying rent. He hammers and saws all night. Roaches scurry out of his apartment in droves. Finally, landlord punches out tenant, tenant shoots landlord and, well, you get the picture.

"I WANT HIM OUT OF HERE!" screams the landlord, frustrated by strong tenant-protection laws.

An extreme case, for sure. A Hollywood melodrama. But there's some good lessons in there. Landlords can save themselves a lot of grief by thoroughly checking out prospective tenants. And understanding laws on how to properly handle problem tenants. And accepting one maxim of the rental market: "People don't take care of things that don't belong to them. They just

don't," said Peggy Benkert, an instructor with the Commonwealth School of Real Estate in Anchorage.

Being a landlord, in fact, just isn't for everybody. Lots of people stuck in the rental game in Anchorage seek out a professional to do the often time-consuming job. For maybe a 10 percent cut of the rent, several companies in town will screen tenants. And keep the books. And troubleshoot plugged drains. And track the myriad of ever-changing landlord-tenant laws. And when necessary, be the bad guy.

"I've got at least half a dozen clients who fit the bill," said David Seal, president and broker at RCI Management Inc.

Among them is a man who isn't a reluctant landlord in the usual sense; he willingly owns a string of apartment buildings. He even does most of the maintenance on his buildings, too. And that's all the tenants think he is — a maintenance man, said Seal. He doesn't want the pressure of being landlord.

"His primary problem is he's got a heart as big as all outdoors," Seal said. "He doesn't have the heart to kick anybody out. All of his tenants were taking gross advantage of him, not paying rent, when I started managing his properties."

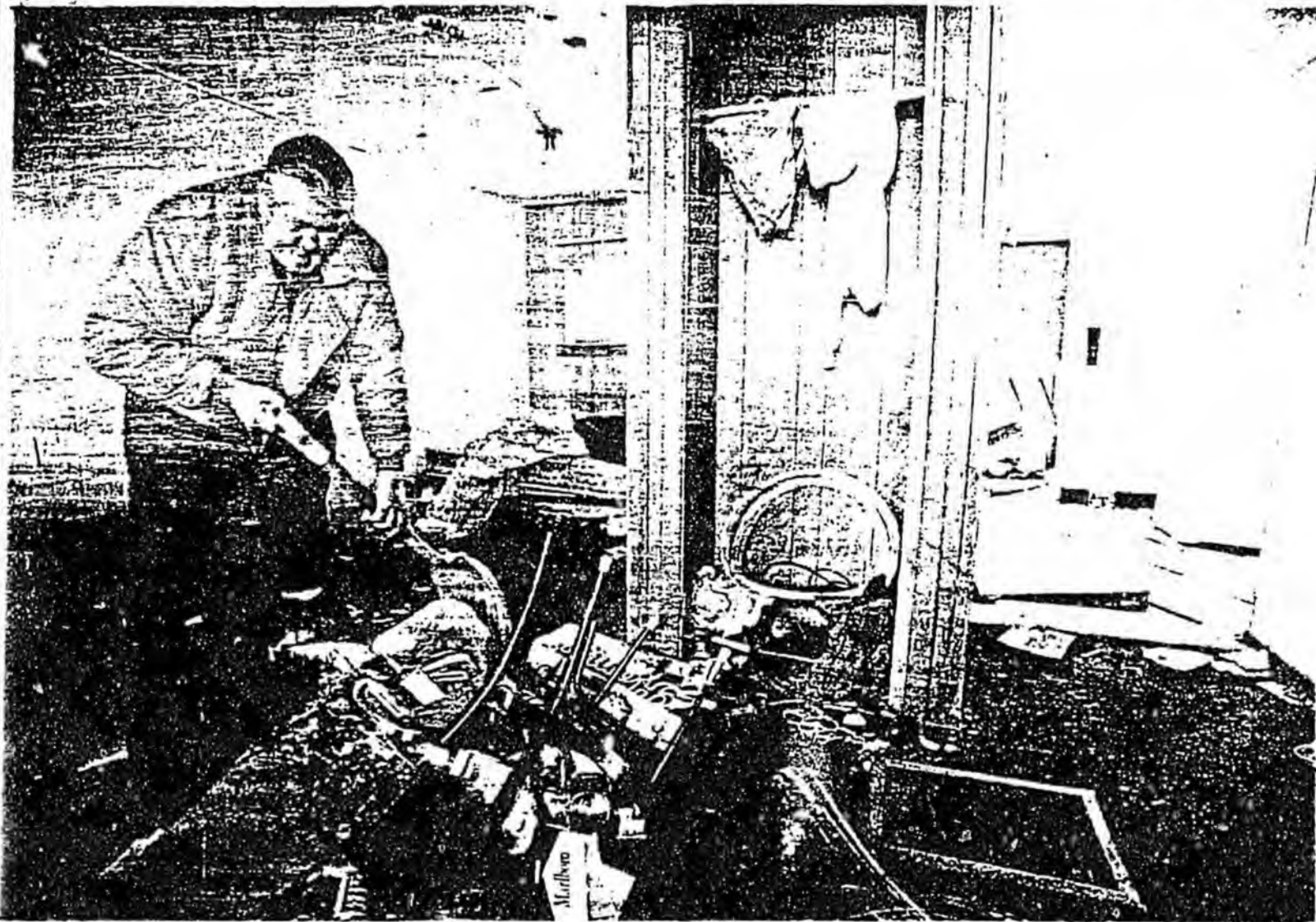
Frank Singleton, the PR man, doesn't want a management company. He just wants rid of his duplex, a first home he thought would turn him a nice profit but instead became a "millstone."

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"They promised to restore it," said Singleton, a Georgia native. "When they left, I was stuck with a big old wad of potato vines."

Within the next year, he figures, the duplex will be worth the balance of the mortgage, now about \$60,000. He figures he'll sell, if he can manage the sale costs.

"No, I don't want to be a landlord," he said.



Dan Hyde News-Mine

**TRASHED OUT**—Landlord Sam Helms scoops up garbage in a house he rents out in South Fairbanks. Helms says a former tenant caused \$10,000 damage to the home, but the renter denies any wrongdoing.

## Landlord blames law for home's disorder

By KATE RIPLEY  
Staff Writer

For 17 days Sam Helms watched as his tiny rental home at 1536 Stacia St. was trashed. Helms claims unfair state landlord-tenant laws rendered him helpless in the case against his 20-year-old renter, George Cooper Jr.

Cooper moved into the rental home, one house down the street from Helms' own house, Oct. 15, Helms said. The landlord prorated the \$385 monthly rent and charged a \$200 damage deposit.

Problems with Cooper and an endless stream of friends visiting the home started almost immediately, Helms alleged. The

result is \$10,000 in damaged property, he said.

"There were continuous parties . . . There was shooting, urinating in public, fighting. It was keeping the neighbors awake," said Helms, 57, the husband of former Borough Mayor Juanita Helms.

Police officers responded when Helms called, but told him it was a civil matter, Helms said. Five days after Cooper moved in, Helms gave the renter the required 20-days notice under state law for eviction.

Then it was a matter of waiting.

"As soon as I gave him (Cooper) the eviction notice, he had 20

days to destroy my place," Helms said.

Cooper, a convicted felon, eventually was arrested Nov. 6 for violating his probation and was removed from the house, according to probation officer Lou Anne Maxwell. The man is being held without bail at Fairbanks Correctional Center.

The felony conviction stemmed from a July 1990 second-degree forgery. Cooper also was convicted of fraudulent use of a credit card, a misdemeanor.

Maxwell said an anonymous caller told her Cooper and other under-aged youths were drinking at the Stacia Street home. He also allegedly was keeping com-

pany with another convicted felon—not allowed under terms of his probation, Maxwell said.

Cooper gained media attention two years ago after a tragic vehicle accident in the village of Ruoy claimed both of his legs.

While the probation violation arrest removed Cooper from Helms' rental home, the landlord said Fairbanks police should have arrested him before it got to that point.

"The police call it a civil matter, when it's malicious destruction," Helms said.

But John Shover, Fairbanks public safety director, said claiming a renter destroyer. See LANDLORD on Back Page

# LANDLORD

Continued from Page A-1  
property is one thing, while proving it is another.

"If it's a landlord-tenant situation, those situations generally are totally civil" rather than criminally prosecuted, Shover said.

Under state law, if a tenant destroys a landlord's property on purpose, the tenant may be guilty of vandalism and face up to one year in prison and a \$5,000 fine. The law also could require a tenant to pay for the damage.

Shover confirmed Fairbanks police responded to Helms' complaints at least four or five times. They interviewed Cooper, who denied any wrongdoing and placed the blame on friends, Shover said.

Without a confession or witnesses, Shover said the District Attorney's Office "won't touch it" and an arrest would have been pointless.

District Attorney Harry Davis said he is not intimately aware in the case. But he said the probation violation arrest was likely a speedier approach than arresting Cooper under the landlord-tenant act.

Cooper, meanwhile, maintains his innocence. In a hearing in Fairbanks Superior Court Thursday, the young man denied violating his probation. The case has not yet been scheduled for trial.

Regardless of who actually damaged Helms' rental, one look around the home tells a sad tale of destruction.

The white porcelain bathroom sink is smashed. Doors outside and inside the home are riddled with dents, perhaps made with a hammer. Ceiling tiles are either missing or punctured with holes. Empty liquor bottles, beer cans, food containers, old magazines and other debris are scattered across the floor.

The walls are filthy. Two bureaus are overturned, their drawers

smashed. A TV screen is shattered, and a dinette set dismantled.

Insurance will cover most of the estimated \$10,000 in structural damage, Helms said. But it will not replace the furniture.

Cooper has had a handful of run-ins with the law before, but several cases against him have been dismissed in the past.

He was asked to leave Southall Manor within days after he moved there May 31, 1991, according to an Alaska State Housing Authority memo.

His apartment "became a nest for street kids," the memo said.

"Teen-agers were on the roof of Southall Manor, throwing rocks into the street. In short, they had the building under seige," the memo said.

City Mayor Jim Hayes, a consumer investigator for the state attorney general's office, said his office receives about five calls daily on landlord-tenant disputes alone. Budget cuts leave his office ill-equipped to deal with the matter.

"This is a really serious problem in the Fairbanks area," Hayes said.

Hayes is a friend of Helms. He inspected the Stacia rental home as a personal favor. Helms requested help from the City Council but Hayes said there is little the city can do.

"The landlord-tenant act is a state act. The only thing we (the city) can do is just refer people to small claims court or a private attorney," he said.

Helms is bent on changing state law. He said he will organize landlords into an association for that purpose as his "winter project."

"I don't have any problem with the tenant having rights but the landlord should have equal rights," he said.

## LANDLORDS!

Alaska Landlord & Property Managers Assn.  
Organized 1972

### 10 Reasons Why You Should Join ALPMA:

- Credit report
- Promote favorable legislation
- Knowledgeable guest speakers (Accountants, Attorneys, etc.)
- Familiarization with Statutes
- Experience from others
- Enjoy forum of the association
- Problems of other members
- Education
- Marketing skills
- Helps military interaction with civilian population

NEXT MEETING  
OCTOBER 8, 1992  
7:00 PM

FOR INFORMATION CONTACT  
ALICE BREWER  
(Exec. Secretary)  
563-6734

Douglas W. Isaacson  
Alaska Director

## CREDIT SERVICES, INC.

Alaska's Trans Union Serviced Credit Bureau

1305 21st Avenue, Suite 200  
PO Box 72739  
Fairbanks, Alaska 99707  
(907) 456-1740  
Fax (907) 456-6203

100 W International Airport Road  
Suite 207  
Anchorage, Alaska 99518  
(907) 561-7272  
FAX (907) 561-7278

# RELUCTANT LANDLORDS: Negative equity is major culprit

Continued from Page F-1

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Here's what happened. In the early 1980s, when Singleton bought his duplex, Alaska's economy was booming. The state was flush with oil money, and builders were busy as could be. Houses, condominiums and other residential properties were much in demand, and property values were shooting up, up, up. People thought nothing of dropping big bucks for a nice place to live; they were sure it would be worth even more in a few years if they decided to sell and move to a roomier place, or leave town for a new job.

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"No, I don't want to be a landlord," he said.

March 19, 1993

Senator Loren Leman  
State Capitol  
Juneau, AK 99801-1182

MAR 23 1993

Dear Senator Leman:

I am in support of SB155 to change the landlord/tenant laws. These changes are not meant to hurt the good tenant, but would help support the landlords in keeping their apartments in good shape for all tenants when and if there is one bad apple in the bunch. As it stands right now, the good tenants are also in jeopardy when there is someone that is being obnoxious and knows that the landlord can't do anything legally to evict them.

The new changes are not meant to help the landlord have the upper hand but to make the laws more equal, both for the good tenant and the landlord. I do not believe that these laws are too outrageous as most other states have similar and sometimes stricter laws to protect the landlord from vandalism, violence and non-payment of rent.

Sincerely,

*Cheryl A. Stahl*

Cheryl A. Stahl  
P.O.B 56627  
North Pole, AK 99705

LANDLORD-TENANT ACT  
SB 155

Alaskans in Support of Previous Landlord-Tenant Legislation:

---

1. Alice Brewer - 563-6734
2. Charles Lippitt - 248-4770
3. Howard Thew - 277-2808
4. Pat Johnson -
5. John and Nancy Todd - 345-2257
6. Mark Begich - 337-6748
7. James Duff - 248-0663
8. Peter Hutton -
9. Alice Forman -
10. Joe Graham -
11. Edgar Price -
12. Eugene DeVine -
13. Helen Foremen - 243-5497
14. Jeanne Larson (former Pourchot Aide)
15. Pat Pourchot - 338-2425
16. Jan Hennequin
17. Hanz Metz - 337-8904
18. Nancy Williams - 562-5259
19. Gordon Williams -

Senate State Affairs Committee  
SB 155 - List of Supporters  
Page 2

20. Allen Levy - 272-7464

21. Janice Evenson -

22. Eric Brundquist -

23.

February 11, 1993

Mr. John Tomson  
Clerk, State Legislature  
P.O. Box V 4153100  
Phoenix, Arizona

Dear Tom,

I thank you for taking time in the teleconference  
I am having with the Arizona Council meeting.

I am enclosing the article about the Legislature  
with the Executive Report of Tom, and following  
one article in from the Arizona Daily News. The  
other is from the Phoenix Daily News - Mirror.

I hope that you can get a new bill. I'm this  
legislation to help conduct.

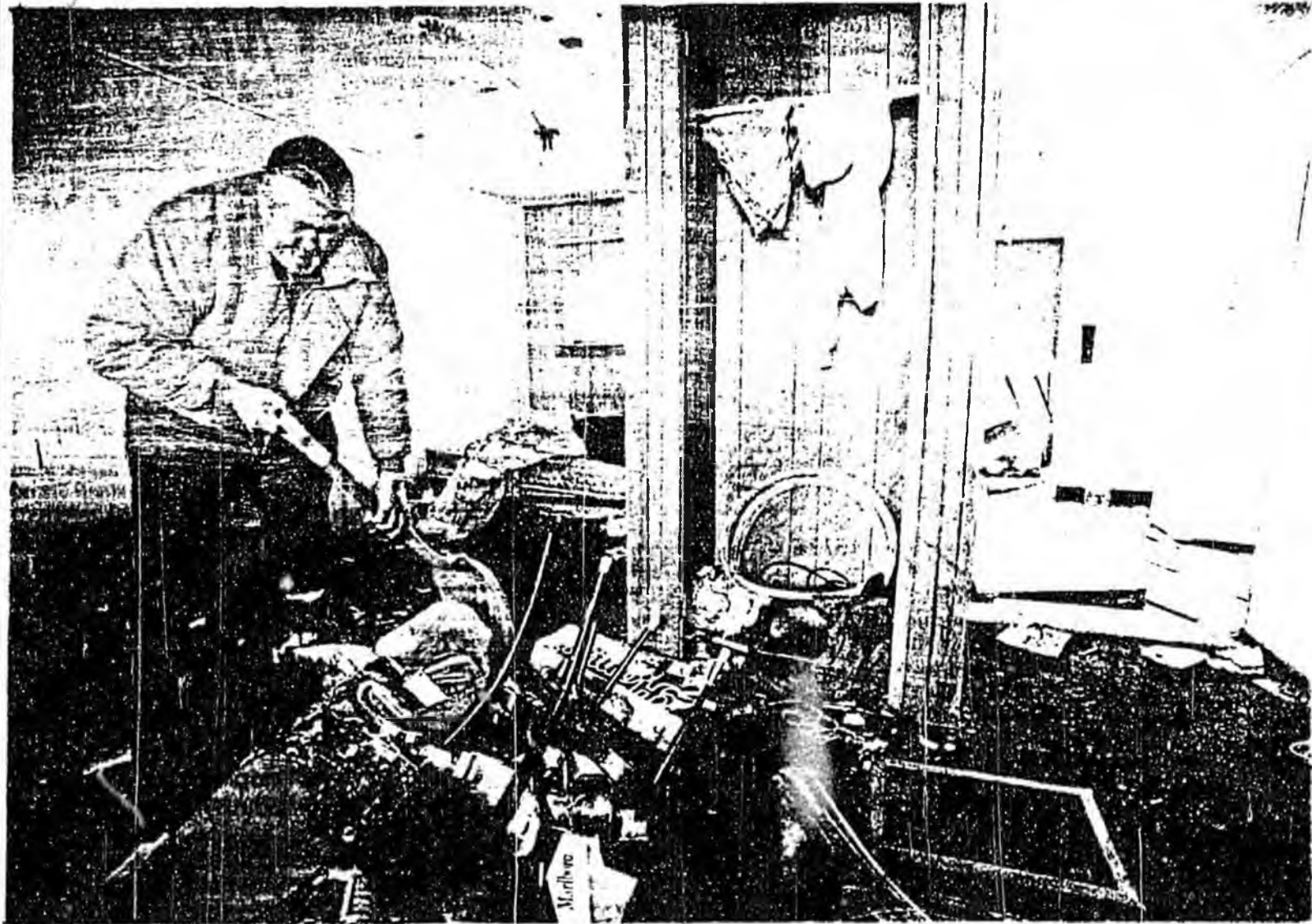
I thank you for your time.

Sincerely,

Charles Dignity

2203 North Lindsay Ave.

Phoenix, Arizona



Dan Hyde News-Miner

**TRASHED OUT**—Landlord Sam Helms scoops up garbage in a house he rents out in South Fairbanks. Helms says a former tenant caused \$10,000 damage to the home, but the renter denies any wrongdoing.

## Landlord blames law for home's disorder

By KATE RIPLEY  
Staff Writer

For 17 days Sam Helms watched as his tiny rental home at 1536 Stacia St. was trashed.

Helms claims unfair state landlord-tenant laws rendered him helpless in the case against his 30-year-old renter, George Cooper Jr.

Cooper moved into the rental home, one house down the street from Helms' own house, Oct. 15, Helms said. The landlord prorated the \$325 monthly rent and charged a \$200 damage deposit.

Friending with Cooper and an endless stream of friends visiting the home started almost immediately, Helms alleged. The

result is \$10,000 in damaged property, he said.

"There were continuous parties . . . There was shooting, urinating in public, fighting. It was keeping the neighbors awake," said Helms, 57, the husband of former Borough Mayor Juanita Helms.

Police officers responded when Helms called, but told him it was a civil matter, Helms said. Five days after Cooper moved in, Helms gave the renter the required 20-days notice under state law for eviction.

Then it was a matter of waiting.

"As soon as I gave him (Cooper) the eviction notice, he had 20

days to destroy my place," Helms said.

Cooper, a convicted felon, eventually was arrested Nov. 6 for violating his probation and was removed from the house, according to probation officer Lou Anne Maxwell. The man is being held without bail at Fairbanks Correctional Center.

The felony conviction stemmed from a July 1990 second-degree forgery. Cooper also was convicted of fraudulent use of a credit card, a misdemeanor.

Maxwell said an anonymous caller told her Cooper and other under-aged youths were drinking at the Stacia Street home. He also allegedly was keeping com-

pany with another convicted felon—not allowed under terms of his probation, Maxwell said.

Cooper gained media attention two years ago after a tragic vehicle accident in the village of Ruby claimed both of his legs.

While the probation violation arrest removed Cooper from Helms' rental home, the landlord said Fairbanks police should have arrested him before it got to that point.

"The police call it a civil matter, when it's malicious destruction," Helms said.

But John Shover, Fairbanks public safety director, said claiming a renter destroyer

See LANDLORD on Back Page

# LANDLORD

Continued from Page A-1  
property is one thing, while proving it is another.

"If it's a landlord-tenant situation, those situations generally are totally civil" rather than criminally prosecuted, Shover said.

Under state law, if a tenant destroys a landlord's property on purpose, the tenant may be guilty of vandalism and face up to one year in prison and a \$5,000 fine. The law also could require a tenant to pay for the damage.

Shover confirmed Fairbanks police responded to Helms' complaints at least four or five times. They interviewed Cooper, who denied any wrongdoing and placed the blame on friends, Shover said.

Without a confession or witnesses, Shover said the District Attorney's Office "won't touch it" and an arrest would have been pointless.

District Attorney Harry Davis said he is not intimately aware in the case. But he said the probation violation arrest was likely a speedier approach than arresting Cooper under the landlord-tenant act.

Cooper, meanwhile, maintains his innocence. In a hearing in Fairbanks Superior Court Thursday, the young man denied violating his probation. The case has not yet been scheduled for trial.

Regardless of who actually damaged Helms' rental, one look around the home tells a sad tale of destruction.

The white porcelain bathroom sink is smashed. Doors outside and inside the home are riddled with dents, perhaps made with a hammer. Ceiling tiles are either missing or punctured with holes. Empty liquor bottles, beer cans, food containers, old magazines and other debris are scattered across the floor.

The walls are filthy. Two bureaus are overturned, their drawers

smashed. A TV screen is shattered, and a dinette set dismantled.

Insurance will cover most of the estimated \$10,000 in structural damage, Helms said. But it will not replace the furniture.

Cooper has had a handful of run-ins with the law before, but several cases against him have been dismissed in the past.

He was asked to leave Southall Manor within days after he moved there May 31, 1991, according to an Alaska State Housing Authority memo.

His apartment "became a nest for street kids," the memo said.

"Teen-agers were on the roof of Southall Manor, throwing rocks into the street. In short, they had the building under seige," the memo said.

City Mayor Jim Hayes, a consumer investigator for the state attorney general's office, said his office receives about five calls daily on landlord-tenant disputes alone. Budget cuts leave his office ill-equipped to deal with the matter.

"This is a really serious problem in the Fairbanks area," Hayes said.

Hayes is a friend of Helms. He inspected the Stacia rental home as a personal favor. Helms requested help from the City Council but Hayes said there is little the city can do.

"The landlord-tenant act is a state act. The only thing we (the city) can do is just refer people to small claims court or a private attorney," he said.

Helms is bent on changing state law. He said he will organize landlords into an association for that purpose as his "winter project."

"I don't have any problem with the tenant having rights but the landlord should have equal rights," he said.

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**NEXT MEETING**  
OCTOBER 8, 1992  
7:00 PM

**FOR INFORMATION CONTACT**  
ALICE BREWER  
(Exec. Secretary)  
563-6734



Douglas W. Isaacson  
Alaska Director

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Joe Frost

David Gudmund

ok -> please include ref. to "sandstone"

Eugene Smith : cutting - Evergreen forest - deciduous +  
2<sup>nd</sup> floor is basalt - for 2 years  
1 year " " same 2 years

Dr. McCarthy : cutting +  
to very low

very low forest stand +

Dr. Eissell +

Chris Lopez =

David Gudmund : cutting refers to  
a very low stand =

Don Ethel  
15

