

LEG. FINANCE - BILLS 1983 - 1984 1790

ABC Board Confirmations - HB 6 1790

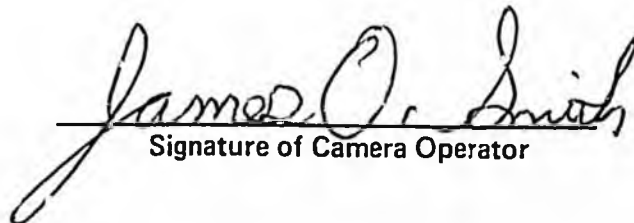


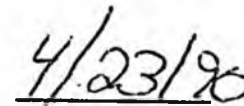
RECORDS



CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

Alaska State Legislature
House of Representatives

Al Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

Official Business

April 28, 1983

MEMORANDUM

TO: All House Finance Members

FROM: Al Adams, Chairman **APA**
House Finance Committee

RE: Alcoholic Beverage Control Board
Confirmation Hearings

Attached, for your review, please find resumes for the three ABC Board confirmations we are addressing today.

My staff also asked each appointee for a written statement of why they would like to serve on the ABC Board. You will find in your file a written response from Mr. Walters. The other two appointees preferred to give oral testimony.

Alaska State Legislature



Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

April 11, 1983

Representative Al Adams
Chairman, Finance Committee
Capitol Building
Juneau, AK 99811

Dear Al,

Attached is a copy of Governor Sheffield's letter of April 8, 1983 submitting two appointments to boards and commissions. Please review the appointment to the Alcoholic Beverage Control Board and hold confirmation hearings as necessary.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Joe L. Hayes".

Joe L. Hayes
SPEAKER OF THE HOUSE

Enclosure

JLH' jvd

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

APR 11 1983

April 8, 1983

The Honorable Joe Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Pursuant to applicable law, I submit the following names
for legislative confirmation of appointment to the
positions noted:

BOARDS AND COMMISSIONS
(with terms)


Alcoholic Beverage Control Board

Wesley D. Wallace, Fairbanks, 83/04/07 - 85/01/31

Athletic Commission

Joe Armstrong, Anchorage, 83/04/07 - 86/05/14

Sincerely,


Bill Sheffield
Governor

CONFIDENTIAL RESUME

WESLEY D. WALLACE

EXPERIENCE

- 1964 - Present: Stockholder, Secretary-Treasurer, Manager
Columbia Transportation Co., Inc.
- 1964 - 1979: Stockholder, Vice President, Alaska Marketing
Manager of Active Moving and Storage
Seattle.
- 1966 - 1969: Owner of Silver Dollar Tavern, Monroe, Washington
Owner of Bill's Tavern, Yakima, Washington.
- 1965 - 1967: Owner, Lake Motel, Soap Lake, Washington.
- 1962 - 1963: Sales, Driver, Brownie Cookie Company, Seattle
Washington.
- 1960 - 1962: Manager, Dickey and Sons Construction, Seattle
Washington.
- 1959 - 1960: Manager, Strato Motors, Renton, Washington.
- 1957 - 1959: Insurance Sales, Reserve Life Insurance,
Seattle, Washington.
- 1955 - 1957: Salesman, Home Utilities Company, Seattle
Washington.

PERSONAL

Married 22 years, three children, health excellent. D.O.B.: 12/26/36.
Graduate of Roosevelt High School, Seattle, Washington, 1955.
Seventeen years involvement in Seattle Seafair and Unlimited
Hydroplane Racing promotion during residence in Seattle.
Currently member, supporter of Monroe Foundation, Fairbanks.

Residence: 480 University Avenue
Fairbanks, Alaska
479-4790

Office: 146 Old Richardson Highway
Fairbanks, Alaska 99701
452-3816

March 1, 1983

Alaska State Legislature



Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

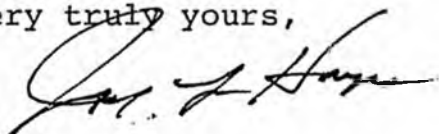
April 18, 1983

Representative Al Adams
Chairman, Finance Committee
Capitol Building
Juneau, AK 99811

Dear Al,

Attached is a copy of Governor Sheffield's letter of April 11, 1983 submitting the name of E. L. "Red" Holloway for appointment to the Alcoholic Beverage Control Board. Please review the appointment and hold confirmation hearings as necessary.

Very truly yours,


Joe L. Hayes
SPEAKER OF THE HOUSE

Enclosure

JLH:jvd

AIR 15 1983



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 11, 1983

The Honorable Joe Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Pursuant to applicable law, I submit the following names
for legislative confirmation of appointment to the posi-
tions noted:

BOARDS AND COMMISSIONS
(with terms)

Alcoholic Beverage Control Board

E. L. "Red" Holloway, Juneau, 83/04/11 - 86/01/31

State Commission for Human Rights

Bienvenido E. Holganza, Juneau, 83/04/08 - 87/01/31

Virgie M. King, Fairbanks, 83/04/06 - 88/01/31

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

E. L. "Red" Holloway
3441 Douglas Highway
Juneau, AK 99801
789-9476 (Work)
586-1918 (Home)

EXPERIENCE

Retired Hotel Owner - Prospector Hotel
seven years

Alcohol Beverage Control Board member
six years (Egan Administration)

Former head of Juneau Democratic Party

CIVIC ACTIVITIES

Former Tourism Advisory Committee Member

Elks Club

Juneau Chamber of Commerce

Alaska State Legislature



Speaker of the House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

April 7, 1983

Albert P. Adams
Chairman, Finance Committee
Capitol Building, Room 507
Juneau, AK 99811

Dear Al,

Attached is a letter and resume received today from Governor Sheffield appointing John W. Walters of Nome to the Alcoholic Beverage Control Board.

Please hold confirmation hearings as you deem necessary and appropriate.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Joe L. Hayes".

Joe L. Hayes
SPEAKER OF THE HOUSE

Enclosure

JLH:jvd

BILL SHEFFIELD
GOVERNOR



APR 7 1983

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 31, 1983

The Honorable Joe Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Pursuant to applicable law, I submit the following name for legislative confirmation of appointment to the position noted:

BOARDS AND COMMISSIONS
(with terms)

Alcoholic Beverage Control Board

John W. Walters, Nome, 83/03/31 - 84/01/31

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

Enclosure

RESUME

John William Walters

SS No. 566-22-9786

Born April 19, 1926

Sacramento, Calif.

Attended local schools, graduated 1943 (en absentia), San Juan High School, Fair Oaks, Sacramento County, California.

Military Service: U.S. Navy, 4/20/43--4/2/46 Torpedoman's Mate 3/c. 3791817.

From April 1946 to October 1947 didn't do much more than a lot of swimming and a lot of beer drinking.

Moved to Seattle in October of 1947 and worked as a warehouseman until coming to Alaska in May of 1948. (Don't even remember the name of the company I worked for in Seattle. Black Diamond something-or-other.)

After arriving in Alaska May 5th, 1948 I worked and lived in a number of different parts of the state:

1948 Alluvial Golds, Woodchopper Creek.

Also, an abortive attempt at attending the University of Alaska, Fbks.

1949 Tried homesteading in Homer, Alaska.

Worked in a fish reduction plant, Seldovia, Alaska.

Laborer for Alaska Railroad, Anchorage.

1950 Boiler Fireman for U.S. Air Force; Adak, Alaska.

1950 Oiler on gold dredge, Fairbanks Exploration, Fairbanks area.

'50-53 Equipment operator, Arctic Contractors, Point Barrow and Umiat.

'53-54 Dredge winchman, Tury Anderson, Mammoth Creek, and cut wood during that winter.

'50-51 Forgot I had worked one winter as a Water Treatment Plant Operator, U.S. Air Force, Eielson Air Force Base (26 mile).

Arrived in Nome April 1, 1954 and have lived here ever since.

1954 Worked for USSR & M Company as gold panner on a gold dredge.

Worked for U.S. Bureau of Mines, Granite Mountain area as equipment operator. Also prospected in the Death Valley area.

'55-59 Worked as partsman for Northern Commercial Company, Caterpillar Dept.

1960 Worked as Jail Superintendent, City of Nome.

'60-64 Worked for Green's Incorporated, an oil delivery company.

'64-78 Worked for the State of Alaska, Dept. of Education and Dept. of Public Works, Division of Buildings as Maintenance Foreman, Maintenance Superintendent and Project Inspector for new construction.

1978 Took early retirement from the State of Alaska at age 52.

'78-82 Semi-retired. Have small business contracting to do building management.

Have been married to my wife Blanche for the past twenty-seven years. We have raised nine children and presently have seven grandchildren.

As to religion, I believe in the brotherhood of man.

As to drinking, I like to drink beer occasionally.

Hobbies: Used to fly a little, too expensive now. Content to watch television,

P.O. Box 811 Nome 99762

John W. Walters 443-2718

April 27, 1983
Nome, Alaska

The Honorable Al Adams
House of Representatives
Juneau

Dear Mr. Adams:

This is in reply to the request asked of me by your assistant, Darla Schell, that I respond to your question of, 'Why do you want to serve on the Alcoholic Beverage Control Board?'

First off, it is not so much a question of "wanting to serve" as it is of being "willing to serve." In this respect, I was asked by a ranking member of the State Democratic Party if I would be willing to have my name submitted for board membership consideration. After a rather considerable amount of thinking, I decided yes and for the following reasons:

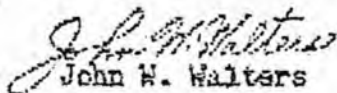
For the past thirty-five years that I have lived in Alaska, there is the inescapable conclusion that Alaska has been good to me; and that I, in turn, might best hope to repay that good with some volunteer service of my own to our great state. Being semi-retired does afford me the time to do so.

Secondly, through not owning a liquor establishment or any part of one, and by not owing, or having ever owed, anything to any owner of a liquor establishment, it is my feeling I could serve on the ABC Board in the most objective of manners, entirely devoid of personal feelings or prejudices.

I do hope the above reasons do not tend to make me out as one hoping to "come across" as a highly altruistically motivated person; for in that regard, I must confess to having probably no more regard for others than the average citizen.

In any event, thank you for having afforded me the opportunity to state my views. You are the only legislator to have done so!

Sincerely,


John W. Walters
P.O. Box 871
Nome, Alaska 99762

En. No. 443-2718

MSG 83-00013355 PRTY 1 04/29/83 13:28:07 ORIG: LZ00 IN= 0005 OUT= 0001
FROM: CAROL, OIZ TO: TOM, JUNEAU
TARGET: LJH4 SUBJ: ECHO

WE HEARD ECHOS ON ALL THREE SITES THAT YOU POLLED, THATS NOME, FAIRBANKS,
AND ANCHORAGE.

MSG 83-00013356 PRTY 1 04/29/83 13:28:00 ORIG: LF20 IN= 0004 OUT= 0002
FROM: LYNDA/FBX TO: LNO T/C
TARGET: LJH4 SUBJ: ABC BD CONFIRMATION HEARING

FBX #1

Fairbanks

1. WESLEY WALLACE, ABC BOARD
 2. GLENN HACKNEY, OBSERVOR WHO MAY OR MAY NOT WISH TO TESTIFY
-

MSG 83-00013359 PRTY 1 04/29/83 13:31:31 ORIG: LN00 IN= 0007 OUT= 0003
FROM: VERA NOME TO: TOM/JNU
TARGET: LJH4 SUBJ: ALCOHOLIC BEV. CONTROL BOARD HEARINGS

OMNI #1:
TO TESTIFY:

1. JOHN W. WALTERS, SELF, ABC BOARD, P.O. BOX 871, NOME 99762 443-2718

Offered: 3/16/83
Referred: Rules

Original sponsor: Abood

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

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

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

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

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

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

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

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

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

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

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

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

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

STATE OF ALASKA
FISCAL NOTE

Revision Date March 21, 1983

I. REQUEST

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

II. FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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

No information provided.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues Director

Division: Administrative Services Division

Phone: 465-3672

Date: March 21, 1983

Approved by Commissioner: Norman C. Gorsuch Attorney General

Department: Department of Law

Date: March 21, 1983

Distribution:

Original to Legislative Finance

Copy to Office of Management and Budget (for Legislature introduced bills)

Copy to Department (for Governor introduced bills)

Copy to Sponsor

ANALYSIS
CSHB 1

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

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

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

Mitch Abood, prime sponsor

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

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

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

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

II. FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

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

Prepared By: Paul A. Conger Phone: 465-4338
 Division: Administrative Services Date: 3/21/83

Approved by Commissioner: [Signature] Date: 3/21/83
 Department: Public Safety

Distribution:

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

3/8/83

Offered: 3/16/83
Referred: Rules

Original sponsor: Abood

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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23 faith the landlord may recover an amount not to exceed one and one-
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26 and not in good faith.

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7 or [AND] not in good faith the landlord, in addition, may recover an
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16 the tenant has

17 (1) complained to the landlord of a violation of AS 34.03.-
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19 (2) endeavored to enforce [AVAIL HIMSELF OF] rights and
20 remedies granted to a tenant [HIM] under the provisions of this
21 chapter;

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23 similar organization; or

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25 enforcement of governmental housing, wage, price or rent controls.

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29 rental agreement or provides notice of termination, or brings or

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

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

1 IN THE HOUSE

BY ABOOD

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

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

STATE OF ALASKA
FISCAL NOTE

Revision Date March 21, 1983

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

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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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

No information provided.

IV. ANALYSIS: Attach a separate page for any Analysis

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

Distribution:

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

ANALYSIS
CSHB 1

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

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

STATE OF ALASKA THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 22, 1983

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

TO: Representative Mitchell E. Abood, Jr.

FROM: Tamara Brandt Cook
Legislative Counsel

TBC

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

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

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

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

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

Representative Mitchell E. Abood, Jr.

Page 2

March 22, 1983

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

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

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

TBC:ljb

11/008

Alaska State Legislature

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

IN SESSION:
JUNE 15, 1983
ANCHORAGE, ALASKA 99511
(907) 465-4947




HOUSE MAJORITY WHIP

CHAIRMAN
STATE AFFAIRS

MEMBER
TRANSPORTATION
LEGISLATIVE COUNCIL

Representative Mitch Abood
HOUSE DISTRICT 11

TO: Representative Al Adams
Chairman, House Finance Committee

FROM: Representative Mitch Abood 

DATE: March 21, 1983

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

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

"An Act relating to landlords and tenants"

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

Section 1 - Sec. 09.45.085 - ENFORCEMENT.

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

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

CSSSHB 1

"An Act relating to Landlords and Tenants"

Synopsis - CSSSHB 1

Page Two

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

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

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

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

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

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

C

STATE OF ALASKA

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



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

HOUSE LABOR AND COMMERCE COMMITTEE

February 10, 1983

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

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

SIGNED:

Representative Walt Furnace, Chairman

Representative John Ringstad

Representative Rick Uehling, Vice Chairman

Representative Ron Wendte

Representative John Cowdery

Representative Niilo Koponen

Representative Hugh Malone

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

RECEIVED
FEB 16 1983

No: HB 1 Date on Bill: 1/28/83

Title: "An Act relating to landlords and tenants."

Sponsor: Representative Abood

Requestor: Representative Abood

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

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

b. Revenues:

Revenue								

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

No information provided.

d. Assumptions:

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

e. Disclaimer:

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

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

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

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

Date: 2/15/83

f. Distribution:

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



COOPERATIVE EXTENSION SERVICE

UNIVERSITY OF ALASKA, USDA & SEA GRANT COOPERATING

ANCHORAGE DISTRICT, 2651 PROVIDENCE AVENUE, ANCHORAGE, ALASKA 99508

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

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

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

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

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

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

Continued...

Page two...
H.B.1 continued

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

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

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

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

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

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

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

Continued...

Page three
H.B.1

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

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

Thank you.

COMMON RENTAL PROBLEMS

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

RENT CONTROL

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

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

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

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ALASKA LANDLORD- TENANT LAW

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

INTRODUCTION

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

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

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

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

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

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



who is covered

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

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

the law does not cover:

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

terminology

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

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

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

Tenant means any of the people who rent a dwelling.

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

written notices

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

Here are some things that should definitely be in writing:

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

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



BEFORE YOU MOVE IN rental agreements

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

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

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

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

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

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

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

Rental agreements cannot:

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

DO NOT SIGN A RENTAL AGREEMENT THAT HAS ILLEGAL WORDING.

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

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

NOTICE OF DEFECTS IN ESSENTIAL SERVICES

(Date)

TO: _____
(Landlord)

(Address)

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

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

Signed,

(Tenant)

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

(Landlord)

KEEP A COPY OF THIS NOTICE

**NOTICE OF TERMINATION OF TENANCY
BY LANDLORD**

(Date)

TO: _____
(Tenant)

(Address)

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

The reason you are being evicted is as follows:

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

Signed,

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

(Tenant)

KEEP A COPY OF THIS NOTICE

15

NOTICE OF TERMINATION OF TENANCY (BY TENANT)

(Date)

TO: _____
(Landlord)

(Address)

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

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

(address)

within 14 days of the date I move.

Signed,

(Tenant)

(Address)

Receipt:

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

(Landlord)

KEEP A COPY OF THIS NOTICE

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

(Date)

TO: _____
(Tenant)

(Address)

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

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

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

Signed,

(Landlord)

Receipt:

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

(Tenant)

KEEP A COPY OF THIS NOTICE

14

change your mind?

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

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

illegal discrimination

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

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

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

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

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

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

disclosure

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

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

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

deposits

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

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

Legal Examples

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

Illegal Examples

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

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

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

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

inspections

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

**WHILE RENTING**
paying rent/rent increases

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

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

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

The general interpretation is that a rent increase is either:

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

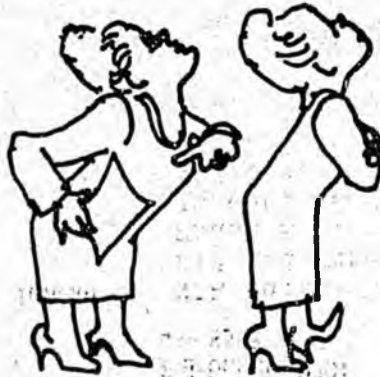
In either case, tenants should be given a written notice 30 days before the next rental due date. If the tenant does not agree with the rent increase or cannot pay, he/she may give notice to move. Since the law is not clear, landlords and tenants should seek legal advice if they are unsure about a proposed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

4**rules and regulations**

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

SAMPLE FORMS

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



SETTLING DISPUTES

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

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

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

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

NOTICE OF EVICTION FOR NON-PAYMENT OF RENT

(Date)

TO: _____
(Tenant)

(Address)

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

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

Signed,

(Landlord)

Receipt:

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

(Tenant)

KEEP A COPY OF THIS NOTICE

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

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

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

subleasing

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

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

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

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

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

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

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

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

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

privacy

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

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

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

WHERE TO GO FOR HELP



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

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

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

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

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

Fairbanks 604 Barnette, Room 228
Fairbanks 99701
456-8588

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

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

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

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

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

Anchorage 840 K Street
Anchorage 99501
276-4011

Fairbanks 613 Cushman
Fairbanks 99701
452-4001

Juneau 525 Village Street
Juneau 99811
465-4970

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

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

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

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

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

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

absence/abandonment

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

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

A landlord may assume the dwelling has been abandoned when:

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

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

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

fire/casualty damage

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

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

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

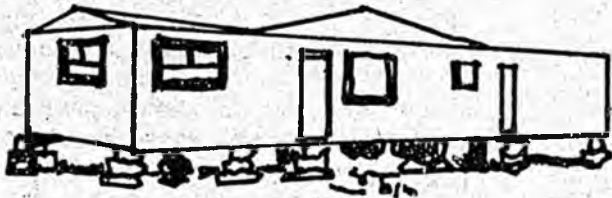
housing codes

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

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

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

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



SPECIAL RULES FOR MOBILE HOMES

rental agreements

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

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

capital improvements

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

eviction

Mobile home park tenants may be evicted only if:

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

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

MOVING OUT

proper notice

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

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

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

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

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

cleaning and damages

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

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

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



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

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

deposit return

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

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

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

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

Deposits may be kept only if the tenant:

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

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

condemned

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

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

landlord duties

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

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

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

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

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

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

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

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

7

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

4/30/83

Date: 5/9/83

Mr. Speaker:

The Committee on FINANCE

has had RD 6

"An Act relating to driving a motor vehicle."

under consideration and reports it back as follows:

do pass

do not pass

do pass with attached amendments(s)

replace with CS for HB (2) (101)

same title
 new title

and recommends ADMINISTRATIVE - RECOMMENDATIONS

AND attaches a "Letter of Intent"

New Fiscal Note

reports it back without recommendation

Zero Fiscal Note Attached

referred to the Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Donna S. ...
Carol ...
W. ...

...
...
...

...
CHAIRMAN

Offered: 4/30/83
Referred: Finance

Original sponsors: Abood, Furnace,
Lindauer, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 6 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to driving a motor vehicle."

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

8 * Section 1. AS 28.05.051(b) is amended to read:

9 (b) The commissioner, officers and employees of the department
10 designated by the commissioner, judges and employees of a court, and
11 all peace officers, may take possession of a certificate of title,
12 [OR] registration or license issued by this jurisdiction that [WHICH]
13 has been revoked, canceled, limited or suspended, or [WHICH] is
14 fictitious, stolen or altered.

15 * Sec. 2. AS 28.15.081(a) is amended to read:

16 (a) The department shall examine every applicant for a driver's
17 license. The examination shall include a test of the applicant's (1)
18 eyesight, (2) [HIS] ability to read and understand official traffic
19 control devices, (3) [HIS] knowledge of safe driving practices, (4)
20 knowledge of the effects of alcohol and drugs on drivers and the
21 dangers of driving under the influence of alcohol or drugs, and (5)
22 knowledge of the laws relating to driving while intoxicated and the
23 traffic laws and regulations of this state. The examination [, AND]
24 may include a demonstration of ability to exercise ordinary and rea-
25 sonable control in the driving of a motor vehicle of the type and
26 general class of vehicles for which the applicant seeks a license.
27 However, an applicant who has not been previously issued a driver's
28 license by this or another jurisdiction must demonstrate [HIS] abil-
29 ity, and must present medical information that [WHICH] the department

1 reasonably requires to determine [HIS] fitness to safely drive a motor
2 vehicle of the type and general class of vehicles for which the appli-
3 cant [HE] seeks a license.

4 * Sec. 3. AS 28.15 is amended by adding new sections to read:

5 Sec. 28.15.165. ADMINISTRATIVE REVOCATIONS RESULTING FROM CHEMI-
6 CAL SOBRIETY TESTS AND REFUSALS TO SUBMIT TO TESTS. (a) If a chemi-
7 cal test administered to a person driving a motor vehicle for which a
8 driver's license is required produces a result described under AS 28.-
9 35.030(a)(2) or if a person under arrest for driving a motor vehicle
10 for which a driver's license is required refuses to submit to a chemi-
11 cal test under AS 28.35.031(a), the law enforcement officer shall read
12 a notice and deliver a copy to the person. The notice shall advise
13 that

14 (1) the Department of Public Safety intends to revoke the
15 person's driver's license or nonresident privilege to drive, or refuse
16 to issue an original license to the person;

17 (2) the person has the right to obtain court review of the
18 revocation or determination not to issue an original license;

19 (3) the notice itself is a temporary driver's license that
20 expires seven days after it is delivered to the person;

21 (4) revocation of the person's driver's license or nonresi-
22 dent privilege to drive, or a determination not to issue an original
23 license shall take effect upon expiration of the temporary driver's
24 license unless the person within seven days initiates court proceed-
25 ings to rescind the action.

26 (b) After reading the notice under (a) of this section, the law
27 enforcement officer shall seize the person's driver's license if it is
28 in the person's possession and shall deliver it to the Department of
29 Public Safety with a sworn report describing the circumstances under

1 which it was seized.

2 (c) Upon receipt of a sworn report of a law enforcement officer
3 that a chemical test produced a result described under AS 28.35.030-
4 (a)(2) or that a person refused to submit to a chemical test under
5 AS 28.35.031(a), that notice under (a) of this section was provided to
6 the person, and that contains a statement of the circumstances sur-
7 rounding the arrest and the grounds upon which the officer's belief
8 that the person was driving while intoxicated a motor vehicle for
9 which a driver's license is required was based, the Department of
10 Public Safety shall revoke the person's license or nonresident privi-
11 lege to drive a motor vehicle in the state, or refuse to issue an
12 original license effective upon expiration of the temporary driver's
13 license issued under (a) of this section.

14 (d) The period of revocation of a driver's license by the De-
15 partment of Public Safety under this section shall be determined in
16 accordance with guidelines for court revocations under
17 AS 28.15.181(c).

18 Sec. 28.15.166. COURT REVIEW OF REVOCATION. (a) A person who
19 has received a notice under AS 28.15.165(a) may make a written request
20 for court review of the department's action under AS 28.15.165(c). If
21 the person's driver's license has not been previously surrendered to
22 the Department of Public Safety, it shall be surrendered to the court
23 at the time the request for review is made.

24 (b) A request for review shall be made within seven days after
25 the person receives the notice under AS 28.15.165(a) or the right to
26 review is waived and the action of the Department of Public Safety
27 under AS 28.15.165(c) is final. However, if the person shows that the
28 person for good cause was unable to make a timely request, the court
29 may waive the period of limitation, reopen the matter, and grant the

1 review requested.

2 (c) Upon receipt of a request for review, if it appears that the
3 person holds a valid driver's license and that the driver's license
4 has been surrendered, the court shall issue a temporary driver's
5 permit that is valid until the scheduled date for the review. The
6 court may issue additional temporary permits if necessary to stay the
7 effective date of the action of the Department of Public Safety under
8 AS 28.15.165(c) until the final order after the review is issued.

9 (d) The court review under this section shall be without jury
10 and shall be limited to the issues of whether there was probable cause
11 to believe that the person was driving a motor vehicle while intcxi-
12 cated and whether

13 (1) the person refused to submit to a chemical test under
14 AS 28.35.031(a); or

15 (2) the chemical test administered to the person produced a
16 result described under AS 28.35.030(a)(2).

17 (e) If the issues set out in (d) of this section are determined
18 in the affirmative by a preponderance of the evidence, the court shall
19 sustain the action of the Department of Public Safety. If one or more
20 of the issues are determined in the negative, the department's action
21 shall be rescinded.

22 (f) If the action of the Department of Public Safety in revoking
23 a nonresident's privilege to drive a motor vehicle is sustained by the
24 court, the department shall give written notice of action taken to the
25 motor vehicle administrator of the state of the person's residence and
26 to any state in which that person has a driver's license

27 * Sec. 4. AS 28.15.101(a) is amended read:

28 (a) Conviction of any of the [THE] following offenses is [ARE]
29 grounds for the immediate [SUSPENSION OR] revocation of a driver's

1 license:

2 (1) manslaughter or negligent homicide resulting from [THE]
3 driving [OF] a motor vehicle;

4 (2) a felony in the commission of which a motor vehicle is
5 used;

6 (3) failure to stop and give aid as required by law [UNDER
7 THE LAWS OF THIS STATE] when a motor vehicle accident results in the
8 death or personal injury of another;

9 (4) perjury or [THE] making [OF] a false affidavit or
10 statement under oath to the department under a law relating to motor
11 vehicles;

12 (5) [OPERATING OR] driving a motor vehicle while in^{toxi-}
13 cated;

14 (6) reckless driving; [OR]

15 (7) using a motor vehicle in unlawful flight to avoid
16 arrest by a peace officer;

17 (8) refusal to submit to a chemical test under AS 28.35.-
18 032.

19 * Sec. 5. AS 28.15.181(b) is amended to read:

20 (b) A court convicting a person of an offense under (a)(1) -
21 (4), (6), or (7) of this section shall revoke that person's driver's
22 license for [A PERIOD OF] not less than 30 days for the first convic-
23 tion, unless the court determines that the person's ability to earn a
24 livelihood would be severely impaired and a limitation under AS 28.-
25 15.201 can be placed on the license that [WHICH] will enable the
26 person to earn a livelihood without excessive [RISK OR] danger to the
27 public. If a court limits a person's license under this subsection,
28 it shall do so for [A PERIOD OF] not less than 60 [30] days. Upon a
29 subsequent conviction of a person for any offense under (a)(1) - (4),

1 (6), or (7) of this section occurring within 15 years after a prior
2 conviction, the court shall revoke the person's license and may not
3 grant the person [ANY] limited license privileges for the following
4 periods:

5 (1) not less than one year for the second conviction; and

6 (2) not less than three years for a third or subsequent
7 conviction.

8 * Sec. 6. AS 28.15.181(c) is repealed and reenacted to read:

9 (c) A court convicting a person of an offense under (a)(5) or
10 (8) of this section arising out of the operation of a motor vehicle
11 for which a driver's license is required shall revoke that person's
12 driver's license and may not, except as provided in (d) of this sec-
13 tion, grant limited license privileges for the following periods:

14 (1) not less than 90 days if, within the preceding 15
15 years, the person has not previously been convicted of an offense

16 (A) under (a)(5) or (8) of this section; or

17 (B) a law or ordinance in another jurisdiction with
18 elements substantially similar to an offense under (a)(5) or (8)
19 of this section;

20 (2) not less than one year if, within the preceding 15
21 years, the person has been previously convicted of one offense

22 (A) under (a)(5) or (8) of this section; or

23 (B) a law or ordinance in another jurisdiction with
24 elements substantially similar to an offense under (a)(5) or (8)
25 of this section;

26 (3) not less than 10 years if, within the preceding 15
27 years, the person has been previously convicted of more than one of
28 the following offenses or has more than once been previously convicted
29 of one of the following offenses:

1 (A) an offense under (a)(5) or (8) of this section; or
2 (B) an offense under another law or ordinance in
3 another jurisdiction with elements substantially similar to an
4 offense under (a)(5) or (8) of this section.

5 * Sec. 7. AS 28.15.181 is amended by adding a new subsection to read:

6 (d) A court revoking a driver's license under (c)(1) of this
7 section may grant limited license privileges for the final 60 days
8 during which the license is revoked if the court determines that the
9 person's ability to earn a livelihood would be severely impaired and a
10 limitation under AS 28.15.201 can be placed on the license that will
11 enable the person to earn a livelihood without excessive danger to the
12 public.

13 * Sec. 8. AS 28.15.201(b)(1) is amended to read:

14 (1) require the surrender of the driver's license [AND, IF
15 THE PERSON IS CONVICTED OF AN OFFENSE UNDER AS 28.15.181(a)(5), REVOKE
16 THAT PERSON'S LICENSE FOR A PERIOD OF NOT LESS THAN 60 DAYS]; and

17 * Sec. 9. AS 28.15.201(c) is amended to read:

18 (c) After the termination of a limitation as shown on the certi-
19 ficate issued under (b) of this section, the license of a person on
20 whom a limitation was imposed is revoked until the person receives a
21 new [NO LONGER BOUND BY THE LIMITATION AND MAY APPLY FOR A DUPLICATE]
22 license in accordance with AS 28.20.240 [UNDER AS 28.15.141 OR, IF
23 OTHERWISE ELIGIBLE, FOR A NEW LICENSE IF THE LICENSE WAS REVOKED FOR
24 CONVICTION OF AN OFFENSE UNDER AS 28.15.181(a)(5) AND LIMITED LICENSE
25 PRIVILEGES WERE GRANTED UNDER AS 28.15.181(c)].

26 * Sec. 10. AS 28.15.291 is amended to read:

27 Sec. 28.15.291. DRIVING WHILE LICENSE CANCELED, SUSPENDED,
28 REVOKED OR IN VIOLATION OF LIMITATION. (a) A [NO] person may not
29 drive a motor vehicle on a highway or vehicular way or area [IN THIS

1 STATE] at a time when that person's [HIS] driver's license, or privi-
2 lege to drive [IN THIS STATE IF HE IS LICENSED IN ANOTHER JURISDIC-
3 TION,] has been canceled, suspended or revoked in this or another
4 jurisdiction, or when [HE IS] driving in violation of a limitation
5 placed upon that person's [HIS] license or privilege to drive in this
6 or [, EVEN WHEN HE IS DRIVING UNDER A LICENSE ISSUED IN] another
7 jurisdiction. Except as provided in (c) of this section, upon [UPON]
8 conviction of a violation of this section, the court shall impose a
9 [MINIMUM] sentence of imprisonment of not less than 10 days. The exe-
10 cution of sentence may not be suspended nor may probation or parole be
11 granted until the minimum imprisonment provided in this section has
12 been served; nor may imposition of sentence be suspended [, EXCEPT
13 UPON THE CONDITION THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN
14 THE MINIMUM PERIOD PROVIDED FOR ~~IS~~ THIS SECTION]. In addition, the
15 person's [HIS] license or privilege to drive shall be revoked, and the
16 person [HE] may not be issued a new license nor may the [HIS] privi-
17 lege to drive be restored for an additional period of one year after
18 the date that the person [HE] would have been entitled to restoration
19 of [HIS] driving privileges.

20 (b) When a person's license is canceled, limited, suspended or
21 revoked, that person [HE] shall be informed by the department or the
22 court that [WHICH] takes the action at the time of the action that,
23 upon a conviction of driving on a highway or vehicular way or area in
24 this state at a time when that person's [HIS] driver's license or
25 privilege to drive in this state has been canceled, suspended or
26 revoked, or upon a conviction of driving in violation of a limitation
27 of the [HIS] license, that person [HE] will be subject to the manda-
28 tory minimum sentence of [10-DAY] imprisonment under [(a) OF] this
29 section.

1 * Sec. 11. AS 28.15.291 is amended by adding a new subsection to read:
2 (c) The court shall impose a sentence of imprisonment of not
3 less than 30 days and a fine of not less than \$500 upon conviction of
4 a violation of this section if the person's driver's license was
5 revoked under AS 28.15.181(c)(1). The court shall impose a sentence
6 of imprisonment of not less than 90 days and a fine of not less than
7 \$1,000 upon conviction of a violation of this section if the person's
8 driver's license was revoked under AS 28.15.181(c)(2) or (3). The
9 execution of sentence may not be suspended nor may probation or parole
10 be granted until the minimum imprisonment provided in this subsection
11 has been served. Imposition of sentence may not be suspended. In
12 addition, the person's privilege to drive may not be restored for an
13 additional period of one year after the date that the person would
14 have been entitled to restoration of driving privileges if the person
15 had not been convicted under this section.

16 * Sec. 12. AS 28.20.240 is amended to read:

17 Sec. 28.20.240. PROOF REQUIRED WHEN DRIVING PRIVILEGE [USE OF
18 LICENSE] IS RESTRICTED. Whenever under a law of this state the li-
19 cense of a person is suspended, revoked, limited under AS 28.15.201,
20 or canceled for any reason, the department may not issue to that
21 person a new or renewal of license [IN HIS NAME] until permitted to do
22 so under the motor vehicle laws of this state. A period of suspen-
23 sion, revocation, [LIMITATION,] or cancellation [UNDER THIS SECTION]
24 continues until proof of financial responsibility for the future is
25 provided. Upon expiration of a period of limitation, the license
26 remains revoked until proof of financial responsibility for the future
27 is provided.

28 * Sec. 13. AS 28.35.030(c) is amended to read:

29 (c) Upon conviction under this section the court shall impose a

1 minimum sentence of imprisonment of not less than 72 consecutive hours
2 and a fine of not less than \$250 if the person has not been previously
3 convicted in this or another jurisdiction of driving while intoxicated
4 under this or another law or ordinance with substantially similar
5 elements or refusal to submit to a chemical test under AS 28.35.032
6 or another law or ordinance with substantially similar elements. Upon
7 [A SUBSEQUENT] conviction under this section the court shall impose a
8 minimum sentence of imprisonment of not less than 20 consecutive days
9 and a fine of not less than \$500 if, within the preceding 15 years,
10 the person has been previously convicted once in this or another
11 jurisdiction [WITHIN FIVE YEARS AFTER A CONVICTION] of driving while
12 intoxicated under this or another law or ordinance with substantially
13 similar elements or [IN THIS OR ANY OTHER STATE OR CONVICTION OF]
14 refusal to submit to a chemical test under AS 28.35.032 or another law
15 or ordinance with substantially similar elements. Upon conviction
16 under this section [OF BREATH UNDER AS 28.35.032,] the court shall
17 impose a minimum sentence of imprisonment of not less than 30 [10]
18 consecutive days and a fine of not less than \$1,000 if, within the
19 preceding 15 years, the person has been previously convicted in this
20 or another jurisdiction of more than one of the following offenses or
21 has more than once been previously convicted of one of the following
22 offenses: (1) driving while intoxicated under this or another law or
23 ordinance with substantially similar elements; (2) refusal to submit
24 to a chemical test under AS 28.35.032 or another law or ordinance with
25 substantially similar elements [UNLESS THE SUBSEQUENT CONVICTION IS
26 WITHIN ONE YEAR OF THE PREVIOUS CONVICTION, IN WHICH CASE THE COURT
27 SHALL IMPOSE A MINIMUM SENTENCE OF IMPRISONMENT OF NOT LESS THAN 20
28 CONSECUTIVE DAYS]. The execution of sentence may not be suspended nor
29 may probation be granted except on condition that [UNTIL] the minimum

1 imprisonment provided in this section is [HAS BEEN] served. Impos-
2 sition of sentence may not be suspended [, EXCEPT UPON THE CONDITION
3 THAT THE DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD
4 PROVIDED IN THIS SECTION]. In addition, if the offense involved
5 driving a motor vehicle for which a driver's license is required, the
6 person's driver's [HIS OPERATOR'S] license shall be revoked in accor-
7 dance with AS 28.15.181 and the vehicle used in commission of the
8 offense may be forfeited under AS 28.35.036. In addition, a person
9 convicted under this section [STATUTE] shall undertake, for a term
10 specified by the court, that program of alcohol education or rehabili-
11 tation that [WHICH] the court, after consideration of any information
12 compiled under (d) of this section, finds appropriate.

13 * Sec. 14. AS 28.35.031 is amended by adding a new subsection to read:

14 (b) A person who drives a motor vehicle that is involved in an
15 accident, has committed an offense under AS 28.15.181(a), or drives a
16 motor vehicle in a manner that creates an unjustifiable risk to a
17 person or to property shall be considered to have given consent to a
18 preliminary breath test for the purpose of determining the alcoholic
19 content of the person's blood or breath. The test shall be adminis-
20 tered at the scene of the incident at the direction of a law enforce-
21 ment officer who has reasonable grounds to believe that the person was
22 driving a motor vehicle that is involved in an accident, has committed
23 an offense under AS 28.15.181(a), or is driving in a manner that
24 creates an unjustifiable risk to a person or to property. The result
25 of the test may be used by the law enforcement officer to determine
26 whether the driver should be arrested. Before administering the test,
27 the officer shall advise the person that refusal may be used against
28 the person in a civil or criminal action arising out of the incident
29 and that refusal is an infraction. If the person refuses to submit to

1 the test, the test shall not be administered. Refusal to submit to a
2 preliminary breath test at the request of a law enforcement officer is
3 an infraction.

4 * Sec. 15. AS 28.35.032(a) is amended to read:

5 (a) If a person under arrest refuses the request of a law en-
6 forcement officer to submit to a chemical test under AS 28.35.031(a)
7 [OF BREATH AS PROVIDED IN AS 28.35.031], after being advised by the
8 officer that the refusal will, if that person was arrested while
9 operating or driving a motor vehicle for which a driver's license is
10 required, result in the [SUSPENSION,] denial or revocation of the
11 license or nonresident privilege to drive, that the refusal may be
12 used against the person in a civil or criminal action or proceeding
13 arising out of an act alleged to have been committed by the person
14 while operating or driving a motor vehicle or operating an aircraft or
15 a watercraft while intoxicated, and that the refusal is a misdemeanor,
16 a chemical test shall not be given, except as provided by AS 28.35.-
17 035.

18 * Sec. 16. AS 28.35.032(g) is amended to read:

19 (g) Upon conviction of a person under this section, the court
20 shall impose a minimum sentence of imprisonment of not less than 72
21 consecutive hours and a fine of not less than \$250 if the person has
22 not been previously convicted in this or another jurisdiction of
23 driving while intoxicated under AS 28.35.030 or another law or ordi-
24 nance with substantially similar elements or refusal to submit to a
25 chemical test under this or another law or ordinance with substan-
26 tially similar elements. Upon [A SUBSEQUENT] conviction under this
27 section the court shall impose a minimum sentence of imprisonment of
28 not less than 20 consecutive days and a fine of not less than \$500 if,
29 within the preceding 15 years, the person has been previously

1 convicted once in this or another jurisdiction [WITHIN FIVE YEARS
2 AFTER A CONVICTION UNDER THIS SECTION OR] of driving while intoxicated
3 under AS 28.35.030 or another law or ordinance with substantially
4 similar elements or refusal to submit to a chemical test under this or
5 another law or ordinance with substantially similar elements. Upon
6 conviction under this section the court shall impose a minimum sen-
7 tence of imprisonment of not less than 30 consecutive days and a fine
8 of not less than \$1,000 if, within the previous 15 years, the person
9 has been previously convicted in this or another jurisdiction of more
10 than one of the following offenses or has more than once been pre-
11 viously convicted of one of the following offenses: (1) driving while
12 intoxicated under AS 28.35.030 or another law or ordinance with sub-
13 stantially similar elements; (2) refusal to submit to a chemical test
14 under this or another law or ordinance with substantially similar
15 elements [IN THIS OR ANY OTHER STATE, THE COURT SHALL IMPOSE A MINIMUM
16 SENTENCE OF IMPRISONMENT OF NOT LESS THAN 10 CONSECUTIVE DAYS UNLESS
17 THE SUBSEQUENT CONVICTION IS WITHIN ONE YEAR OF THE PREVIOUS CONVIC-
18 TION, IN WHICH CASE THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF
19 IMPRISONMENT OF NOT LESS THAN 20 CONSECUTIVE DAYS]. The execution of
20 sentence may not be suspended nor may probation be granted except on
21 condition that [UNTIL] the minimum imprisonment provided in this
22 section is [HAS BEEN] served. Imposition of sentence may not be
23 suspended. If the offense involved driving a motor vehicle for which
24 a driver's license is required, the person's driver's license shall be
25 revoked under AS 28.15.181 [, EXCEPT UPON THE CONDITION THAT THE
26 DEFENDANT BE IMPRISONED FOR NO LESS THAN THE MINIMUM PERIOD PROVIDED
27 IN THIS SECTION]. In addition, a person convicted under this section
28 shall undertake, for a term specified by the court, that program of
29 alcohol education or rehabilitation that the court, after

1 consideration of any information compiled under (h) of this section,
2 finds appropriate. The sentence imposed by the court under this
3 subsection shall run consecutively with any other sentence of im-
4 prisonment imposed on the committed person.

5 * Sec. 17. AS 28.35.034 is amended to read:

6 Sec. 28.35.034. SURRENDER OF LICENSE OR PERMIT [PERIOD OF REVO-
7 CATION]. A person whose license or permit to operate or drive a motor
8 vehicle has been [SUSPENDED OR] revoked under AS 28.15.165 or AS 28.-
9 15.181 [THE PROVISIONS OF AS 28.35.032] shall surrender the [HIS]
10 license or permit to the department on receipt of notice of the revo-
11 cation. [SUCH A PERSON IS INELIGIBLE FOR AN OPERATOR'S LICENSE OR
12 PERMIT FOR THREE MONTHS FOLLOWING THE DATE ON WHICH THE LICENSE OR
13 PERMIT WAS RECEIVED BY THE DEPARTMENT, UNLESS THE DISTRICT COURT FINDS
14 THAT EXTENUATING CIRCUMSTANCES EXIST WHICH WOULD CAUSE EXTREME HARD-
15 SHIP, IN WHICH CASE THE SUSPENSION OR REVOCATION MAY BE MODIFIED OR
16 NULLIFIED.] After the [THREE MONTHS'] period of revocation has ex-
17 pired, the person may make application for a new license as provi d
18 by law.

19 * Sec. 18. AS 28.35 is amended by adding new sections to read:

20 Sec. 28.35.036. FORFEITURE OF MOTOR VEHICLE. (a) After convic-
21 tion of an offense under AS 28.35.030 or AS 28.35.032 involving a
22 motor vehicle of a type for which a driver's license is required and
23 upon motion by the state, the court shall hold a forfeiture hearing
24 and may order the forfeiture of the motor vehicle involved in the
25 commission of the offense if the person has been previously convicted
26 in this or another jurisdiction of more than one of the following
27 offenses or has more than once been previously convicted of one of the
28 following offenses:

29 (1) driving while intoxicated under AS 28.35.030 or another

1 law or ordinance with substantially similar elements; or

2 (2) refusal to submit to a chemical test under AS 28.35.032
3 or another law or ordinance with substantially similar elements.

4 (b) Upon forfeiture of a motor vehicle the court shall require
5 the surrender of the registration and certificate of title of that
6 motor vehicle. The registration and certificate of title shall be
7 delivered to the Department of Public Safety.

8 (c) If not released under AS 28.35.037, a motor vehicle for-
9 feited under this section may be disposed of at the discretion of the
10 department.

11 Sec. 28.35.037. REMISSION OF FORFEITURES. (a) Upon moving for
12 forfeiture of a motor vehicle under AS 28.35.036, the state shall
13 provide to every person who has an ascertainable ownership or security
14 interest in the motor vehicle written notice that includes

15 (1) a description of the motor vehicle;

16 (2) the time and place of the forfeiture hearing;

17 (3) the legal authority under which the motor vehicle may
18 be forfeited;

19 (4) notice of the right to intervene to protect the inter-
20 est in the motor vehicle.

21 (b) Upon receipt of a motion to intervene in a forfeiture hear-
22 ing the court shall order the satisfaction of the interest from the
23 proceeds of the sale of the motor vehicle or order the motor vehicle
24 to be released to the petitioner together with title to the motor
25 vehicle if the petitioner shows by a preponderance of the evidence
26 that

27 (1) the petitioner has an interest in the motor vehicle
28 acquired in good faith:

29 (2) a person other than the petitioner was convicted of the

1 offense that resulted in the forfeiture;

2 (3) the petitioner was not negligent in parting with the
3 motor vehicle.

4 Sec. 28.35.038. MUNICIPAL IMPOUNDMENT AND FORFEITURE. Notwith-
5 standing other provisions in this title, a municipality may adopt an
6 ordinance providing for the impoundment or forfeiture of a motor
7 vehicle involved in the commission of an offense under AS 28.35.030,
8 28.35.032, or an ordinance with elements substantially similar to
9 AS 28.35.030 or AS 28.35.032. An ordinance adopted under this section
10 is not required to be consistent with this title or regulations adopt-
11 ed under this title.

12 * Sec. 19. AS 28.15.211(a)(4) and AS 28.35.032(b),(c), and (d) are re-
13 pealed.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CS for HB 6 (Jud.)
 Title: Act relating to driving a m.v.
 Sponsor: Judiciary Committee
 Requestor: Finance Committee

II. FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: Justice
 BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES				419.7	444.9	471.6
200 TRAVEL		2.0	2.1	2.2	2.4	2.5
300 CONTRACTUAL		39.6	42.0	76.7	81.3	86.2
400 COMMODITIES		68.6	72.7	80.7	85.6	90.7
500 EQUIPMENT		-	-	4.5	-	-
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		6.9	7.3	7.7	8.2	8.7
TOTAL OPERATING	-0-	117.1	124.1	591.5	622.4	659.7
CAPITAL	-0-	2,860.0	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	2,977.1	124.1	591.5	622.4	659.7
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	9	9	9
PART-TIME						
TEMPORARY						

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

The source of funds to offset the fiscal impact of this bill has not been identified by the sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
 Division: Adult Corrections Date: May 5, 1983

Approved by Commissioner: John A. Egan *John A. Egan* Date: May 6, 1983
 Department: Health & Social Services

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3/8/83

IV. ANALYSIS:

A. Assumptions

1. Bed Impact

The passage of this bill will result in the need for 22 additional minimum security beds within the Alaska correctional system. The sections of the bill which affect increased inmate population projections are:

a. Section 11

Statistics furnished by the Department of Public Safety show 181 persons were convicted in 1982 for driving with a suspended or revoked license where the original offense resulting in the loss of license was driving while intoxicated (DWI) or implied consent (refusal to take a breathalyzer test). For purposes of this fiscal note, that number was used for calculating the increased person days of incarceration resulting from increased sentences to 30 or 90 days. It was assumed that 80% of the offenders would have been convicted only once in the previous 15 years and 20% convicted more than once in the previous 15 years.

The following calculations also consider that the offender would have been given a minimum sentence of 15 days previously, and it is assumed that every offender will earn all good time for which they are eligible. Therefore, 145 offenders would serve an additional 15 days and 36 offenders would serve an additional 60 days. This results in the need for an additional 11.88 beds.

b. Section 13

This section of the bill increases the minimum sentence for second time drunk drivers from 10 days to 20 days and third and subsequent time drunk drivers from 10 days to 30 days. It is estimated that would be 450 repeat offenders affected by this legislation, 425 second offenders and 25 third offenders. The additional sentence length to be served, assuming all good time will be earned is 12 days for second time offenders and 20 days for third offenders. This increased sentence length results in the need for 9 additional minimum security beds.

c. Section 16

This section provides new penalties for refusal to take a chemical test similar to the sentences to be imposed for driving while intoxicated. Statistical data for this offense was not available. Therefore, it was assumed that 20 individuals would be convicted with one

prior and 7 individuals would be convicted with 2 or more prior offenses. This would result in the need for 1.1 additional beds.

- d. The summary of a, b, and c above is 21.98 beds, which were rounded to 22 beds.
2. All persons convicted would receive the minimum sentence and all persons would earn all good time for which they would be eligible.
3. Inflation of 6% per year was used for the entire period of the fiscal note.
4. The new beds would not be available for occupancy until July 1, 1985. This will result in further overcrowding of the existing facilities for two years.
5. One additional position is needed for every 2.5 prison beds. Therefore, 9 correctional officers are needed to provide the security and supervision of the inmates. These positions would be requested for FY 1986.

B. Program Summary:

i. Positions

- 1 - Correctional Officer III
- 8 - Correctional Officers II

These positions are needed to provide for the security of the institution where the beds will be constructed and for the supervision of the additional 22 persons (full-time equivalents) within the Alaska corrections system.

2. Other Expenditures

The fiscal impact will be experienced as soon as the bill becomes law. Therefore, the incremental costs directly related to inmate care are identified in FY 1984. Position costs and costs related to building operations are not included until FY 1986.

- a. Travel - \$2000. Inmate transportation to point of arrest when released from custody.
- b. Contractual - \$39,600. Medical expenses for 22 full-time equivalent inmates at \$1800 per inmate per year.
- c. Commodities - \$68,600. Food, clothing, bedding, etc. for 8,085 inmate days at \$8.48 per day.
- d. Grants - \$6,900. Inmate gratuities paid for persons working in the kitchen, or janitorial/maintenance crews, etc.

e. Capital Expenditures

22 beds @ \$130,000 per bed = \$2,860,000

D. Economic Impact:

Passage of this bill should not significantly impact the State's economy.

E. Impact on Local Governments:

There would be no fiscal impact on local governments unless they changed local ordinances related to Dwi to include the same penalties contained in this bill. The fiscal impact would occur for local government units who contract with the State for the care of prisoners for local offenses.

1.	POSITION TITLE Correctional Officer II (R)				RANGE/STEP 13/B	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 96	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LCG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1		2		3					
	PERSONAL SERVICES									
5.	Salary	223,608		OT 26,968						
6.	Benefits	69,167		Shift Diff. 8,089						
7.	Supplemental Benefits	15,857								
8.	Fixed Benefits	25,888								
9.	TOTAL PERSONAL SERVICES		01		369,576					
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04		1,600						
13.	Equipment	05		4,000						
14.	Other									
15.	TOTAL COST				375,176					
RECEIPT CODE FUNDING SOURCE										
16.			Federal Receipts 1002							
17.			G.F. Match 1003							
18.			General Funds 1004		375,176					
19.			I-A Receipts 1005							
20.			Program Receipts 1020							
21.			Other							
FOR BSM USE ONLY										
4A KEY NUMBER _____										

These positions will provide security coverage for the minimum security beds resulting from enactment of CS for House Bill No. 6 (Judiciary).

Single position costs:

Salary	\$27,951
Overtime	3,371
Shift Diff.	1,011
Benefits	13,864
	<u>\$46,197</u>

13 REQUEST FOR
NEW POSITION

AGENCY Corrections
Offender Confinement, Reformation,
& Supervision

PROGRAM _____

BRU Adult Confinement

COMPONENT _____

FY 84

Page _____ of _____

Revised Date _____

1.	POSITION TITLE Correctional Officer III				RANGE/STEP 15/A	BARG. UNIT G	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.										
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.												
3.	CONTINUATION LEVEL	<input checked="" type="checkbox"/>	ADDITION		JUSTIFICATION															
4.	TYPE OF EXPENDITURE			AMOUNT	<p>These positions will provide supervision of security staff for the new minimum security beds resulting from the passage of CS for House Bill No. 5 (Judiciary).</p> <p>Single position costs:</p> <table> <tr> <td>Salary</td> <td>\$ 30,944</td> </tr> <tr> <td>Overtime</td> <td>3,371</td> </tr> <tr> <td>Shift Diff.</td> <td>1,011</td> </tr> <tr> <td>Benefits</td> <td>14,847</td> </tr> <tr> <td></td> <td>\$ 50,173</td> </tr> </table>						Salary	\$ 30,944	Overtime	3,371	Shift Diff.	1,011	Benefits	14,847		\$ 50,173
Salary	\$ 30,944																			
Overtime	3,371																			
Shift Diff.	1,011																			
Benefits	14,847																			
	\$ 50,173																			
	1	2	3																	
	PERSONAL SERVICES			OT \$ 3371																
5.	Salary	30,944		Shift Diff.																
6.	Benefits	9,446		\$ 1011																
7.	Supplemental Benefits	2,165																		
8.	Fixed Benefits	3,236																		
9.	TOTAL PERSONAL SERVICES	01		50,173																
10.	Travel	02																		
11.	Contractual	03																		
12.	Commodities	04		200																
13.	Equipment	05		500																
14.	Other																			
15.	TOTAL COST			50,873																
	RECEIPT CODE	FUNDING SOURCE																		
16.		Federal Receipts 1002																		
17.		G.F. Match 1003																		
18.		General Funds 1004		50,873																
19.		I-A Receipts 1005																		
20.		Program Receipts 1028																		
21.		Other																		
FOR B&M USE ONLY																				
4A KEY NUMBER _____																				

13 REQUEST FOR
NEW POSITION

AGENCY Corrections
Offender Confinement, Reformation,
& Supervision

PROGRAM _____

BRU Adult Confinement

COMPONENT _____

Page _____ of _____

Revised Date _____

FY 84

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST
 Bill/Resolution No.: HB6/SB61
 Title: Drunk Driving
 Sponsor: _____
 Requestor: _____

II. FISCAL DETAIL
 Agency Affected: Alaska Court System
 Program Category Affected: Admin. of Justice
 BRU, Program of Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		482.8	614.2	651.1	690.2	731.6
200 TRAVEL						
300 CONTRACTUAL		12.5	15.9	16.9	17.9	19.0
400 COMMODITIES		12.5	15.9	16.9	17.9	19.0
500 EQUIPMENT		31.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		539.0	646.0	684.9	726.0	769.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		539.0	646.0	684.9	726.0	769.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		12	12	12	12	12
PART-TIME						
TEMPORARY						

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard Barrier *[Signature]* Phone: 264-0545
 Division: Alaska Court System/Administration Date: 4/13/83
 Approved by Commissioner: _____ Date: _____
 Department: _____

Distribution:

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

3/8/83

ANALYSIS OF FISCAL IMPACT OF SB 61/HB 6:

The Court System currently disposes of approximately 6,000 DWI cases each year. Presently, 8.6% of these cases are disposed of at trial, or approximately 500 trials per year. This legislation will increase the number of cases proceeding to trial, since individuals faced with stiffer penalties and forfeiture of motor vehicles will be more likely to take their cases to trial than to plead guilty as they have in the past. Assuming that 5% of those individuals presently pleading guilty opted for a trial under the new statutes, the Court System would experience an increase of approximately 250 trials per year.

This legislation provides that individuals issued temporary licenses upon arrest on DWI have seven days in which to schedule a court hearing regarding extension of their temporary license. If 25% of the individuals charged with DWI ask the court for this seven day hearing, the court would experience an increase of approximately 1,500 hearings per year.

Once a motor vehicle has been forfeited to the state, the court must notice any interested party regarding this forfeiture and permit interested parties to submit a petition for remission of interest in the motor vehicle. Each petition filed will require a court hearing. It is estimated that this would lead to approximately 500 hearings per year.

Statewide, the major impact of this legislation would be an increase of approximately 250 DWI trials and 2,000 hearings per year. Along with the judicial manpower required to conduct the trials and hearings, the court needs supporting staff for the judges and clerical staff to process the case files, calendar and notice the participants in hearings, and perform other new clerical functions under this legislation related to impoundment of vehicles and forfeiture of vehicles.

The impact of this legislation will be felt in each court location in the state, though the major impact will be in the larger metropolitan areas. Both Anchorage and Fairbanks currently have a heavy caseload of DWI cases, with Anchorage reporting approximately 30% of the state's caseload and Fairbanks 25% of the caseload. In each of these locations the district courts are working at capacity, and would therefore need increased resources to handle the projected number of new trials and hearings to be held under this legislation. In each location, the minimal staffing required to implement this legislation would be one district court judge, with a support staff of a secretary and in-court clerk, and two court clerk II positions in the criminal sections to deal with the new clerical demands created by this legislation.

In addition to Anchorage and Fairbanks, both Palmer and Kenai have significant DWI caseloads, with each having nearly 10% of

the state's caseload. While these courts may be able to get by without additional judicial resources, each would need at a minimum one additional court clerk II position.

A detailed breakdown of the cost associated with this legislation is provided below.

FY 84 COST OF IMPLEMENTING HB 6/SB 61

PERSONAL SERVICES:

SALARIES:

ANCHORAGE

District Court Judge	\$ 60,600
Secretary (Range 12B)	23,352
In-Court Clerk (Range 12B)	23,352
Court Clerk II (2 @ Range 10B)	41,424

FAIRBANKS

District Court Judge	69,084
Secretary (Range 12B)	26,616
In-Court Clerk (Range 12B)	26,616
Court Clerk II (2 @ Range 10B)	46,706

PALMER

Court Clerk II (Range 10B)	21,384
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KENAI

Court Clerk II (Range 10B)	<u>21,984</u>
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\$361,118

BENEFITS:

Judges	139,659
Classified	<u>78,582</u>

Total Personal Services 579,359

CONTRACTUAL 15,000

COMMODITIES 15,000

EQUIPMENT (one time costs) 31,200

TOTAL COST \$640,559

FIRST YEAR ADJUSTMENT:

Less two months recruitment time (101,560)

TOTAL COST FIRST YEAR \$538,999

(Subsequent years' costs include inflation at 6%.)

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSHB 6 (Judiciary)
 Title: "...driving a motor vehicle."
 Sponsor: Judiciary Committee (Abood-Orig.)
 Requestor: House Finance Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Govt.
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		164.2	208.9	221.4	234.7	248.8
200 TRAVEL		10.0	10.6	11.2	11.9	12.6
300 CONTRACTUAL		20.4	23.8	25.2	26.7	28.3
400 COMMODITIES		12.4	7.6	8.1	8.6	9.1
500 EQUIPMENT		32.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	239.0	250.9	265.9	281.7	298.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	239.0	250.9	265.9	281.7	298.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	-0-	4	4	4	4	4
PART-TIME						
TEMPORARY						

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

Not specified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director

Division: Administrative Services Division

Phone: 465-3672

Date: May 5, 1983

Approved by Commissioner: Norman C. Gorsuch, Attorney General

Department: Department of Law

Date: May 5, 1983

Distribution:

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CSHB 6 (Judiciary)
Fiscal Note
Analysis

The committee substitute has eliminated impoundment of vehicles and retained modified and less restrictive provisions for forfeiture of vehicles. Likewise, the requirement to notify every person who has an ownership or security interest in vehicle within five days has been changed to simply notice prior to any hearing that would determine the disposition of any forfeited vehicle. Because of these changes, the fiscal impact on the department will be reduced. The requirement for court forfeiture hearings, however, still remains and the state must provide motions and answer intervenors' motions in order to invoke forfeiture. Consequently, the department's original estimate of four attorneys, and two clerical staff is being reduced to two attorneys and two clerical staff.

Fiscal Analysis - CSHB 6

The impact of CSHB 6 is expected to result in the addition of one Attorney IV position (SR 24) and one Attorney III position (SR 22). In addition to these attorney positions, two secretarial positions will provide support for the Anchorage and Fairbanks attorneys.

The first year of this analysis will cover 10 months of FY 84, allowing 2 months for these four positions to be established. The costs beyond FY 84 have been projected on a 12 month basis and include a 6% annual inflation factor.

1st Year (10 months)

	ANCHORAGE		FAIRBANKS		TOTAL
	AIV	LSI	AIII	LSI	
Personal Services	56.2	24.5	56.2	27.3	164.2
Travel	5.0	-0-	5.0	-0-	10.0
Contractual	8.0	2.2	8.0	2.2	20.4
Commod. - ongoing	1.5	1.5	1.5	1.5	6.0
Commod. - single time	2.0	1.2	2.0	1.2	6.4
Equip. - single time	1.5	14.5	1.5	14.5	32.0
					<hr/> 239.0

2nd Year (12 months + 6% annual inflation)

Personal Services	71.5	31.2	71.5	34.7	208.9
Travel	5.3	-0-	5.3	-0-	10.6
Contractual	9.1	2.8	9.1	2.8	23.8
Commodities	1.9	1.9	1.9	1.9	7.6
					<hr/> 250.9