

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 826

Senator Pourchot
February 12, 1991

SUMMARY

SB 34 amends the Longevity Bonus statutes governing length of absence from the state by increasing from 90 to 135 days the length of time a bonus recipient can be gone before having to go through the one year requalification process.

To clarify the current statutory ambiguity regarding cumulative absences, a new provision is added that specifies that a person who has not qualified to receive at least 8 bonuses during the last 12 months will have to requalify for the program.

In public hearings held by the Division of Pioneer Benefits this past fall, seniors repeatedly stated that they felt unduly restricted in their travel by the current statutory 90-day limitation on absences. This restriction appears severe in light of the fact that many seniors must save for several years before being able to afford a trip Outside.

By allowing seniors to be gone an additional 45 days (during which time they do not receive a bonus), SB 34 appears to more closely meet the intent of the original legislation and to represent a win/win situation. Not only would seniors be afforded greater travel opportunities, but the overall cost of the longevity bonus program would not be increased. In addition, this proposal may encourage individuals to be more accurate in their reporting of out of state absences.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB34

Revision Date: _____ Department Affected: Health & Social Services
 Title: "An Act relating to absence from the state for qualifying for Longevity Bonus." BRU: Assistance Payments
 Component: Old Age Assistance - Alaska Longevity Bonus Hold Harmless
 Sponsor: Pourchot, Collins
 Requestor: _____ COMPONENT SERIAL NO.

	2	2	3
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Expenditures/Revenues: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: No fiscal impact.

ANALYSIS: (Attach a separate page if necessary.)

If there is any fiscal impact on the OAA-ALB Hold Harmless program, it will be too small to measure.

Prepared By: Jan L. Hansen, Director Phone: 465-3347
 Division: Division of Public Assistance Date: 2/4/91
 Approved by Commissioner: [Signature]
 Agency: Department of Health and Social Services Date: 2/4/91

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

SB 34

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill Version: SB 34*

(S) Publish Date: 2/8/91

Revision Date: _____ Department Affected: Administration
 Title: Longevity Bonus: Allowable BRU: Longevity Bonus
Absence Component: Grants
 Sponsor: Senator Pourchot
 Requestor: Senator Pourchot COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	165.0	330.0	330.0	330.0	330.0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	165.0	330.0	330.0	330.0	330.0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	165.0	330.0	330.0	330.0	330.0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	165.0	330.0	330.0	330.0	330.0	0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

(SEE ATTACHED)

** This note was not included in members' files.*

Prepared By: Barbara Bathony, B. Bathony Phone: 465-4400
 Division: Pioneers' Benefits Date: 2/4/91
 Approved by Commissioner: Milton [Signature]
 Agency: Department of Administration Date: 2/4/91

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

02/04/91

The cost of Longevity Bonus is effected four ways. Summary:

- A) Increased use of allowed absences will decrease bonuses.
- B) As length of allowable absences increase, a number of now disqualified people will be added to the program.
- C) As length of allowable absences increases, people who are not on the program at all will be added.
- D) The bill disqualifies recipients for cummulative absences; this could be some savings.

::

A) as the length of allowable absences increase, people who leave longer will not receive bonuses while they are gone, thus reducing program costs

gap analysis--most recent 8 months

Warrants Missed	Recipients	Percent
0	17,742	97.5% don't travel--won't be affected
1	304	1.7% could travel more--won't be affected
2	115	0.6% might travel more if allowed
3	22	0.1% recipients missings more than 2 warrants
4	15	0.1% exceed limit but weren't disqualified,
5	4	0.0% so were on excused absence--won't
6	2	0.0% be affected
7	0	0.0%
8	0	0.0%

18,204

CONSIDERATIONS:

The above calculations represent a single period analysis. Alaskans do not necessarily want to leave every year. The calculations are based on social behavior, which is very unpredictable. We do not know how many of the 0.6% would leave for longer absences if allowed, and we do not know for how long they would leave. The reporting accuracy is also questioned. The penalty for exceeding 90 days is so severe that it may encourage fraud. If four times as many people (relative to the above estimate) were affected and the breakdown is as follows (NOTE: arbitrary) then the savings from people forfeiting bonuses is as shown below.

460

Days Allowed	Percent Affected	Number Affected	Lost Bonuses	Cost Reduction
90	100%	460	0	0
120	70%	322	1	80,500
135	60%	276	1.5	103,500
150	50%	230	2	115,000
165	30%	138	2.5	86,250
180	10%	46	3	34,500

B) As the length of allowable absences increases, the number of people disqualified for exceeding the limit will decrease, thus increasing program cost

disqualifications in FY 90 and 91
(both partial years--equivalent to about one year)

::

Days Absent	Disqualifia		Category Cost	Cost
	Number	Percent		
120	18	28%	54,000	54,000
135	4	6%	12,000	66,000
150	6	9%	18,000	84,000
165	4	6%	12,000	96,000
180	4	6%	12,000	108,000
+	28	44%	84,000	192,000

64

C) As the length of allowable absences increases, the number of people who qualify for the program will increase. These people are gone too much to receive checks now, but they will receive some payments if longer absences are allowed.

Department of Labor population over 65 is:

1988	20,397
1989	21,885
1990	23,000 (estimate)

The division mailed approximately 22,000 1099 IRS forms for 1990 recipients. This leaves about another 1,000 potential recipients who are not presently on the program at all.

of these: 650 in nursing homes or incarcerated
100 phiosophically opposed or will not apply

The remainder who might qualify are arbitrarily distributed below.

Days Absent	Distribution		Bonuses Missed	Bonuses Received	Category Cost	Cost
	Percent	Number				
		250				
120	5%	13	4	8	25,000	25,000
135	10%	25	4.5	7.5	46,875	71,875
150	40%	100	5	7	175,000	246,875
165	20%	50	5.5	6.5	81,250	328,125
180	15%	38	6	6	56,250	384,375
+	10%	25	12	0	0	384,375

100%

::

D) Section 2 of the bill disqualifies people for cumulative absences as well as for a continuous period. Assuming the disqualification would be adjusted if the absolute limit is changed, there would be some savings as recipients are disqualified for cumulative absences.

Assume that the savings offset 10% of the effect of the failure to disqualify recipients under (B) above.

Summary of cost computations

Days Absent	Bonus Forfeiture	Fail to Disqualify	New Recipients	Additional Disquals	Total Cost
120	(80,500)	54,000	25,000	(5,400)	(6,900)
135	(103,500)	66,000	71,875	(6,600)	27,775
150	(115,000)	84,000	246,875	(8,400)	207,475
165	(86,250)	96,000	328,125	(9,600)	328,275
180	(34,500)	108,000	384,375	(10,800)	447,075
+	0	192,000	384,375	(19,200)	557,175

The fiscal note reports costs for only the 165 day version.
Analysis of alternative limits was performed at the request of the sponsor.

ADDITIONAL COMMENTS:

The division revised the payment and absence reporting schedule effective December 1990. The division would like to see the absence reporting schedule included in the statute. A proposal for statute change is attached.

Draft Statute Change SB34

AS 47.45.030 ABSENCE FROM THE STATE. (a) A recipient shall notify the commissioner of absences as required by regulation. A recipient who is absent from the state for a continuous period that exceeds 30 days is disqualified from receiving one or more bonuses as follows:

(A) Duration of Absence	(B) Number of Bonuses
31 to 45 days	1
46 to 75 days	2
76 to 105 days	3
106 to 135 days	4
136 to 150 days	5

(b) A recipient who is absent from the state for a continuous period that exceeds _____ days is disqualified from receiving bonuses until returning to the state and for 12 months after returning to the state. At the conclusion of the 12-month period of disqualification, the recipient may apply for bonuses under AS 47.45.010.

(c) A recipient who is disqualified from receiving more than 5 bonuses within a 12-month period due to application of (a) of this section shall be disqualified from receiving bonuses for 12 months. At the conclusion of the 12-month period of disqualification, the recipient may apply for bonuses under AS 47.45.010.

(d) Absences separated by fewer than 10 days of physical presence in the state will be added together and considered a continuous absence.

(e) When the commissioner determines a period of absence is beyond the control of a recipient, the recipient is disqualified from receiving bonuses according to (a) of this section and from receiving bonuses until returning to the state. The portion of an absence determined to be beyond the control of the recipient shall be excluded from the application of (b) and (c) of this section.



OLDER PERSONS ACTION GROUP, Inc.

325 E. Third Avenue, Suite 300
Anchorage, AK 99501
(307) 278-1059 (Toll free 800-471

Post-It™ brand fax transmittal memo 7871		# of pages » 2
To: Sen. P. Pourchet	From: OPAG	
Co.	Co.	
Dept.	Phone # 276-1059	
Fax # 465-2069	FAX # 278-6724	

February 25, 1991

Senator Pat Pourchet
Capital Room 518
P. O. Box V, MS 3100
Juneau, Alaska 99811

Re: SB 34

Dear Senator Pourchet:

For too many years some decision makers have waged an on-going battle against the Alaska Longevity Bonus Program. Older Persons Action Group, Inc. (OPAG) and other organizations representing members of the state's retirement community have continually opposed the never-ending attempts to needs-base, reduce payments or amend the Longevity Bonus Program.

Some of the more compelling reasons for continuing the Longevity Bonus Program is its present form include:

- 1) The program benefits elders in all areas of the state. Recipients in every zip code of the state can rely on delivery of their check each month. Once admitted to the program there is no mandate to report to any agency or governmental entity unless the recipient has been away from the State of Alaska for a clearly defined number of days. Recipients have only to complete, sign and mail a simple form before the fifteenth day of the month; an easy task for rural and urban elderly alike.
- 2) Payments mailed to Longevity Bonus recipients bolster the economy of every city, town, village and trade area in the state. A large portion of most checks is used to purchase food, shelter, fuel and other essential supplies in the community where the recipient lives. This monthly infusion of cash stabilizes the economy of all Alaskan communities for it is a year-around resource.
- 3) The Longevity Bonus is a cost-effective way to help older Alaskans maintain independence and stay off welfare rolls.

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Senator Pat Fourchot
2/25/91

The OPAG Board of Directors urges serious consideration of these points any time changes are proposed and deliberated.

OPAG does not support SB 34 or other regulations which allow longevity bonus recipients to be out of the state for more than 90 days in any calendar year unless there are medical reasons. Only the few affluent can afford to leave their homes for extended travel. Those in need and those living on fixed, marginal incomes cannot afford that luxury.

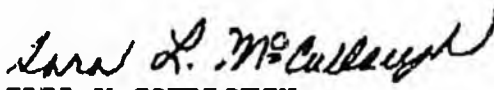
Secondly the Bonus was created to encourage people to retire in Alaska. That original intent is as valid in the 90's as it was in the 70's. Additionally, the economic impact of the stable year-around resource Alaska's retirement community contributes to the state must be seriously considered.

Sanctioning prolonged absence for other than medical reasons sends the wrong message to younger people and will stimulate further dissension and division of young and old.

OPAG recommends no changes be made in the current Longevity Bonus as action to amend invites further attack on legislation and existing programs. This is not the time to encourage changes in the Longevity Bonus Program.

As long time President of Older Persons Action Group, Rose Palmquist has the authority to speak on legislative issues for Older Persons Action Group, Inc. and Association of Alaska Senior Citizens Organization. She is now in Juneau and available for discussion of this and other issues relating to older Alaskans.

Sincerely,


SARA MCCOULLOUGH
Vice President
Older Persons Action Group, Inc.

SM:bj

1991 LEGISLATION
POSITION PAPER
DEPARTMENT OF ADMINISTRATION

Division Pioneers' Benefits Bill Number SB34

Bill Title Longevity Bonus: Allowable Absence

Position Statement: Explain briefly what bill does, its impacts and Department's position, i.e.
a) support, b) do not support, c) neutral or d) oppose.

The department supports a reasonable increase in the amount of time a longevity bonus recipient may be out of state without losing the bonus for a year, if the change will not increase the cost of the program.

APPROVED:

Director Barbara Bathony Division Pioneers' Benefits
print name

Signature Barbara Bathony Date 1-28-91

Commissioner Millett Keller

Signature Millett Keller Date 1/30/91

(For more information, call Barbara Pritchett 465-2200)

Rev. 1/23/91

SB35

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 19, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/11/92

The FINANCE Committee considered:

CSSB 35(JUD)

CS FOR SENATE BILL NO. 35 (JUDICIARY) USE OF RENTED PROPERTY/LAW VIOLATIONS
 "An Act relating to termination of tenancies and recovery of rental premises for nonpayment of rent and certain illegal activities, to tenant responsibilities, to the civil remedies of forcible entry and detainer and nuisance abatement, and to the duties of peace officers to notify landlords of arrests involving certain illegal activity on rental premises."

RECOMMENDATIONS: [] the same title
 be replaced with HPS CS SB 35 (FIN) [] a new title
 [] have attached amendments(s)
 [] do pass
 [] do not pass
 [] no recommendations
 [] individual recommendations
 [] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) _____
 (3) 2/19/92 2/19/92 2/19/92
 [] zero fiscal note(s) DPS; LAW; DCRA

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Mark Boyer</i> Boyer		<i>(Koponen)</i> Koponen		<input checked="" type="checkbox"/>	
<i>Tan Brown</i> BROWN					
<i>George Jacko Jr</i> JACKO					
<i>But Sharp</i> Sharp					
<i>ROD E. PHILLIPS</i> Phillips					
<i>Ronald J. Larson</i> LARSON	X				
<i>A. Ulmer</i> ULMER	X				
<i>Mike Spavone</i> SPAVONE					

Mike Spavone *Mark Boyer* V-Chair
 SPAVONE BOYER
 CHAIRMAN'S SIGNATURE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

No. 5
Bill Version: HCS CSSB 35 (JUD)
(H) Publish Date: 2/19/92

Revision Date: January 28, 1992 Department Affected: Department of Law
Title: "...relating to termination of tenancies...rental premises..." BRU: Fair Business Practices
Sponsor: Senator Pouchot Component: Fair Business Practices
Requestor: House Judiciary COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services / FAR Date: January 28, 1992
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: January 28, 1992

CONTINUATION of FISCAL NOTE ANALYSIS

#5

For Bill/Resolution No. HCS CSSB 35 (Jud) ,

2-19-92

Based upon the following legislative intent language, provided by the House Judiciary Committee, the costs shown in the Department of Law's fiscal note of January 15, 1992, are herewith withdrawn. The department will submit its request when the rewrites of the Forcible Entry and Detainer statutes and the Uniform Residential Landlord and Tenant Act are considered by the legislature.

LETTER OF INTENT

"HCS CSSB 35 (JUD)

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

"It is the intent of the legislature that the Department of Law delay revising or publishing the information pamphlet on landlord and tenant rights required under AS 44.23.020(b)(8) until the Code Revision Commission has completed its rewrite of AS 09.45.060 - AS 09.45.160 (Forcible Entry and Detainer) and AS 34.03 (Uniform Residential Landlord and Tenant Act)."

STATE OF ALASKA
1992 LEGISLATIVE SESSION

FISCAL NOTE No. 6
Bill Version: HCS CSSB 35 (JUD)
(H) Publish Date: 2/19/92

Revision Date: 01/16/92 Department Affected: Public Safety
Title: Use of Rented Property/ BRU: Alaska State Troopers
Drug Violations Component: Detachments
Sponsor: Senator Pourchot
Requestor: House Judiciary COMPONENT SERIAL NO.

7	9	9
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Please see attached.

Prepared By: F/Sgt. Robert Barnes Phone: 269-5436
Division: Alaska State Troopers Date: 01/16/92
Approved by Commissioner: Richard L. Burton
Agency: Department of Public Safety Date: 01/20/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Leg. Ofc., & Impacted Agency(ies).

Rev 10/7/91

Page 1 of 2

COMMITTEE COPY

2-17-92

HCSCSSB 35(L&C) amends existing landlord-tenant laws to allow property owners to terminate rental agreements for residential property with renters engaged in certain alcohol and drug violations. The bill creates a duty on the part of police officers who arrest persons for certain alcohol, drug, and imitation drug offenses committed in residential rental property to make a reasonable effort to discover the identity of the property owner and to notify the owner of the tenant's arrest either in person or at the last address listed on tax records or at any other address known to police.

The notice requirement applies to alcohol violation arrests for sales from unlicensed premises and for possession or sale of alcohol where prohibited by local option; to drug violations involving the manufacture or distribution of all drugs except small amounts of marijuana; and to imitation drug violations involving the manufacture or distribution of imitation drugs, or possession of certain precursor chemicals used in the manufacture of imitation drugs. Based upon past arrests for these offenses, it is estimated that the Department of Public Safety will have to notify approximately three hundred property owners per year. We anticipate that in-person notice would be given in many (perhaps most) cases. If a written notice is necessary, we estimate that research required to identify the property owner, determine the last address listed on tax roles and any other addresses known to police, and to prepare the written notice, will take approximately one hour per occurrence.

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

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

COMMITTEE COPY

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

No. 4
Bill Version: HCS CSSB 35 (JUD)
(H) Publish Date: 2/19/92

Revision Date: _____
Title: "...relating to termination of tenancies and recovery of rental premises for nonpayment of rent..."
Sponsor: Senators Pourchot, Halford
Requestor: _____

Department Affected: Community and Regional Affairs
BRU: Housing Assistance
Component: Housing Loan Administration

COMPONENT SERIAL NO.

0	6	8	7
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson Phone: 465-4708
Division: Administrative Services Division Date: 1/14/92

Approved by Commissioner: Ed. Berke Date: 1/14/92
Agency: Department of Community and Regional Affairs

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).
Rev 10/7/91

COMMITTEE COPY

HOUSE CS FOR CS FOR SENATE BILL NO. 35 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS POURCHOT, Halford

REPRESENTATIVE Zawacki

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to termination of tenancies and recovery of rental premises for
2 nonpayment of rent and certain illegal activities, to tenant responsibilities, and to the civil
3 remedies of forcible entry and detainer and nuisance abatement; and providing for an
4 effective date."

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

6 * Section 1. AS 09.45.090 is amended to read:

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

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

10 (A) fails to pay rent in full for the first rental period under a rental
11 agreement; for premises to which the provisions of AS 34.03 (Uniform Residential
12 Landlord and Tenant Act) apply, notice provided under AS 34.03.220(e) by the
13 person seeking to recover possession of the premises satisfies the notice requirements
14 of AS 09.45.060 - 09.45.110;

1 (B) other than a person described in (A) of this paragraph fails or
2 refuses to pay within five days the rent due on the lease or agreement under which the
3 tenant or person holds, or fails to deliver up the possession of the premises within five
4 [FOR 10] days after demand made in writing for the possession; for premises to which
5 the provisions of AS 34.03 (Uniform Residential Landlord and Tenant Act) apply.
6 notice provided under AS 34.03.220(b) by the person seeking to recover possession
7 of the premises satisfies the notice requirements of this subparagraph; or

8 (C) violates AS 34.03.120(b) or AS 34.05.100(a) and, after a notice to
9 quit as provided in AS 09.45.100, the tenant or person in possession of the premises
10 fails or refuses to deliver up the possession of the premises within five days after
11 demand made in writing for the possession;

12 (2) when, after a notice to quit as provided in AS 09.45.100 [AS 09.45.060 -
13 09.45.160], a person continues in [THE] possession of the premises

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

16 (B) [, OK] contrary to a condition or covenant in the lease or agreement,
17 including the breach of a condition or covenant set out in AS 34.03.120(a), but not
18 including a condition or covenant relating to nonpayment of rent or the prohibition
19 set out in AS 34.03.120(b) or AS 34.05.100(a); or

20 (C) without a written lease or agreement;

21 (3) when, except as otherwise provided in this section, after a notice to
22 terminate the tenancy or after receipt of an order of abatement under AS 09.50.210(a), [AS
23 PROVIDED IN THIS TITLE WITH REFERENCE TO TERMINATION OF ESTATE AT WILL
24 OR BY SUFFERANCE] a person continues in possession of the premises after expiration of the
25 time for determining the tenancy.

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

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

29 (1) delivered to the tenant or person;

30 (2) [OR] left at the premises and sent to the tenant or person by mail; [IN
31 CASE OF ABSENCE FROM THE PREMISES,] or

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

3 * Sec. 3. AS 09.45.100 is amended by adding a new subsection to read:

4 (b) If notice is provided by mail under (a)(3) of this section, an additional three days
5 shall be added to the required number of days of notice.

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

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

9 (1) in the cases specified in AS 09.45.090(2), when the notice to quit has been
10 served upon the tenant or person in possession for the period of 10 days before the
11 commencement of the action unless the leasing or occupation is for the purpose of farming or
12 agriculture, in which case the notice shall be served 90 days before commencement of the action;

13 (2) in the cases specified in AS 09.45.090(3), when the notice to quit has been
14 served upon the tenant or person in possession for a period of 24 hours before the
15 commencement of the action.

16 * Sec. 5. AS 09.45.120 is amended to read:

17 Sec. 09.45.120. SUMMONS AND CONTINUANCE. Summons in actions for forcible
18 entry and detainer shall be served not less than two [NOR MORE THAN FOUR] days before
19 the date of trial. A [NO] continuance may not [SHALL] be granted for a longer period than two
20 days unless the defendant applying for the continuance gives an undertaking to the adverse party,
21 with sureties approved by the court conditioned to the payment of the rent that may accrue if
22 judgment is rendered against the defendant.

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

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

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

30 Sec. 09.45.135. ACTION AGAINST TENANT OCCUPYING PREMISES ABATED AS
31 NUISANCE. In an action under AS 09.45.060 - 09.45.160 against a tenant or person in

1 possession of premises for which an order of abatement has been entered under AS 09.50.210(a),
2 a certified copy of the order of abatement is prima facie evidence of unlawful holding of the
3 premises by force by a person who remains on the premises.

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

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

13 (1) prostitution; or

14 (2) an illegal activity involving

15 (A) alcoholic beverages;

16 (B) a controlled substance;

17 (C) an imitation controlled substance; or

18 (D) promoting gambling in the first degree.

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

20 (b) In this section, "illegal activity involving alcoholic beverages," "illegal activity
21 involving a controlled substance," and "illegal activity involving an imitation controlled
22 substance," and "illegal activity involving promoting gambling in the first degree" have the
23 meanings given in AS 34.03.360.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 * Sec. 13. AS 34.03.070(a) is amended to read:

30 (a) A landlord may not demand or receive prepaid rent or a security deposit, however
31 denominated, in an amount or value in excess of two months' periodic rent. This section does

1 not apply to one- or two-family residence rental units where the rent exceeds \$2,000 a
2 month.

3 * Sec. 14. AS 34.03.070(g) is amended to read:

4 (g) If the landlord or tenant gives notice that complies with AS 34.03.290 and the tenant
5 has provided the landlord with a current address, the landlord shall mail the written notice
6 and refund required by (b) of this section within 14 days after the tenancy is terminated and
7 possession is delivered by the tenant. The landlord shall mail the written notice and refund
8 required by (b) of this section to the address provided by the tenant. If the tenant has
9 provided the landlord with a current address but the tenant does not give notice that complies
10 with AS 34.03.290, the landlord shall mail the written notice and refund required by (b) of this
11 section within 30 days after the tenancy is terminated, possession is delivered by the tenant, or
12 the landlord becomes aware that the dwelling unit is abandoned. The landlord shall mail the
13 written notice and refund required by (b) of this section to the address provided by the
14 tenant. If the landlord does not know the mailing address of the tenant, but knows or has reason
15 to know how to contact the tenant to give the notice required by (b) of this section, the landlord
16 shall make a reasonable effort to deliver the notice and refund to the tenant.

17 * Sec. 15. AS 34.03.100(c) is amended to read:

18 (c) The landlord and tenant of a one- or two-family residence may agree in writing that
19 the tenant perform the landlord's duties specified in (a)(4), (5), (6), and (7) of this section. A
20 tenant may agree to perform the duties specified in (a)(3) of this section in rental units
21 where the rent exceeds \$2,000 a month. They may also agree in writing that the tenant
22 perform specified repairs, maintenance tasks, alterations, and remodeling, but the tenant may
23 not agree to maintain elevators in good and safe working order. Agreements are allowed
24 under this subsection only if the transaction is entered into in good faith and not for the purpose
25 of evading the obligations of the landlord.

26 * Sec. 16. AS 34.03.120 is amended to read:

27 Sec. 34.03.120. TENANT OBLIGATIONS [TO MAINTAIN DWELLING UNIT]. The
28 tenant [SHALL]

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

31 (2) shall dispose all ashes, rubbish, garbage, and other waste from the dwelling

1 unit in a clean and safe manner;

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

4 (4) shall use in a reasonable manner all electrical, plumbing, sanitary, heating,
5 ventilating, air conditioning, kitchen, and other facilities and appliances including elevators in the
6 premises;

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

9 (6) may not unreasonably disturb, or permit others on the premises with the
10 tenant's consent to unreasonably disturb, a neighbor's peaceful enjoyment of the premises; and

11 (7) shall maintain smoke detection devices as required under
12 AS 18.70.095.

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

14 (b) The tenant may not knowingly engage at the premises in an illegal activity involving
15 alcoholic beverages, an illegal activity involving a controlled substance, an illegal activity
16 involving an imitation controlled substance, or an illegal activity involving promoting gambling
17 in the first degree, or knowingly permit others in the premises to engage in one or more of those
18 activities at the rental premises.

19 * Sec. 18. AS 34.03.140(a) is amended to read:

20 (a) The tenant may not unreasonably withhold consent to the landlord to enter into the
21 dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations,
22 alterations, or improvements, supply necessary or agreed services, remove personal property
23 belonging to the landlord that is not covered by a written rental agreement, or exhibit the
24 dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.

25 * Sec. 19. AS 34.03.140(d) is amended to read:

26 (d) The landlord does not have a [HAS NO OTHER] right to access

27 (1) except

28 (A) as permitted by this section;

29 (B) by court order; or

30 (C) [, AND] as permitted by AS 34.03.230(b); [,] or

31 (2) unless [IF] the tenant has abandoned or surrendered the premises.

1 * Sec. 20. AS 34.03.220(b) is amended to read:

2 (b) If rent is unpaid when due and the tenant fails to pay rent in full within five [10]
3 days after written notice by the landlord of nonpayment and the intention to terminate the rental
4 agreement if the rent is not paid within that period of time, the tenancy terminates unless the
5 landlord agrees to allow the tenant to remain in occupancy, and the landlord may terminate the
6 rental agreement and immediately recover possession of the rental unit. Only [; ONLY] one
7 written notice of default need be given the tenant by the landlord as to any one default. A
8 landlord who has given written notice to the tenant under this subsection may accept a
9 partial payment of the rent due under the rental agreement and extend the date for the
10 eviction accordingly.

11 * Sec. 21. AS 34.03.220 is amended by adding new subsections to read:

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

14 (e) A person whose use of premises is based solely on rights acquired by a tenant, and
15 who has not individually acquired the rights of a tenant under this chapter, does not acquire rights
16 under this chapter as a result of being present on the premises.

17 * Sec. 22. AS 34.03.260(d) is amended to read:

18 (d) The landlord is not liable [MAY NOT BE HELD TO RESPOND] in damages in an
19 action by a tenant claiming loss by reason of the landlord's storage [ELECTION], destruction,
20 or disposition of property under this section. A [, OR SALE. IF, HOWEVER, THE] landlord
21 who deliberately or negligently violates the provisions of this section [, THE LANDLORD] is
22 liable for actual damages and penal damages of an amount not to exceed actual damages.

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

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

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

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

1 violation of AS 11.73.010 - 11.73.030;

2 (22) "illegal activity involving promoting gambling in the first degree" means a
3 violation of AS 11.66.210.

4 * Sec. 24. AS 34.05 is amended by adding a new section to read:

5 ARTICLE 3. ILLEGAL ACTIVITIES IN NONRESIDENTIAL PREMISES.

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

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

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

16 (d) In this section, "dwelling unit," "illegal activity involving alcoholic beverages,"
17 "illegal activity involving a controlled substance," and "illegal activity involving an imitation
18 controlled substance," and "illegal activity involving promoting gambling in the first degree" have
19 the meanings given in AS 34.03.360.

20 * Sec. 25. APPLICABILITY. To the extent required by the state or federal constitutions, this Act
21 does not apply to leases or rental agreements entered into before the effective date of this Act.

22 * Sec. 26. This Act takes effect July 1, 1993.

DRAFT HCS FOR CS FOR SENATE BILL 35 (FINANCE)
5/10/92 VERSION

("An Act relating to termination of tenancies and recovery of rental premises for nonpayment of rent and certain illegal activities, to tenant responsibilities, and to the civil remedies of forcible entry and detainer and nuisance abatement; and providing for an effective date")

Section 1 - Specifies what constitutes "unlawful holding by force" and the reduction in the interval of time between delivery of notice to quit and commencement of forcible entry and detainer (FED) procedures as follows:

- (1)(A) specifies failure to pay first month's rent in full as unlawful holding by force (see Sec. 20);
 - (1)(B) by *5 days* for nonpayment of rent;
 - (1)(C) by *5 days reduction* for certain felony activities related to alcohol, drugs or gambling in the first degree (see Secs. 8 and 16);
- (1)(A) and (B) include provisions for the URLLT and FED notification periods to run concurrently.
- (2)(B) conforming amendment
 - (3) *to 24 hours* in the event of issuance of an order of nuisance abatement or when tenant refuses to leave after tenancy terminated (see Sec. 4).

Section 2 - Sets out three options for delivery of notice to quit: (1) delivery in person; (2) posting on premises and giving notice by regular mail; or (3) sending notice by registered or certified mail.

Section 3 - Carries forward provision in existing statute that requires 3 days be added to the notice period if delivered by registered or certified mail.

Section 4 - Requires 24 hour notice for tenancies terminated due to abatement order or when tenant refuses to leave after tenancy has terminated.

Section 5 - Deletes existing statutory requirement that trial brought as a result of FED action be held within four days of service of summons. (Retains requirement that it not be held sooner than two days after summons).

Section 6 - Allows court to enter "order to vacate" and provide "writ of assistance" to landlord at same time.

Section 7 - Provides that a certified copy of order of abatement is *prima facie* evidence of unlawful holding by force.

Section 8 - Amends existing nuisance statutes to include certain felony activities involving alcoholic beverages, controlled substances, imitation controlled substances, or gambling in the first degree, as basis for nuisance abatement relief. (Deletes outdated reference to lewdness, assignation, and other immoral acts.)

Section 9 - Cross-references these four illegal activities to definitions set out in Section 22.

Section 10 - Allows court to consider evidence of reputation of a premises within a community when considering abatement relief. (Court can already consider reputation of person.)

Sections 11 - (a)(1) Specifies that "order of abatement" terminates rental agreement. (corresponding amendment in Section 20)

- (b) Specifies that person who enters or uses abated premises is guilty of contempt. (no substantive change from existing statute)

Section 12 - (a)(3) Provides latitude to court in determining the amount of bond required when premises are to be returned to owner. (Current statutes requires bond for full value of property.)

- (a)(C) Specifies that cancellation of abatement order does not cancel termination of rental agreement.

Section 13 - Makes an exception to present limitation on required security deposit or prepaid rent for one- or two-family residence rental units that rent for more than \$2000/month.

Section 14 - Specifies tenant is responsible for notifying the landlord of the address to which the tenant's rental refund or security deposit should be sent.

Section 15 - Technical language changes by drafter.

Section 16 - Adds to tenant's obligations a prohibition against engaging in specified felony alcohol, drug or gambling activities.

Section 17 - Specifies that a landlord's personal property that is not covered in a written rental agreement may not be removed by the tenant.

Section 18 - Grants landlord the "right of access" if tenant has abandoned or surrendered the premises.

Section 19 - After having given "notice" for nonpayment of rent, a landlord may accept partial payment. Tenant's right to use of premises does not exceed the period of time for which the rent is paid.

Section 20 - (d) URLLT conforming amendment specifying that order of abatement terminates rental agreement.

- (e) Specifies that only tenant acquires rights under URLLT statutes.

Section 21 - Limits landlords liability for handling and disposition of tenant's abandoned property to acts in deliberate violation of provisions governing disposition.

Section 22 - Defines illegal activities involving alcoholic beverages, controlled substances, imitation controlled substances, and gambling in the first degree.

Section 23 - Extends provision that tenant not use rented premises for illegal activities to tenancies not covered by URLLT statutes. Relief provided through nuisance abatement process; abatement order would terminate rental agreement. OMITTS REFERENCE TO GAMBLING IN SUBSECTION (a) ALTHOUGH INCLUDED IN DEFINITION

Section 24 - "Hold harmless" provision to protect existing contracts.

Section 25 - July 1, 1993 effective date.

ADOPTED
SECTION 17
pg 7 (JUD - VERSION)
7-LS0160U
Chenoweth
5/10/92

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

BY

Offered:
Referred:

Sponsor(s): SENATORS POURCHOT, Halford

REPRESENTATIVE Zawacki

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to termination of tenancies and recovery of rental premises for
2 nonpayment of rent and certain illegal activities, to tenant responsibilities, and to the civil
3 remedies of forcible entry and detainer and nuisance abatement; and providing for an
4 effective date."

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

6 * Section 1. AS 09.45.090 is amended to read:

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

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

10 (A) fails to pay rent in full for the first rental period under a rental
11 agreement; for premises to which the provisions of AS 34.03 (Uniform Residential
12 Landlord and Tenant Act) apply, notice provided under AS 34.03.220(e) by the
13 person seeking to recover possession of the premises satisfies the notice requirements
14 of AS 09.45.060 - 09.45.110;

1 (B) other than a person described in (A) of this paragraph fails or
 2 refuses to pay within five days the rent due on the lease or agreement under which the
 3 tenant or person holds, or fails to deliver up the possession of the premises within five
 4 [FOR 10] days after demand made in writing for the possession; for premises to which
 5 the provisions of AS 34.03 (Uniform Residential Landlord and Tenant Act) apply,
 6 notice provided under AS 34.03.220(b) by the person seeking to recover possession
 7 of the premises satisfies the notice requirements of this subparagraph; or

8 (C) violates AS 34.03.120(b) or AS 34.05.100(a) and, after a notice to
 9 quit as provided in AS 09.45.100, the tenant or person in possession of the premises
 10 fails or refuses to deliver up the possession of the premises within five days after
 11 demand made in writing for the possession:

12 (2) when, after a notice to quit as provided in AS 09.45.100 [AS 09.45.060 -
 13 09.45.160], a person continues in [THE] possession of the premises

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

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

20 (C) without a written lease or agreement;

21 (3) when, except as otherwise provided in this section, after a notice to
 22 terminate the tenancy or after receipt of an order of abatement under AS 09.50.210(a), [AS
 23 PROVIDED IN THIS TITLE WITH REFERENCE TO TERMINATION OF ESTATE AT WILL
 24 OR BY SUFFERANCE] a person continues in possession of the premises after expiration of the
 25 time for determining the tenancy.

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

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30 (2) [OR] left at the premises and sent to the tenant or person by mail; [IN
 31 CASE OF ABSENCE FROM THE PREMISES,] or

1 (3) [THE NOTICE MAY BE] sent by registered or certified mail [, IN WHICH
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6 ACT]. A person who erects, establishes, continues, maintains, uses, owns, or leases a building,
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8 LEWDNESS, ASSIGNATION, OR PROSTITUTION OR ANY OTHER IMMORAL ACT] is
9 guilty of maintaining a nuisance, and the building, structure, or place, or the ground itself in or
10 upon which or in any part of which the activity [LEWDNESS, ASSIGNATION, OR
11 PROSTITUTION] is conducted, permitted, [OR] carried on, continues, or exists, and its [THE]
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27 community to prove the existence of a nuisance.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 * Sec. 13. AS 34.03.070(a) is amended to read:

30 (a) A landlord may not demand or receive prepaid rent or a security deposit, however
31 denominated, in an amount or value in excess of two months' periodic rent. This section does

1 not apply to one- or two-family residence rental units where the rent exceeds \$2.000 a
2 month.

3 * Sec. 14. AS 34.03.070(g) is amended to read:

4 (g) If the landlord or tenant gives notice that complies with AS 34.03.290 and the tenant
5 has provided the landlord with a current address, the landlord shall mail the written notice
6 and refund required by (b) of this section within 14 days after the tenancy is terminated and
7 possession is delivered by the tenant. The landlord shall mail the written notice and refund
8 required by (b) of this section to the address provided by the tenant. If the tenant has
9 provided the landlord with a current address but the tenant does not give notice that complies
10 with AS 34.03.290, the landlord shall mail the written notice and refund required by (b) of this
11 section within 30 days after the tenancy is terminated, possession is delivered by the tenant, or
12 the landlord becomes aware that the dwelling unit is abandoned. The landlord shall mail the
13 written notice and refund required by (b) of this section to the address provided by the
14 tenant. If the landlord does not know the mailing address of the tenant, but knows or has reason
15 to know how to contact the tenant to give the notice required by (b) of this section, the landlord
16 shall make a reasonable effort to deliver the notice and refund to the tenant.

17 * Sec. 15. AS 34.03.120 is amended to read:

18 Sec. 34.03.120. TENANT OBLIGATIONS [TO MAINTAIN DWELLING UNIT]. The
19 tenant [SHALL]

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

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

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

26 (4) shall use in a reasonable manner all electrical, plumbing, sanitary, heating,
27 ventilating, air-conditioning, kitchen, and other facilities and appliances including elevators in the
28 premises;

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

31 (6) may not unreasonably disturb, or permit others on the premises with the

1 tenant's consent to unreasonably disturb, a neighbor's peaceful enjoyment of the premises; and
2 (7) shall maintain smoke detection devices as required under
3 AS 18.70.095.

4 * Sec. 16. AS 34.03.120 is amended by adding a new subsection to read:

5 (b) The tenant may not knowingly engage at the premises in an illegal activity involving
6 alcoholic beverages, an illegal activity involving a controlled substance, an illegal activity
7 involving an imitation controlled substance, or an illegal activity involving promoting gambling
8 in the first degree, or knowingly permit others in the premises to engage in one or more of those
9 activities at the rental premises.

10 * Sec. 17. AS 34.03.140(a) is amended to read:

11 (a) The tenant may not unreasonably withhold consent to the landlord to enter into the
12 dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations,
13 alterations, or improvements, supply necessary or agreed services, remove personal property
14 belonging to the landlord that is not covered by a written rental agreement, or exhibit the
15 dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.

16 * Sec. 18. AS 34.03.140(d) is amended to read:

17 (d) The landlord does not have a [HAS NO OTHER] right to access

18 (1) except

19 (A) as permitted by this section;

20 (B) by court order; or

21 (C) [, AND] as permitted by AS 34.03.230(b); [,] or

22 (2) unless [IF] the tenant has abandoned or surrendered the premises.

23 * Sec. 19. AS 34.03.220(b) is amended to read:

24 (b) If rent is unpaid when due and the tenant fails to pay rent in full within five [10]
25 days after written notice by the landlord of nonpayment and the intention to terminate the rental
26 agreement if the rent is not paid within that period of time, the tenancy terminates unless the
27 landlord agrees to allow the tenant to remain in occupancy, and the landlord may terminate the
28 rental agreement and immediately recover possession of the rental unit. Only [; ONLY] one
29 written notice of default need be given the tenant by the landlord as to any one default. A
30 landlord who has given written notice to the tenant under this subsection may accept a
31 partial payment of the rent due under the rental agreement and extend the date for the

1 eviction accordingly.

2 * Sec. 20. AS 34.03.220 is amended by adding new subsections to read:

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

5 (e) A person whose use of premises is based solely on rights acquired by a tenant, and
6 who has not individually acquired the rights of a tenant under this chapter, does not acquire rights
7 under this chapter as a result of being present on the premises.

8 * Sec. 21. AS 34.03.260(d) is amended to read:

9 (d) The landlord is not liable [MAY NOT BE HELD TO RESPOND] in damages in an
10 action by a tenant claiming loss by reason of the landlord's storage [ELECTION], destruction,
11 or disposition of property under this section. A [, OR SALE. IF, HOWEVER, THE] landlord
12 who deliberately or negligently violates the provisions of this section [, THE LANDLORD] is
13 liable for actual damages and penal damages of an amount not to exceed actual damages.

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

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

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

22 (21) "illegal activity involving an imitation controlled substance" means a
23 violation of AS 11.73.010 - 11.73.030;

24 (22) "illegal activity involving promoting gambling in the first degree" means a
25 violation of AS 11.66.210.

26 * Sec. 23. AS 34.05 is amended by adding a new section to read:

27 ARTICLE 3. ILLEGAL ACTIVITIES IN NONRESIDENTIAL PREMISES.

28 Sec. 34.05.100. TENANT RESPONSIBILITIES IN PREMISES OTHER THAN
29 DWELLING UNITS. (a) In rented premises other than premises to which the provisions of
30 AS 34.03 apply, the tenant may not knowingly engage at the premises in an illegal activity
31 involving alcoholic beverages, an illegal activity involving a controlled substance, or an illegal

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

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

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

7 (d) In this section, "dwelling unit," "illegal activity involving alcoholic beverages,"
8 "illegal activity involving a controlled substance," and "illegal activity involving an imitation
9 controlled substance," and "illegal activity involving promoting gambling in the first degree" have
10 the meanings given in AS 34.03.360.

11 * Sec. 24. APPLICABILITY. To the extent required by the state or federal constitutions, this Act
12 does not apply to leases or rental agreements entered into before the effective date of this Act.

13 * Sec. 25. This Act takes effect July 1, 1993.

HCS FOR CS FOR SENATE BILL 35 (JUDICIARY)

("An Act relating to termination of tenancies and recovery of rental premises for nonpayment of rent and certain illegal activities, to tenant responsibilities, to the civil remedies of forcible entry and detainer and nuisance abatement, and to the duties of peace officers to notify landlords of arrest involving certain illegal activity on rental premises; and providing for an effective date")

Sections 1 and 14 - Require peace officers to notify a landlord when a tenant has been arrested for violation of one of the identified felony offenses involving alcohol or drugs.

Section 2 - Reduces the interval of time between delivery of notice to quit and commencement of forcible entry and detainer (FED) procedures as follows:

- (1)(A) *to 24 hours* for failure to pay first months rent in full (see Sec. 25; allows tenant to use premises for period for which rent was paid.);

- (1)(B) *to 5 days* for nonpayment of rent;

- (1)(C) *to 5 days* for certain felony activities related to alcohol, drugs or gambling in the first degree (see Secs. 9 and 19);

- (1)(D) *to 5 days* for abandonment of premises (see Sec. 26).

- (2)(B)(i) *to 5 days* for failure to pay for utility services (see Sec. 23);

- (2)(B)(ii) *to 5 days* for changing locks without landlord's permission (see Secs. 18, 24, and 25),

(1)(A), (B), (D), (2)(B)(i) and (2)(B)(ii) include provisions for the URLLT and FED notification periods to run concurrently. (1)(D) only requires FED notice.

- (3) *to 24 hours* in the event of issuance of an order of nuisance abatement or when tenant refuses to leave after tenancy terminated (see Sec 5).

Section 3 - Sets out three options for delivery of notice to quit: (1) delivery in person; (2) posting on premises and giving notice by regular mail; or (3) sending notice by registered or certified mail.

Section 4 - Carries forward provision in existing statute that requires 3 days be added to the notice period if delivered by registered or certified mail.

Section 5 - Requires 24 hour notice for tenancies terminated due to abatement order or when tenant refuses to leave after tenancy has terminated.

Section 6 - Deletes existing statutory requirement that trial brought as a result of FED action be held within four days of service of summons. (Retains requirement that it not be held sooner than two days after summons).

Section 7 - Allows court to enter "order to vacate" and provide "writ of assistance" to landlord at same time.

Section 8 - Provides that a certified copy of order of abatement is *prima facie* evidence of unlawful holding by force.

Section 9 - Amends existing nuisance statutes to include certain felony activities involving alcoholic beverages, controlled substances, imitation controlled substances, or gambling in the first degree, as basis for nuisance abatement relief. (Deletes outdated reference to lewdness, assignation, and other immoral acts.

Section 10 - Cross-references these four illegal activities to definitions set out in Section 28.

Section 11 - Allows court to consider evidence of reputation of a premises within a community when considering abatement relief. (Court can already consider reputation of person.)

Sections 12 - (a)(1) Specifies that "order of abatement" terminates rental agreement. (corresponding amendment in Section 25)

- (b) Specifies that person who enters or uses abated premises is guilty of contempt. (no substantive change from existing statute)

Section 13 - (a)(3) Provides latitude to court in determining the amount of bond required when premises are to be returned to owner. (Current statutes requires bond for full value of property.)

- (a)(C) Specifies that cancellation of abatement order does not cancel termination of rental agreement.

Section 14 - See Section 1

Section 15 - Makes an exception to present limitation on required security deposit or prepaid rent for units that rent for more than \$1500/month.

Section 16 - Makes the tenant (rather than the landlord as under current law) responsible for notifying the landlord of the address to which the rental refund or security deposit should be sent.

Section 17 - Allows maintenance responsibilities (with the exception of elevators) to be negotiated between landlord and tenant on units which rent for more than \$1500/month.

Section 18 - Prohibits changing locks on premises without landlord's prior agreement, except in emergency situations. (See Section 24.)

Section 19 - Adds to tenant's obligations a prohibition against engaging in specified felony alcohol, drug or gambling activities.

Section 20 - Specifies that a landlord's personal property that is not covered in a written rental agreement may not be removed by the tenant.

Section 21 - Provides that in cases where a tenant unreasonably withholds consent for a landlord to enter premises, the landlord may post written notice on the door and enter after 24 hours.

Section 22 - Summarizes circumstances under which landlord may have access to premises.

Section 23 - Provides that if under rental agreement tenant is required to pay for utility services, failure to do so allows tenancy to be terminated with 5 days notice. If a second offense occurs within 6 months, tenancy may be terminated with 3 days notice.

Section 24 - After having given "notice" for nonpayment of rent, a landlord may accept partial payment. Tenant's right to use of premises does not exceed the period of time for which the rent is paid.

Section 25 - (d) URLLT conforming amendment specifying that order of abatement terminates rental agreement.

- (e) Conforming agreement specifying 24 hour notice if first month's rent not paid in full.

- (f) Specifies that only tenant acquires rights under URLLT statutes.

- (g) Conforming amendment specifying 5-day notice for tenant who changes locks without landlord's permission (See Section 18).

Section 26 - Allows expedited recovery of premises in cases of abandonment.

Section 27 - Limits landlords liability for handling and disposition of tenant's abandoned property to acts in deliberate violation of provisions governing disposition.

Section 28 - Defines illegal activities involving alcoholic beverages, controlled substances, imitation controlled substances, and gambling in the first degree.

Section 29 - Extends provision that tenant not use rented premises for illegal activities to tenancies not covered by URLLT statutes. Relief provided through nuisance abatement process; abatement order would terminate rental agreement.

Section 30 - "Hold harmless" provision to protect existing contracts.

Section 31 - July 1, 1993 effective date.

DELETIONS FROM HOUSE JUDICIARY CS FOR SB 35

- 1) Requirement for peace officers to notify a landlord when a tenant has been arrested for violation of one of the identified felony offenses involving alcohol, drugs, or gambling;
- 2) 24-hour notice to evict for failure to pay first month's rent in full;
- 3) 5-day reduction in notice requirement for abandonment of premises; for failure to pay utility services; and for changing locks without a landlord's permission;
- 4) Amended (H) Judiciary provision regarding an *exemption* on the amount of security deposit or prepaid rent that can be required - to apply to units that rent for more than \$2000/month;
- 5) Provision allowing maintenance responsibilities to be negotiated between landlord and tenant on units which rent for more than \$1500 per month;
- 6) Provision prohibiting changing locks on premises without landlord's prior agreement;
- 7) Provision to allow landlord to post written notice on door and enter after 24 hours in cases where a tenant unreasonably refuses access;
- 8) Provision allowing 5-day notice to evict if utilities disconnected for nonpayment;
- 9) Provision allowing expedited recovery of premises in cases of abandonment;
- 10) Provision prohibiting specified illegal activities on nonresidential premises.

Alaska State Legislature



House of Representatives House Judiciary Committee

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990
(907) 465-4712

LETTER OF INTENT

HCS CSSB 35 (JUD)

It is the intent of the legislature that the Department of Law delay revising or publishing the information pamphlet on landlord and tenant rights required under AS 44.23.020(b)(8) until the Division of Legal Services has completed its rewrite of AS 09.45.060 - AS 09.45.160 (Forcible Entry and Detainer) and AS 34.03 (Uniform Residential Landlord and Tenant Act). It is also the intent of the legislature that the Department of Law submit an appropriate fiscal note when the bill that rewrites AS 09.45.060 - AS 09.45.160 (Forcible Entry and Detainer) and AS 34.03 (Uniform Residential Landlord and Tenant Act) is introduced.

A handwritten signature in cursive script that reads "Dave Donley".

Representative Dave Donley, Chair
House Judiciary Committee

Alaska State Legislature



Senate Judiciary Committee

March 13, 1991

LETTER OF INTENT

CSSB 35 (JUD)

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

Omission of other criminal behavior or activities not addressed in this bill should not be construed as acceptable behavior by tenants.

A handwritten signature in cursive script, appearing to read "Rick Halford".

Senator Rick Halford, Chair
Senate Judiciary Committee

Adopted by the Senate: 5/3/91

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

*P.O. Box Y, Juneau, Alaska 99811
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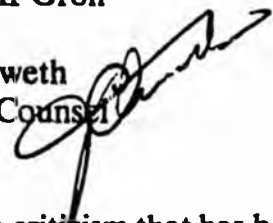
*Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101*

MEMORANDUM

May 13, 1991

SUBJECT: CSSB 35 (Judiciary)

TO: Representative David Finkelstein, Chair
House Labor and Commerce Committee
ATTN: Cliff Groh

FROM: Jack Chenoweth
Legislative Counsel 

You have asked me to respond to criticism that has been voiced of this Senate-passed measure.

In the context of amendment of the forcible entry and detainer remedy, the reduction of the ten-day notice to five days in the event of non-payment of rent and, as provided in the Judiciary Committee Substitute, in the event the tenant's breach of the duty not to illegally engage in use of alcohol or drugs in rented premises, is a policy decision for the legislature. As has been noted in the course of the bill's consideration, among western states, Alaska alone provides for 10 days' notice. The statutes of all of the rest authorize commencement of FED or similar proceedings for the nonpayment of rent on as little as three or five days' notice.

The initial bill authorized use of the forcible entry and detainer remedy upon a tenant's arrest for violation of one or more of three sets of statutes involving the sale or possession with intent to sell controlled substances or imitation controlled substances, or for certain illicit sales of alcoholic beverages. The Senate-passed bill abandons the "arrest" requirement and substitutes a more general statement of the tenant's "violation" of one those provisions. I assume that, in the absence of a definitive statement in the measure as to at what point tenant's conduct constitutes a "violation," the courts will eventually have to step in and define that circumstance. And, probably for all the reasons noted in the objection to the earlier version of the bill, that definition may require evidence of tenant's guilt—a plea of guilty or nolo contendere, or a conviction by court or jury. In at least one other jurisdiction with which I am familiar that has a substantially comparable measure, the state prosecutor interceded to impose an interpretation that the statute might only be invoked after a tenant's conviction.

Representative David Finkelstein
May 13, 1991
Page 2

Objection is made that the measure authorizes eviction because of illegal conduct of others not under the tenant's control. The standard in fact is one that looks to evidence of the tenant's "knowingly permit[ing] others in the premises to engage in one more of [the] activities . . ." AS 34.03.120(b). I suggest that the tenant's control of the rented premises is not compromised by that provision.

To the objection that the bill may be applied to impair existing contracts, to cut off any possibility of that, the House may want to add a provision making the measure's provisions applicable to rental agreements entered into on and after the measure's effective date.

*good
idea*

JC:pl
91-360.plm

Bill section 10 recasts existing law under which a court may issue a nuisance abatement order. The principal substantive change adds the underlined material in (a)(1) and directs the termination of the lease or rental agreement on premises subject to the abatement order if the tenant has been given notice of the nuisance abatement proceedings.

The substantive change made by bill section 11 is set out at p. 5, line 15: It adds flexibility in the abatement remedy by giving the court latitude to determine the amount of bond with sureties necessary when premises under abatement are to be returned to the owner rather than maintaining the requirement that the value of that bond reflect the full value of the property. The provision also adds, as a new subsection (c), a statement to clarify that, if an abatement order is subsequently cancelled because of compliance with (a) of that section, the related lease or rental agreement--terminated with the issuance of the abatement order under the authority of AS 09.50.210(a)(1) [bill section 10]--is not automatically revived.

Bill section 16 directs that, under the Uniform Residential Landlord and Tenant Act, an order of abatement entered by the court terminates the related rental agreement.

Bill section 17 identifies the particular activities involving alcoholic beverages, controlled substances, and imitation controlled substances that warrant relief under the expanded nuisance abatement provisions. Generally, these statutes identify sales and possession with intent to sell in violation of law. The Senate-passed measure abandons the "arrest" standard of the original bill and substitutes reference to "a violation" of one of the criminal statutes cited.

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

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

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

-- The amendment made to (3) authorizes the landlord to use the forcible entry and detainer remedy to enforce an order of abatement. Under the provision, the landlord may, after obtaining the abatement order under AS 09.50.210(a), seek immediate relief.

Senator Pat Pourchot

May 13, 1991

Page 4

A related provision, bill section 6, a new section, authorizes the use of an abatement order, obtained at the end of a trial under the nuisance abatement statute, to serve as prima facie evidence of unlawful holding of premises by force for purpose of the hearing required by the forcible entry and detainer process.

OTHER RELATED CHANGES:

Bill sections 1 and 12, adding AS 04.21.075 and AS 17.30.160, respectively, impose on peace officers the requirement to notify a landlord when a tenant has been arrested for violation of one of the identified criminal offenses involving alcohol or drugs.

Proposed bill section 2 amends AS 09.45.090 in part as follows: The addition of material in (2)(B) is included in order to authorize a landlord to recover premises after a notice to quit is given for the tenant's breach of a condition or covenant other than nonpayment of rent or engaging in identified criminal activity involving alcohol or drugs. (Under AS 09.45.110, not amended by this measure, ten days minimum notice must be given--90 days in the event of a farm- or agriculture-related tenancy.)

Bill section 13 adds as a tenant's duty the obligation of the tenant not to engage in illegal activities on rented premises or to knowingly allow others in the premises to do so.

Bill section 14 makes a technical change. Under current law, in order to secure relief under AS 34.03.220(a), a provision detailing the tenant's responsibilities under a rental agreement with respect to rented premises as those are enumerated in AS 34.03.120, the tenant's noncompliance must "materially [affect] health and safety." As noted immediately above, bill section 13 adds to the tenant's responsibilities "not knowingly [to] engage at the premises in [the specified] illegal [activities] . . . or knowingly permit others in the premises to [do so]" The change made by this bill section confines the "noncompliance materially affecting health and safety" standard to the tenant responsibilities set out in current law and serves not to impose that limiting standard to the added tenant responsibility not to engage on the premises in dealing in alcohol and drugs in violation of law.

The measure's bill section 18 adds a codified section, proposed AS 34.05.100, extending to tenancies not covered by the Uniform Residential Landlord and Tenant Act the provisions establishing the duty on the tenant not to use the rented premises for illegal activities. Under this new section, noncompliance with the provision is a basis for seeking relief through the nuisance abatement process and, as with bill section 16 above, an order of abatement covering a premises that falls within this section terminates the rental agreement.

JBC:lmb
91-185.lmb

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

February 13, 1992

SUBJECT: Landlord-Tenant and Forcible Entry and Detainer Statutes
(Work Order No. 7-LS2028)

TO: Senator Pat Pourchot

FROM: Tamara Brandt Cook
Director *TBC*

You have asked whether the Legal Services Division can prepare a draft over the interim to eliminate inconsistencies that exist in the Uniform Residential Landlord-Tenant and Forcible Entry and Detainer statutes for introduction at the beginning of the next regular session. It is my understanding that you would be shooting for a July 1, 1993 effective date.

This should present no major problem for the division to handle as an interim project. The bill has, therefore, been assigned a work order number. It has also been assigned to me, but that is only for our tracking purposes. At the end of the session, once staffing levels and general topic assignments can be reviewed, the bill will be assigned as a special project to a drafting attorney. That person will need guidance from your office with respect to policy choices that must be made to reconcile these statutes.

TBC:pl
92-101.plm

Enclosure

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
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Mail Stop 3101

MEMORANDUM

May 13, 1991

SUBJECT: CSSB 35 (Judiciary), relating to the landlord-tenant relationship -
- sectional analysis (Work Order No. 7-LS0160/V)

TO: Senator Pat Pourchot
ATTN: Jeanne Larson

FROM: Jack Cheng
Legislative Counsel

Senate-passed CSSB 35 (Judiciary) has two principal purposes, both applicable to the landlord-tenant relationship:

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

Second, the measure amends the state's nuisance abatement statutes (AS 09.50.170 - 09.50.240) expanding that remedy to cover the identified criminal offenses involving alcohol or drugs, allowing persons to seek redress under the nuisance abatement law for criminal activity in premises that constitutes a nuisance. As a supplemental remedy, the measure amends statutes to give a landlord the opportunity to recover possession under the forcible entry and detainer remedy for that criminal activity by the tenant.

Finally, there are several related changes, noted at the end of the memo.

As with earlier sectional analyses prepared for you, I propose to address the measure's provisions topically rather than sequentially.

Senator Pat Pourchot
May 13, 1991
Page 2

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

Proposed bill section 2 amends AS 09.45.090 in part as follows: The amendment to (1)(A) reduces from ten days to five days the period in which a landlord must wait after making written demands for possession of rented premises to commence forcible entry and detainer proceedings to secure a tenant's eviction in the event the tenant fails to pay rent when due. No notice separate from that required to be given under the Uniform Residential Landlord and Tenant Act (AS 34.03), as amended by bill section 15, is required.

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

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

As has been previously noted, a related change is made in the Uniform Residential Landlord and Tenant Act (AS 34.03) by bill section 15. The change made to AS 34.03.220(b) conforms the number of days in which the tenant must pay rent after receiving written notice of rent nonpayment.

NUISANCE ABATEMENT:

Bill section 7 revises AS 09.50.170. It deletes in that section outdated references to "lewdness, assignation, . . . or any other immoral act"--currently part of the existing basis for nuisance abatement relief--retaining the reference in the current law to "prostitution" and adding, as you directed, an illegal activity involving alcoholic beverages, a controlled substance, or an imitation controlled substance as grounds for relief under the nuisance abatement statutes.

Bill section 8 defines the three additional criminal activities that may trigger nuisance abatement relief, cross-referencing them to the meanings of those terms set out in the Uniform Residential Landlord and Tenant Act.

Following the California statutory model recommended to me by your office, I have included bill section 9, a new section, AS 09.50.175, that would allow the court to consider evidence of reputation within a community if relief is sought under the expanded version of the nuisance abatement relief statute.

Bill section 10 recasts existing law under which a court may issue a nuisance abatement order. The principal substantive change adds the underlined material in (a)(1) and directs the termination of the lease or rental agreement on premises subject to the abatement order if the tenant has been given notice of the nuisance abatement proceedings.

The substantive change made by bill section 11 is set out at p. 5, line 15: It adds flexibility in the abatement remedy by giving the court latitude to determine the amount of bond with sureties necessary when premises under abatement are to be returned to the owner rather than maintaining the requirement that the value of that bond reflect the full value of the property. The provision also adds, as a new subsection (c), a statement to clarify that, if an abatement order is subsequently cancelled because of compliance with (a) of that section, the related lease or rental agreement--terminated with the issuance of the abatement order under the authority of AS 09.50.210(a)(1) [bill section 10]--is not automatically revived.

Bill section 16 directs that, under the Uniform Residential Landlord and Tenant Act, an order of abatement entered by the court terminates the related rental agreement.

Bill section 17 identifies the particular activities involving alcoholic beverages, controlled substances, and imitation controlled substances that warrant relief under the expanded nuisance abatement provisions. Generally, these statutes identify sales and possession with intent to sell in violation of law. The Senate-passed measure abandons the "arrest" standard of the original bill and substitutes reference to "a violation" of one of the criminal statutes cited.

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

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

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

-- The amendment made to (3) authorizes the landlord to use the forcible entry and detainer remedy to enforce an order of abatement. Under the provision, the landlord may, after obtaining the abatement order under AS 09.50.210(a), seek immediate relief.

A related provision, bill section 6, a new section, authorizes the use of an abatement order, obtained at the end of a trial under the nuisance abatement statute, to serve as prima facie evidence of unlawful holding of premises by force for purpose of the hearing required by the forcible entry and detainer process.

OTHER RELATED CHANGES:

Bill sections 1 and 12, adding AS 04.21.075 and AS 17.30.160, respectively, impose on peace officers the requirement to notify a landlord when a tenant has been arrested for violation of one of the identified criminal offenses involving alcohol or drugs.

Proposed bill section 2 amends AS 09.45.090 in part as follows: The addition of material in (2)(B) is included in order to authorize a landlord to recover premises after a notice to quit is given for the tenant's breach of a condition or covenant other than nonpayment of rent or engaging in identified criminal activity involving alcohol or drugs. (Under AS 09.45.110, not amended by this measure, ten days minimum notice must be given--90 days in the event of a farm- or agriculture-related tenancy.)

Bill section 13 adds as a tenant's duty the obligation of the tenant not to engage in illegal activities on rented premises or to knowingly allow others in the premises to do so.

Bill section 14 makes a technical change. Under current law, in order to secure relief under AS 34.03.220(a), a provision detailing the tenant's responsibilities under a rental agreement with respect to rented premises as those are enumerated in AS 34.03.120, the tenant's noncompliance must "materially [affect] health and safety." As noted immediately above, bill section 13 adds to the tenant's responsibilities "not knowingly [to] engage at the premises in [the specified] illegal [activities] . . . or knowingly permit others in the premises to [do so]" The change made by this bill section confines the "noncompliance materially affecting health and safety" standard to the tenant responsibilities set out in current law and serves not to impose that limiting standard to the added tenant responsibility not to engage on the premises in dealing in alcohol and drugs in violation of law.

The measure's bill section 18 adds a codified section, proposed AS 34.05.100, extending to tenancies not covered by the Uniform Residential Landlord and Tenant Act the provisions establishing the duty on the tenant not to use the rented premises for illegal activities. Under this new section, noncompliance with the provision is a basis for seeking relief through the nuisance abatement process and, as with bill section 16 above, an order of abatement covering a premises that falls within this section terminates the rental agreement.

ALASKA CODE REVISION COMMISSION



COMMISSIONERS
JOHN W. ABBOTT - CHAIRMAN
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ALASKA STATE LEGISLATURE
P.O. BOX Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-2450

EXECUTIVE SECRETARY
TAMARA BRANDT COOK

APR - 8 1991

April 4, 1991

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

Re: FED statutes, Uniform Residential Landlord-Tenant Act.

Dear Senator Pourchot:

I received your letters under date of March 13, 1991, concerning the above-referenced Alaska statutes. The Commission agrees with you that there exists a great deal of confusion concerning which court has jurisdiction and which act governs in actions involving the forceable removal of a tenant, notice requirements, etc.. The Alaska Supreme Court has (depending upon your point of view) either ameliorated or exasperated the jurisdiction problem by use of temporary Superior Court "appointments" of District Court Judges. As you may not be aware, the Court is now appointing District Court Judges to hear matters traditionally and under Title 22 been considered only by Superior Court judges. I expect this practice to continue.

FED actions have, since statehood, been heard in the District Court. However, since the passage of the Uniform Residential Landlord-Tenant Act, many such actions are now being heard in Superior Court. It would be well to have a statutory determination as to

Letter to Senator Pat Pourchot
Alaska State Legislature
FED/Uniform Residential Landlord-
Tenant Act.
April 4, 1991
Page 1 of 3

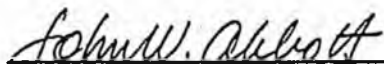
which court is the appropriate court to hear FED matters.

Concerning other aspects of the Uniform Residential/Landlord-Tenant Act, it is, in fact, a uniform act subject to all of the disabilities of such an act. It requires careful review and consideration by the Legislature insofar as there are many "hard" policy decisions to be made. The Commission has, in the past, been reluctant to consider reform of these provisions precisely because they were controversial. However, since you have made a request, we will gladly and enthusiastically consider and provide draft legislation for consideration by you or your committee. As we have done in the past when dealing with a proposed bill fraught with political and controversial provisions, we will provide the Senate with a bill that provides alternative approaches to resolution of matters coming within the scope of the acts. You will then be able to choose from among competing provisions and make the hard policy decisions.

I will be placing your request on the agenda for our next Commission meeting. I do not have a date at the present time as the Commission has exhausted all of its fiscal 1991 funds. Unfortunately, our budget was allocated in a new manner which provided for specific funding of positions within the Legislative Affairs Agency, Legal Division. Our monthly budget reports regrettably did not disclose that certain funds were encumbered, thus leading us to believe we had sufficient funding to complete our yearly meeting schedule. When we discovered that we had no further funds, we shut down the operation of the Commission. We are at this time awaiting a decision by the Legislature on a supplemental appropriation in the amount of \$10,000 (the amount requested). If such funding is forthcoming, we will have one or two further meetings during fiscal year 1991. In any event, we will be able to take up this project during fiscal year 1992 and will attempt to have a draft bill for consideration during the next legislative session.

The Commission will keep you apprised of progress on this project. And, I want to express our thanks for the legislative interest in the work done by the Commission. We are always happy to respond to a request from legislators.

Very truly yours,



JOHN W. ABBOTT

Chair

Letter to Senator Pat Pourchot
Alaska State Legislature
FED/Uniform Residential Landlord-
Tenant Act.
April 4, 1991
Page 2 of 3

cc: Senator Bettye Fahrenkamp,
Chair, Legislative Council

Terry Banister
Division of Legal Services

Letter to Senator Pat Pourchot
Alaska State Legislature
FED/Uniform Residential Landlord-
Tenant Act.
April 4, 1991
Page 3 of 3

DOCUMENTS WHICH HAVE NOT BEEN
FILMED BUT ARE AVAILABLE IN THE
ORIGINAL FILE INCLUDE:

Correspondence commenting on the
bill from:

AKPIRG	2/5/92
Richard F. Illgen	2/5/92
John & Nancy Podd	2/3/92
Alaska Legal Services	3/3/92
Alaska Landlord & Prop. Mgrs. Assoc.	1/18/92
Polar Realty, Anchorage	10/4/91
" " "	10/15/91
The Glory Hole, Juneau	
Wm. Devine & Sandra Arnold	11/15/91
Terry Gottbe	2/3/92
Igloo Properties, Anch.	12/26/91

SBRL

SENATE FINANCE COMMITTEE REPORT

DATE: 1/21/91

FURTHER:

DATE TURNED INTO OFFICE: _____

The Finance Committee considered SENATE BILL NO. 36

"An Act making a special appropriation to the principal of the permanent fund; and providing for an effective date."

and recommended:

- replace with _____ CS _____
 - or adopt _____ CS _____
 - attached amendment(s)
 - _____ letter of intent adopted
- same title
 - new title
 - technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

1. _____ 2. _____
Co-Chairs: Signatures and Recommendations

SENATE BILL NO. 36

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS UEHLING, Pearce

Introduced: 1/21/91

Referred: Finance

Funding Information:	General Fund	\$500,000,000
	Other Funds	<u>-0-</u>
		\$500,000,000

A BILL

FOR AN ACT ENTITLED

1 "An Act making a special appropriation to the principal of the permanent fund; and
 2 providing for an effective date."

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

4 * Section 1. The sum of \$500,000,000 is appropriated from the general fund to the principal of the
 5 permanent fund.

6 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

HISTORY IN THE SENATE

1997
 1/21

Read first time and referred to:

Finance

____ RPT(____) CS ____ DP ____ NR ____ DNP ____ AM
 ____ New Title ____ Same Title ____ Previous FN
 ____ FN ____ OFN To _____

____ RPT(____) CS ____ DP ____ NR ____ DNP ____ AM
 ____ New Title ____ Same Title ____ Previous FN
 ____ FN ____ OFN To _____

____ RPT(____) CS ____ DP ____ NR ____ DNP ____ AM
 ____ New Title ____ Same Title ____ Previous FN
 ____ FN ____ OFN To _____

____ Rules Calendar(____) CS ____ AM ____ Other
 ____ New Title ____ Same Title ____ Previous FN
 ____ FN ____ OFN

Read second time

____ CS Adopted (____) ____ New Title
 ____ Amended ____ Advanced

Read third time

____ Letter of Intent adopted
 ____ Return to second for specific amendment

PASSED EFD Same ____ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

Reconsideration

Reconsideration not taken up

PASSED EFD Same ____ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

Reported correctly engrossed
 Signed by President, to House

 Secretary of the Senate

HISTORY IN THE HOUSE

19

Read first time and referred to:

____ RPT CS(____) ____ New Title
 ____ DP ____ DNP ____ NR ____ AM
 ____ FN ____ OFN ____ Previous FN

____ RPT CS(____) ____ New Title
 ____ DP ____ DNP ____ NR ____ AM
 ____ FN ____ OFN ____ Previous FN

____ RPT CS(____) ____ New Title
 ____ DP ____ DNP ____ NR ____ AM
 ____ FN ____ OFN ____ Previous FN

Read second time
 CS(____) Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED EFD Same ____ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

____ Intent adopted

Reconsideration

Reconsideration not taken up

PASSED ON RECON. EFD Same ____ or
 Yeas Yeas
 Nays Nays
 Excused Excused
 Absent Absent

____ Intent adopted

Reported correctly engrossed, signed by the Speaker
 and returned to the Senate

 Chief Clerk of the House

SENATE-HOUSE HISTORY Continued

19	<p>Received from the House Version: _____</p> <p>Concur in House amendment Y ___ N ___ E ___ A ___ _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>Failed to concur in House amendment, ask House recede Y ___ N ___ E ___ A ___</p> <p>House failed to / receded from amendment Y ___ N ___ E ___ A ___</p> <p>CC appointed by Senate _____ Chair _____</p> <p>CC appointed by House _____ Chair _____</p> <p>(S) Granted Limited Powers of Free Conference</p> <p>(H) Granted Limited Powers of Free Conference</p>
----	--

19	<p>(S) Adopted CC Rpt _____ Y ___ N ___ E ___ A ___ _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>(H) Adopted CC Rpt _____ Y ___ N ___ E ___ A ___ _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>To enrolling Received from enrolling Sent to Governor</p> <p>_____ By Governor</p> <p>Chapter Number _____</p> <p>Filed with Lieutenant Governor</p>
----	---

SB37

(RT waived 5/20/91)

(X) USE COMMITTEE REPORT

(11)

Date Referred: May 20, 1991

FURTHER REFERRALS:

Date of Committee Action: 5/21/91

The FINANCE Committee considered:

CSSSSB 37(FIN)

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 37 (FINANCE)

FOOD/HOUSING: CERTAIN CONSTRUCTION SITES

"An Act relating to food and housing for construction workers at remote construction sites on certain state highway and airport construction projects; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS SS SB 37 (FIN) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) DOTPF 4/29/91

zero fiscal note HFC

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Mike Navarre</u> NAVARRE	<input checked="" type="checkbox"/>	<u>George J. Allen</u> JALLEN		<input checked="" type="checkbox"/>	
<u>Mark Boyer</u> Boyer					
<u>Jan. For...</u> BROWN	<input checked="" type="checkbox"/>				
<u>...</u> Koponen	<input checked="" type="checkbox"/>				
<u>...</u> Phillips	<input checked="" type="checkbox"/>				
<u>...</u> Hanson	<input checked="" type="checkbox"/>				
<u>...</u> Ullman	<input checked="" type="checkbox"/>				
<u>...</u> Sharp	<input checked="" type="checkbox"/>				

Mike Navarre NAVARRE
CO CHAIRMAN'S SIGNATURE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL

Version: C SSSSB 37 (24C)(S) Publish Date: 4/29/91**FISCAL NOTE**

Revision Date: April 29, 1991
 Title: An Act relating to food and housing for construction workers at remote construction sites on certain state construction projects; and providing for an effective date.
 Sponsor: Menard, Rodey, Collins
 Requestor: Menard

Department Affected: DOT&PF
 BRU: Statewide Engineering & Operations Standards
 Component: Eng. & Oper. Standards
 Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	3.0	0	0	0	0	0
CONTRACTUAL	15.0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	18.0	0	0	0	0	0

CAPITAL	400.0	400.0	400.0	400.0	400.0	400.0
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REVENUE	0	0	0	0	0	0
----------------	----------	----------	----------	----------	----------	----------

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	418.0	400.0	400.0	400.0	400.0	400.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	0	0	0	0	0	0

POSITIONS

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

Estimate of current year impact: None.

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jeffery C. Ottesen, Director

Phone: 465-2951

Division: Engineering and Operations Standards

Date: April 29, 1991

Approved by Commissioner: 

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: April 29, 1991

Distribution By Preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB, Impacted Agency(ies).

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

BILL NUMBER: C55537 (24C)

ANALYSIS (cont. from page 1):**Regulations**

There will be approximately \$18.0 in one-time administrative costs in FY 1992 due to the costs of implement regulations; these funds will be used for legal support, advertising, public hearings and travel to public hearings. Of this amount, \$15.0 is for contractual items (legal costs \$12.0, transcriptions \$2.0, advertising \$1.0) and \$3.0 is for travel and per diem to meetings.

Operating Costs

Administrative costs of establishing new contract specifications and having them reviewed by the Attorney General's office, regional staff and federal agencies will be borne by existing operating budgets.

Opportunity Costs: Federal-Aid Capital Programs

While not a new cost requiring an appropriation the bill has the effect of raising costs on certain federal-aid highway and aviation projects and thereby reducing buying power. This cost is essentially an opportunity cost to the program. It is estimated at \$2.0 to 3.0 million annually and will result in the delay of some projects as the schedule for highway and airport improvements will stretch out accordingly. It does appear as a cost on the fiscal note.

Capital Costs: General Funded Capital Programs

For the GF capital budget, we assumed that, on average, about \$4 million dollars of general funded construction would be defined as "remote" each year, and that the cost of a camp would contribute about 10% additional expense to these projects. This amount would vary with the size of the state's capital budget and the portion of the budget that is allocated to remote projects.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. _____

Revision Date: 5/21/91 Department Affected: _____

Title: Suspending Uniform Rules.... BRU: _____

Title Change for CSSSSB 37 (FIN) Component: _____

Sponsor: _____

Requestor: HOUSE FINANCE COMMITTEE COMPONENT SERIAL NO.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Representative Mike Navarre, Co-Chair *[Signature]* 465-3706
Representative Eileen MacLean, Co-Chair *[Signature]* Phone: 465-3722

Division: _____ Date: May 21, 1991

Approved by Commissioner: _____

Agency: _____ Date: _____

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

**HOUSE CONCURRENT RESOLUTION NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION**

BY THE HOUSE FINANCE COMMITTEE

Introduced:

Referred:

A RESOLUTION

**1 Suspending Uniform Rules 41(b), 24(c), and 35 of the Alaska State Legislature concerning
2 Senate Bill No. 37, relating to food and housing for workers at certain state remote
3 construction sites.**

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

**5 That under Rule 54 of the Uniform Rules of the Alaska State Legislature, the provisions of Rule
6 41(b), Rule 24(c), and Rule 35 of the Uniform Rules, regarding changes to the title of a bill, are
7 suspended in consideration of Senate Bill No. 37, relating to food and housing for workers at certain
8 state remote construction sites.**

By:

Boyer/Menard/Adam
Donley/Mano/MacKie

AMENDMENT TO SENATE BILL 37 (FINANCE)

INSERT ON PAGE 2, LINE 19 AFTER THE WORD "HOUSING"

"THE SPECIFICATIONS SHALL FURTHER REQUIRE THAT THE CONTRACTOR UTILIZE PERSONS WHOSE DOMICILE IS LOCATED WITHIN THE VICINITY OF THE PROJECT TO THE MAXIMUM EXTENT PERMITTED BY LAW."



Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

Senator Curt Menard

SPONSOR STATEMENT:

CSSSSB 37 (Fin): "An Act relating to food and housing for construction workers at remote construction sites on certain state highway and airport construction projects"

The legislation requires a contractor to provide food and housing to employees working on state highway or construction projects at a remote construct site. It accomplishes very important goals:

. It gives contractors a financial incentive to hire locally for remote projects. The more local employees on the job, the fewer that must be housed or fed by the contractor. In lieu of food and housing the contractor can transport the employee to the job site for one hour each way without incurring any additional wage costs.

. All employees will be accorded the same basic human dignity that having a roof provides. Currently there are two classes of employees working at remote construction sites: those that own RV's and those that are desperate enough to camp in gravel pits under visqueen tents. This bill eliminates that class structure.

The Department of Transportation and Public Facilities, organized labor, and the Associated General Contractors have worked together and the bill version before you represents significant compromises on all sides in an effort to resolve the problem.

The provisions of the bill apply to state construction projects but contains a number of limiting factors:

. The bill applies only to state highway or airport construction projects.

. The project must be at least 60 continuous days of active on-site work and require more than 15 contractor employees at peak employment periods.

. A contractor, as an alternative to food and housing, may provide transportation as specified.

. "Remote" is defined as more than 50 road miles or inaccessible by two-wheel drive from adequate commercial food and lodging facilities.

I appreciate your support of this legislation.

ALASKA STATE AFL-CIO

2501 Commercial Dr.
Anchorage, Alaska 99501
(907) 258-6284



819 1st Ave.
Fairbanks, Alaska 99701
(907) 456-2030

MANO FREY
Executive President

GARY BROOKS
Secretary / Treasurer

ALASKA AFL-CIO'S POSITION ON EMPLOYEE-OPT OUT/EMPLOYMENT PREFERENCE AMENDMENT FOR SPONSOR SUBSTITUTE FOR SENATE BILL 37

A PROPOSED EMPLOYEE OPT-OUT PROVISION THAT PROVIDES AN EMPLOYMENT PREFERENCE ACTUALLY WORKS AGAINST WHAT THE SUPPORTERS OF THE AMENDMENT ARE PROPOSING. SUCH AN AMENDMENT WOULD RENDER THE BILL WORTHLESS IN REGARDS TO A POTENTIAL BENEFIT IN THE SELECTION OF ALASKA RESIDENTS OVER NON-RESIDENTS.

THE EMPLOYEE OPT-OUT ALONE WOULD PRODUCE AN INCENTIVE FOR EMPLOYERS TO COERCE THEIR EMPLOYEES TO SIGN A WAIVER FOR FOOD AND HOUSING AS A CONDITION OF EMPLOYMENT.

THE EMPLOYMENT PREFERENCE GIVEN TO THOSE EMPLOYEES WHO WOULD SIGN THE WAIVER FOR FOOD AND HOUSING WOULD ENCOURAGE OUT OF WORK CONSTRUCTION WORKERS TO MIGRATE TO ALASKA FROM THE LOWER FORTY-EIGHT BY BEING INSURED OF A PREFERENCE OVER ALASKAN WORKERS WHO DON'T HAVE THE MEANS TO PURCHASE A CAMPER OR THOSE WHO WILL FIND IT TOO DIFFICULT TO LIVE IN A TENT FOR THE DURATION OF THE PROJECT. SUCH A PREFERENCE IF ENACTED INTO LAW WOULD PROBABLY BE UNCONSTITUTIONAL.

THE BILL AS PROPOSED IN CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL 37 (FINANCE) HAS AN EXCELLENT LOCAL HIRE INCENTIVE BY SIMPLY ALLOWING THE CONTRACTOR TO PROVIDE HOUSING ONLY FOR THOSE EMPLOYEES THAT ARE HIRED FROM OUTSIDE THE PROJECT AREA.

THE ALASKA STATE AFL-CIO AND ALL OF ITS AFFILIATES WOULD APPRECIATE YOUR VOTE FOR THE SWIFT PASSAGE OF CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL 37 (FINANCE) WITHOUT AMENDMENTS.

THANK YOU FOR YOUR SINCERE CONSIDERATION

JAN 30 1991

LABORERS' INTERNATIONAL UNION of NORTH AMERICA

LOCAL 341

2501 Commercial Drive
Anchorage, Alaska 99501
PHONE (907) 272-4571



MANO FREY
BUSINESS MANAGER
SECRETARY-TREASURER
ANDREW J. PIEKARSKI
PRESIDENT
VICE PRESIDENT
DON WEBER

FIELD REPRESENTATIVES:
ANDREW J. PIEKARSKI
WILLIAM "BILL" MCPHETE
MIKE GALLAGHER
ROBERT J. GLORIOSO

January 25, 1991

The Honorable Drue Pearce
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Senator ~~Pearce~~: *Drue*

I would like to enlist your help on a humanitarian issue. Currently, there are many people working on our state's road construction jobs who are living in very unhealthy and unsanitary conditions. Sometimes these individuals have the luxury of living in their campers (usually without hookups), but most of them are living in squalor. When I say squalor, I mean visqueen lean-tos, tents, the back seats of cars, the front seats of pickups, and sometimes inside a nice, dry culvert.

The state used to provide for food and housing in the bid specifications. That is not the situation any longer. The outside NON-union contractors found they could underbid conscientious Alaskan contractors by cutting out decent living and working conditions on their bids. Then the Alaskan contractors followed suit to remain competitive. Since then, the DOTPF, at least under the last administration, has taken a negative position because the cost would cut into the actual physical construction dollars.

Dignity in the workplace has taken a setback to well before Alaska's statehood. People are getting sick because they don't have potable water, housing, laundry facilities, showers, or warm food. One laborer told me that he would come home to his visqueen tent after twelve hours on a muddy road job, make a sandwich out of stale bread, and fall asleep in the same clothes we worked in the day before. Then he'd wake up, drink a cup of cold instant coffee, and go to work with another stale sandwich for lunch. He was working a twelve-hour shift seven days a week.

Put yourself into this individual's position and ask yourself, "How long would I last on a job like this?"

I would appreciate it very much if you would add your name as a sponsor to Senate Bill 37 so that we may hopefully rectify this terrible situation.

Sincerely,

Mano Frey
Business Manager/Secretary-Treasurer

MF/dsr



APR 23 1991

THE ALLIANCE

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April 18, 1991

Honorable Drue Pearce
Alaska State Senate
Post Office Box "V"
Juneau, Alaska 99811

Dear Senator Pearce:

Our Public Policy Committee has reviewed sponsor substitute for Senate Bill 37 and have no objection or suggested changes to this bill in its current form.

Sincerely yours,

William F. Webb
General Manager

cc: Public Policy Committee

Alaska Support Industry Alliance

... for responsible economic development