

Department of Law
Consumer Protection Unit

Alaska Uniform Residential Landlord & Tenant Act AS 34.03.010 – 34.03.360

Article 01. PURPOSES AND RULES OF CONSTRUCTION

Sec. 34.03.010. Purpose and construction.

- a. This chapter shall be liberally construed and applied to promote its underlying purposes and policies.
- b. The underlying purposes and policies of this chapter are to
 1. simplify, clarify, modernize, and revise the law governing the rental of dwelling units and the rights and obligations of landlord and tenant;
 2. encourage landlord and tenant to maintain and improve the quality of housing; and
 3. make uniform the law among those states that enact it.

Article 02. RENTAL AGREEMENTS

Sec. 34.03.020. Terms and conditions of rental agreement.

- a. The landlord and tenant may include in a rental agreement clauses and conditions not prohibited by this chapter or by law, including rent, terms of agreement, and other provisions governing the rights and obligations of the parties.
- b. In the absence of agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.
- c. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit. Unless otherwise agreed, rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments. Unless otherwise agreed, rent shall be uniformly apportionable from day to day and shall be paid on the date the periodic tenancy begins and payable on or before the same date of each and every month thereafter until the tenancy terminates.
- d. Unless the rental agreement fixes a definite term, the tenancy shall be week to week in the case of a tenant who pays weekly rent, and in all other cases month to month.
- e. If required by the landlord, the landlord and the tenant shall include within the rental agreement, incorporate by reference in the rental agreement, or add as a

separate attachment to the rental agreement a premises condition statement, setting out the condition of the premises, including fixtures but excluding reference to any of the other contents of the premises, and, if applicable, a contents inventory itemizing or describing all of the furnishings and other contents of the premises and specifying the condition of each of them. In the premises condition statement and contents inventory, the landlord and tenant shall describe the premises and its contents at the commencement of the term of the period of the occupancy covered by the rental agreement. When signed by the landlord and tenant, the premises condition statement and contents inventory completed under this subsection become part of the rental agreement.

Sec. 34.03.030. Effect of unsigned or undelivered rental agreement.

- a. If the landlord does not sign and deliver a written rental agreement signed and delivered to the landlord by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord.
- b. If the tenant does not sign and deliver a written rental agreement signed and delivered to the tenant by the landlord, acceptance of possession and payment of rent without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant.
- c. If a rental agreement given effect by the operation of this section provides for a term longer than one year, it is effective only for one year.

Sec. 34.03.040. Prohibited provisions in rental agreements.

- a. A rental agreement may not provide that the tenant or landlord
 - 1. agrees to waive or to forego rights or remedies under this chapter;
 - 2. authorizes a person to confess judgment on a claim arising out of the rental agreement;
 - 3. agrees to the exculpation or limitation of any liability of the landlord or tenant arising under the law or to indemnify the landlord or tenant for that liability or the costs connected with it;
 - 4. agrees to pay the landlord's attorney fees.
- b. A provision prohibited by (a) or (c) of this section included in a rental agreement is unenforceable. If a landlord or tenant wilfully uses a rental agreement containing provisions known by the person to be prohibited, the other party may recover the amount of actual damages.
- c. A rental agreement between a mobile home park operator and a mobile home park tenant may not

1. deny a tenant of a mobile home park the right to sell the tenant's mobile home within the park or require the resident or tenant to remove the mobile home from the park solely on the basis of the sale of the mobile home, nor may the mobile home park operator make a rule or regulation to the same effect, except that, within 30 days of written notice by the tenant of intent to sell the mobile home to a specified buyer, the operator or owner of the mobile home park may refuse to allow a sale for the following reasons:
 - A. the mobile home is in violation of laws or ordinances relating to health, safety or welfare;
 - B. the proposed buyer refuses to assume the same terms as are in the existing rental agreement; or
 - C. the proposed buyer does not have sufficient financial responsibility;
2. require a tenant to provide permanent improvements that become a part of the real property of the mobile home park owner or operator as a condition of tenancy in the mobile home park; however, the rental agreement may require the tenant to maintain existing conditions in the park;
3. require payment of any type of vendor or transfer fee either by a tenant in the mobile home park desiring to sell the tenant's mobile home to another party or by any party desiring to purchase a mobile home from a tenant in the park as a condition of tenancy; however, this paragraph does not prevent the owner or operator from applying normal park standards to prospective tenants before granting or denying tenancy or from charging a reasonable vendor or transfer fee for services actually performed if the tenant is notified in writing of the amount of those charges before agreeing to move into the park; or
4. require the prospective tenant to pay a fee to enter the mobile home park or a tenant to pay a fee to transfer the tenant's mobile home to another location outside the park; however, this paragraph does not prevent the owner or operator from charging a reasonable fee for services actually performed and if the tenant is notified in writing of the amount of those charges before agreeing to move into the park.

Sec. 34.03.050. Separation of rents and obligations to maintain property forbidden.

A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with AS 34.03.100(a).

Sec. 34.03.060. Sublease and assignment.

- a. Unless otherwise agreed in writing, the tenant may not sublet the premises or assign the rental agreement to another without the landlord's consent.

- b. The tenant's right to sublease the premises or assign the rental agreement to another shall be conditioned on obtaining the landlord's consent, which may be withheld only upon the grounds specified in (d) of this section; no further restrictions on sublease or assignment are enforceable.
- c. When the rental agreement requires the landlord's consent for sublease or assignment, the tenant may secure one or more persons who are willing to occupy the premises. Each prospective occupant shall make a written offer signed and delivered by the prospective occupant to the landlord, containing the following information on the prospective occupant:
 - 1. name, age, and present address;
 - 2. marital status;
 - 3. occupation, place of employment, and name and address of employer;
 - 4. number of all other persons who would normally reside with the prospective occupant;
 - 5. two credit references, or responsible persons who will confirm the financial responsibility of the prospective occupant; and
 - 6. names and addresses of all landlords of the prospective occupant during the prior three years.
- d. Within 14 days after the written offer has been delivered to the landlord, the landlord may refuse consent to a sublease or assignment by a written rejection signed and delivered by the landlord to the tenant, containing one or more of the following reasonable grounds for rejecting the prospective occupant:
 - 1. insufficient credit standing or financial responsibility;
 - 2. number of persons in the household;
 - 3. number of persons under 18 years of age in the household;
 - 4. unwillingness of the prospective occupant to assume the same terms as are included in the existing rental agreement;
 - 5. proposed maintenance of pets;
 - 6. proposed commercial activity; or
 - 7. written information signed by a previous landlord, which shall accompany the rejection, setting out abuses of other premises occupied by the prospective occupant.
- e. In the event the written rejection fails to contain one or more grounds permitted by (d) of this section for rejecting the prospective occupant, the tenant may consider the landlord's consent given, or at the tenant's option may terminate the rental agreement by a written notice given without unnecessary delay to the landlord at least 30 days before the termination date specified in the notice.
- f. If the landlord does not deliver a written rejection signed by the landlord to the tenant within 14 days after a written offer has been delivered to the landlord by the tenant, the landlord's consent to the sublease or assignment shall be conclusively presumed.

Article 03. LANDLORD OBLIGATIONS

Sec. 34.03.070. Security deposits and prepaid rent.

- a. Except as provided in (h) of this section, a landlord may not demand or receive prepaid rent or a security deposit, however denominated, in an amount or value in excess of two months' periodic rent. This section does not apply to rental units where the rent exceeds \$2,000 a month.
- b. Upon termination of the tenancy, property or money held by the landlord as prepaid rent or as a security deposit may be applied to the payment of accrued rent and the amount of damages that the landlord has suffered by reason of the tenant's noncompliance with AS 34.03.120. The accrued rent and damages must be itemized by the landlord in a written notice mailed to the tenant's last known address within the time limit prescribed by (g) of this section, together with the amount due the tenant. In this subsection, "damages"
 1. means deterioration of the premises and, if applicable, of the contents of the premises;
 2. does not include deterioration
 - A. that is the result of normal wear and tear;
 - B. caused by the landlord's failure to prepare for expected conditions or by the landlord's failure to comply with an obligation of the landlord imposed by this chapter.
- c. All money paid to the landlord by the tenant as prepaid rent or as a security deposit in a lease or rental agreement shall be promptly deposited by the landlord, wherever practicable, in a trust account in a bank, savings and loan association, or licensed escrow agent, and the landlord shall provide to the tenant the terms and conditions under which the prepaid rent or security deposit or portions of them may be withheld by the landlord. Nothing in this chapter prohibits the landlord from commingling prepaid rents and security deposits in a single financial account; however, the landlord shall separately account for prepaid rent and security deposits received from each tenant. The landlord may not commingle prepaid rent and security deposits with other funds. The landlord may not use money held for one tenant in a trust account to
 1. refund the security deposit of another tenant;
 2. apply to the payment of another tenant's accrued rent;
 3. apply to damages suffered by the landlord because of another tenant's noncompliance with AS 34.03.120.
- d. If the landlord wilfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.
- e. This section does not preclude a landlord or tenant from recovering other damages to which either may be entitled under this chapter.

- f. The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section.
- g. If the landlord or tenant gives notice that complies with AS 34.03.290, the landlord shall mail the written notice and refund required by (b) of this section within 14 days after the tenancy is terminated and possession is delivered by the tenant, except the landlord shall have 30 days after the tenancy is terminated to mail the refund if costs are deducted for damages that the landlord has suffered because of the tenant's noncompliance with AS 34.03.120. If the tenant does not give notice that complies with AS 34.03.290, the landlord shall mail the written notice and refund required by (b) of this section within 30 days after the tenancy is terminated, possession is delivered by the tenant, or the landlord becomes aware that the dwelling unit is abandoned. If the landlord does not know the mailing address of the tenant, but knows or has reason to know how to contact the tenant to give the notice required by (b) of this section, the landlord shall make a reasonable effort to deliver the notice and refund to the tenant.
- h. Notwithstanding the limitation on the amount of prepaid rent or security deposit in (a) of this section, a landlord may demand or receive an additional security deposit from a tenant who has a pet on the premises that is not a service animal. The additional security deposit
 - 1. may not exceed the periodic rent for one month; and
 - 2. shall be accounted for separately from prepaid rent or a security deposit received under (a) of this section and may be applied only to the amount of damages that are directly related to the pet of the tenant.
- i. (i) In this section,
 - 1. "normal wear and tear" means deterioration that occurs from the intended use of the rental unit and without negligence, carelessness, accident, misuse, or abuse of the premises or contents by the tenant, members of the household of the tenant, or the invitees or guests of the tenant;
 - 2. "service animal" means an animal that is individually trained to do work or perform tasks that are directly related to and for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Sec. 34.03.080. Disclosure.

- a. The landlord or a person authorized to enter into a rental agreement on behalf of the landlord shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of
 - 1. the person authorized to manage the premises; and
 - 2. an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

- b. The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner, or manager.
- c. A person who fails to comply with (a) of this section becomes an agent of each person who is a landlord for the purpose of
 - 1. service of process and receiving and receipting for notices and demands; and
 - 2. performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises.
- d. A mobile home park operator shall disclose fully in writing all capital improvements that will be required to be made by the tenant including but not limited to skirting or utility hook-ups, before entering into a rental agreement.

Sec. 34.03.090. Landlord to supply possession of the dwelling unit.

- a. At the commencement of the term the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and AS 34.03.100. The landlord may, after serving a notice to quit under AS 09.45.100 - 09.45.105 to a person who is wrongfully in possession,
 - 1. bring an action for possession against any person wrongfully in possession; and
 - 2. recover the damages provided in AS 34.03.290.
- b. The tenant shall acknowledge or verify by the tenant's signature the accuracy of the premises condition statement and contents inventory prepared under AS 34.03.020(e). The premises condition statement and contents inventory
 - 1. may be used by the landlord as the basis
 - A. to determine whether prepaid rent or a security deposit shall be applied to the payment of damages to the premises when authorized by AS 34.03.070(b); and
 - B. to compute the recovery of other damages to which the parties may be entitled under this chapter; and
 - 2. is, in an action initiated by a party to recover damages or to obtain other relief to which a party may be entitled under this chapter, presumptive evidence of the condition of the premises and its contents at the commencement of the term of the period of occupancy covered by the rental agreement.

Sec. 34.03.100. Landlord to maintain fit premises.

- a. The landlord shall

1. make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;
2. keep all common areas of the premises in a clean and safe condition;
3. maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;
4. provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;
5. supply running water and reasonable amounts of hot water and heat at all times, insofar as energy conditions permit, except where
 - A. the building that includes the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection; or
 - B. The premises do not have a well or water provided by a direct public utility connection and the rental agreement specifically states that the duty of the landlord to supply running water or hot water to the premises is waived by the tenant;
6. if requested by the tenant, provide and maintain locks and furnish keys reasonably adequate to ensure safety to the tenant's person and property; and
7. provide smoke detection devices and carbon monoxide detection devices as required under AS 18.70.095.

Sec. 34.03.110. Limitation of liability.

- a. Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this chapter as to events occurring subsequent to written notice to the tenant of the conveyance. However,
 1. the landlord remains liable to the tenant for the property and money to which the tenant is entitled under AS 34.03.070, unless the property and money are specifically assigned to and accepted by the purchaser; and
 2. the provisions of
 - A. a premises condition statement prepared under AS 34.03.020(e) between the landlord and the tenant remains valid as between the purchaser and the tenant until a new premises condition statement is entered into between the purchaser and the tenant; and
 - B. a contents inventory prepared under AS 34.03.020(e) between the landlord and the tenant remains valid as between the purchaser and the tenant for the contents remaining on the premises after the conveyance

of the premises until a new contents inventory is entered into between the purchaser and the tenant.

- b. Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of the person's management.

Article 04. TENANT OBLIGATIONS

Sec. 34.03.120. Tenant obligations.

a. The tenant

1. shall keep that part of the premises occupied and used by the tenant as clean and safe as the condition of the premises permit;
2. shall dispose all ashes, rubbish, garbage, and other waste from the dwelling unit in a clean and safe manner;
3. shall keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;
4. shall use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen, and other facilities and appliances including elevators in the premises;
5. may not deliberately or negligently destroy, deface, damage, impair, or remove a part of the premises or knowingly permit any person to do so;
6. may not unreasonably disturb, or permit others on the premises with the tenant's consent to unreasonably disturb, a neighbor's peaceful enjoyment of the premises;
7. shall maintain smoke detection devices and carbon monoxide detection devices as required under AS 18.70.095;
8. may not, except in an emergency when the landlord cannot be contacted after reasonable effort to do so, change the locks on doors of the premises without first securing the written agreement of the landlord and, immediately after changing the locks, providing the landlord a set of keys to all doors for which locks have been changed; in an emergency, the tenant may change the locks and shall, within five days, provide the landlord a set of keys to all doors for which locks have been changed and written notice of the change;
9. may not unreasonably engage in conduct, or permit others on the premises to engage in conduct, that results in the imposition of a fee under a municipal ordinance adopted under AS 29.35.125; and
10. may not allow the number of individuals occupying the premises to exceed the number allowed by applicable law, by a covenant limiting the landlord's use of the premises, or the rental agreement.

- b. The tenant may not knowingly engage at the premises in prostitution, an illegal activity involving a place of prostitution, an illegal activity involving alcoholic beverages, an illegal activity involving gambling or promoting gambling, an illegal activity involving a controlled substance, or an illegal activity involving an imitation controlled substance, or knowingly permit others in the premises to engage in one or more of those activities at the rental premises.
- c. When terminating the tenancy, the tenant shall leave the premises in substantially the same condition, except for normal wear and tear, as the condition of the premises at the beginning of the tenancy, including, in the landlord's discretion, professionally cleaning the carpets if the carpets were professionally cleaned immediately before the tenancy began. In this subsection, "normal wear and tear" has the meaning given in AS 34.03.070.

Sec. 34.03.130. Rules and regulations.

- a. A landlord may adopt rules and regulations, which shall be posted prominently on the premises, concerning the tenant's use and occupancy of the premises. A rule or regulation is enforceable against the tenant only if
 1. its purpose is to promote the convenience, safety, health, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;
 2. it is reasonably related to the purpose for which it is adopted;
 3. it applies to all tenants in the premises in a fair manner;
 4. it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform the tenant of what the tenant must or must not do to comply;
 5. it is not for the purpose of evading the obligations of the landlord; and
 6. the tenant has notice of it at the time the tenant enters into the rental agreement.
- b. A rule or regulation adopted after the tenant enters into the rental agreement is enforceable against the tenant if reasonable notice of its adoption is given to the tenant and it does not work a substantial modification of the rental agreement.
- c. A mobile home park operator may determine by rule or regulation the style or quality of the equipment, including but not limited to underskirting and tie-downs, to be purchased by the tenant from the vendor of the tenant's choice; however, the operator may not require that the equipment be purchased from the operator.

Sec. 34.03.140. Access.

- a. The tenant may not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, remove personal property belonging to the landlord that is not covered by a written rental agreement, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.
- b. The landlord may enter the dwelling unit without the consent of the tenant in the case of emergency.
- c. A landlord may not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least 24 hours notice of intention to enter and may enter only at reasonable times and with the tenant's consent.
- d. The landlord does not have a right of access to the dwelling unit
 - 1. except
 - A. as permitted by this section;
 - B. by court order; or
 - C. as permitted by AS 34.03.230(b); or
 - 2. unless the tenant has abandoned or surrendered the premises.

Sec. 34.03.150. Tenant to use and occupy.

Unless otherwise agreed, the tenant shall occupy the dwelling unit only as a dwelling unit. The rental agreement shall require that the tenant notify the landlord of an anticipated extended absence from the premises in excess of seven days; however, the notice shall be given as soon as reasonably possible after the tenant knows the absence will exceed seven days.

Article 05. TENANT REMEDIES

Sec. 34.03.160. Noncompliance by the landlord: General.

- a. Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with AS 34.03.100 materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and specifying that the rental agreement will terminate upon a date not less than 20 days after receipt of the notice if the breach is not remedied in 10 days, and the rental agreement shall terminate as provided in the notice subject to the provisions of this section. If the breach is remediable by repairs or the payment of damages or otherwise, and the landlord remedies the breach before the date specified in the notice, the rental agreement will not terminate. In the absence of due care by the landlord, if substantially the same act or omission that constituted a prior noncompliance of which notice was given recurs within six months, the tenant may

terminate the rental agreement upon at least 10 days written notice specifying the breach and the date of termination of the rental agreement. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family, or other person on the premises with the tenant's consent.

- b. Except as provided in this chapter, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or AS 34.03.100, 34.03.210, or 34.03.280.
- c. The remedy provided in (b) of this section is in addition to a right of the tenant under (a) of this section.
- d. If the rental agreement is terminated, the landlord shall return all prepaid rent or security deposits recoverable by the tenant under AS 34.03.070.

Sec. 34.03.170. Failure to deliver possession.

- a. If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in AS 34.03.090, rent abates until possession is delivered and the tenant may
 - 1. upon at least 10 days written notice to the landlord terminate the rental agreement and upon termination the landlord shall return all prepaid rent and security deposits; or
 - 2. demand performance of the rental agreement by the landlord and if the tenant elects, maintain an action for possession of the dwelling unit against the landlord and any person wrongfully in possession and recover the damages sustained.
- b. If a person's failure to deliver possession is wilful and not in good faith, an aggrieved tenant may recover from that person an amount not to exceed one and one-half times the actual damages.

Sec. 34.03.180. Wrongful failure to supply heat, water, hot water or essential services.

- a. If, contrary to the rental agreement or AS 34.03.100, the landlord deliberately or negligently fails to supply running water, hot water, heat, sanitary facilities, or other essential services, the tenant may give written notice to the landlord specifying the breach and may immediately
 - 1. procure reasonable amounts of hot water, running water, heat, sanitary facilities, and essential services during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;
 - 2. recover damages based on the diminution in the fair rental value of the dwelling unit; or

3. procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance and, in addition, may recover the amount by which the actual and reasonable cost exceeds rent.
- b. A tenant who proceeds under this section may not proceed under AS 34.03.160 as to that breach.
- c. Rights do not arise under this section until the tenant has given written notice to the landlord. Rights do not arise under this section if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family, or other person on the premises with the tenant's consent.

Sec. 34.03.190. Landlord's noncompliance as defense to action for possession or rent.

- a. In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount recoverable under the rental agreement or this chapter. If a counterclaim is made, the court shall determine whether the defense is supported by the evidence and, if so, may order that
 1. the periodic rent is to be reduced to reflect the diminution in value of the dwelling unit during the period of noncompliance;
 2. the action be continued for a reasonable time to enable the landlord to cure the violation;
 3. the tenant pay into court all or part of the rent accrued and thereafter accruing; if the violations have not been cured within six months, the court shall enter judgment for the defendant and either refund to the defendant all money deposited or use the money for the purpose of making the dwelling fit for human habitation; if the violations have been cured, the court shall determine the amount due to each party; the party to whom a net amount is owed shall be paid first from the money paid into the court, and the balance by the other party; if no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession;
 4. the tenant vacate the dwelling during the making of necessary repairs, when the repairs cannot be made without vacation of the premises, the tenant to be reinstated upon completion of the repairs.
- b. In an action for rent where the tenant is not in possession, the tenant may counterclaim as provided in (a) of this section but the tenant is not required to pay rent into court.

Sec. 34.03.200. Fire or casualty damage.

- a. If the dwelling unit or premises are damaged or destroyed by fire or casualty to the extent that enjoyment of the dwelling unit is substantially impaired, the tenant shall
 - 1. immediately vacate the premises and notify the landlord of the intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or
 - 2. if continued occupancy is lawful, vacate the part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.
- b. If the rental agreement is terminated, the landlord shall return all prepaid rent and security deposits recoverable under AS 34.03.070. Accounting for rent in the event of termination or apportionment shall occur as of the date of the casualty.

Sec. 34.03.210. Tenant's remedies for landlord's unlawful ouster, exclusion, or diminution of service.

If the landlord unlawfully removes or excludes the tenant from the premises or wilfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water, sanitary, or other essential service to the tenant, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not to exceed one and one-half times the actual damages. If the rental agreement is terminated, the landlord shall return all prepaid rent and security deposits recoverable by the tenant under AS 34.03.070.

Article 06. LANDLORD REMEDIES

Sec. 34.03.220. Noncompliance with rental agreement; failure to pay rent.

- a. Except as provided in this chapter,
 - 1. if the tenant or someone in the tenant's control deliberately inflicts substantial damage to the premises in breach of AS 34.03.120(a)(5) or the tenant engages in or permits another to engage in prostitution or another illegal activity at the premises in breach of AS 34.03.120(b), the landlord may deliver a written notice to quit to the tenant under AS 09.45.100 - 09.45.105 specifying the act constituting the breach and specifying that the rental agreement will terminate upon a date that is not less than 24 hours or more than five days after service of the notice; for purposes of this paragraph, damage to premises is "substantial" if the loss, destruction, or defacement of property attributable to the deliberate infliction of damage to the premises exceeds \$400;

2. if there is a material noncompliance by the tenant with the rental agreement, or if there is noncompliance with AS 34.03.120, other than deliberate infliction of substantial damage to the premises or other than noncompliance as to a utility service for which the provisions of (e) of this section apply, materially affecting health and safety, the landlord may deliver a written notice to quit to the tenant under AS 09.45.100 - 09.45.110 specifying the acts and omissions constituting the breach and specifying that the rental agreement will terminate on a date not less than 10 days after service of the notice; if the breach is not remedied, the rental agreement terminates as provided in the notice subject to the provisions of this section; if the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement will not terminate; in the absence of due care by the tenant, if substantially the same act or omission that constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least five days' written notice to quit specifying the breach and the date of termination of the rental agreement.
- b. If rent is unpaid when due and the tenant fails to pay rent in full within seven days after written notice by the landlord of nonpayment and the intention to terminate the rental agreement if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement and immediately recover possession of the rental unit. Only one written notice of default need be given the tenant by the landlord as to any one default. A landlord who has given written notice to the tenant under this subsection may accept a partial payment of the rent due under the rental agreement and extend the date for the eviction accordingly.
- c. Except as provided in this chapter, the landlord may recover actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or AS 34.03.120.
- d. An order of abatement entered by a court under AS 09.50.170 terminates a rental agreement on the premises subject to the order of abatement.
- e. If a public utility providing electricity, natural gas, or water to the premises occupied by the tenant discontinues the service to the premises due to the failure of the tenant to pay for the utility service, the landlord may deliver a written notice to quit to the tenant advising that, notwithstanding (a) of this section, the tenancy will terminate five days after the landlord's service of the notice. If, within three days from the service of the notice, the tenant reinstates the discontinued service and repays the landlord for any amounts paid by the landlord to reinstate service, and if damage did not occur to the rental unit as a result of the discontinuance of service, the rental agreement will not terminate. However, in the absence of due care by the tenant, if substantially the same act or omission that constituted a prior noncompliance under this subsection for which notice was given recurs within six

months, the landlord may terminate the rental agreement upon at least three days' written notice specifying the breach and the date of termination of the rental agreement.

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

Sec. 34.03.225. Limitations on mobile home park operator's right to terminate.

- a. A mobile home park operator may evict a mobile home or a mobile home park dweller or tenant only for one of the following reasons:
 - 1. the mobile home dweller or tenant has defaulted in the payment of rent owed;
 - 2. the mobile home dweller or tenant has been convicted of violating a federal or state law or local ordinance, and that violation is continuing and is detrimental to the health, safety, or welfare of other dwellers or tenants in the mobile home park;
 - 3. the mobile home dweller or tenant has violated a provision, enforceable under AS 34.03.130, of the rental agreement or lease signed by both parties and not prohibited by law including rent and the terms of agreement; and
 - 4. a change in the use of the land comprising the mobile home park, or the portion of it on which the mobile home to be evicted is located; however, all dwellers or tenants so affected by a change in land use shall be given at least 270 days' notice, or longer if a longer notice period is provided in a valid lease or required by a municipality; a dweller or tenant so affected by a change in land use shall be given a quit date not earlier than May 1 and not later than October 15; a municipality may establish a mobile home relocation fund and require that a dweller or tenant so affected by a change in land use be given a longer notice period or compensated from the fund for the cost of disconnecting, relocating, and reestablishing the dweller's or tenant's mobile home.
- b. A mobile home park operator may not evict a mobile home or a mobile home park dweller or tenant because of the age of the mobile home, except that a mobile home or a mobile home park dweller or tenant may be evicted if, when the mobile home was admitted to the mobile home park, a regulation of the mobile home park limiting the age of a mobile home in the mobile home park was in effect, the mobile home is sold after the age limitation has been exceeded, and the owner or tenant of the mobile home has failed to bring the unit into compliance with the life safety requirements of 24 CFR Part 3280. This does not prohibit eviction for violation of a provision enforceable under AS 34.03.130 that requires that a mobile home be in a fit and habitable condition.

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

Sec. 34.03.230. Remedies for absence, nonuse and abandonment.

- a. When the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days as required in AS 34.03.150 and the tenant wilfully fails to do so, the landlord may recover an amount not to exceed one and one-half times the actual damages.
- b. During an absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times reasonably necessary as provided in AS 34.03.140. The landlord may reenter the dwelling unit and, if there is evidence that the tenant has abandoned the dwelling unit, unless the landlord and tenant have made a specific agreement to the contrary, the landlord may terminate the rental agreement.
- c. If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental value. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, the agreement is considered terminated on the date the new tenancy begins. The rental agreement is considered terminated by the landlord on the date the landlord has notice of the abandonment if the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental value or if the landlord accepts the abandonment as a surrender. If the tenancy is from month to month, or week to week, the term of the rental agreement for purposes of this section shall be considered a month or a week, as the case may be.

Sec. 34.03.240. Waiver of landlord's right to terminate.

Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by the tenant that varies from the terms of the rental agreement or rules or regulations subsequently adopted by the landlord constitutes a waiver of the right of the landlord to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

Sec. 34.03.250. Landlord liens; distraint for rent abolished.

- a. A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before March 19, 1974.
- b. Distraint for rent is abolished.

Sec. 34.03.260. Disposition of abandoned property.

- a. Except as otherwise agreed, if, upon termination of a tenancy including but not limited to a termination after expiration of a lease or by surrender or abandonment of the premises, a tenant has left personal property upon the premises, and the landlord reasonably believes that the tenant has abandoned this personal property, the landlord may
 - 1. give notice to the tenant demanding that the property be removed within the dates set out in the notice but not less than 15 days after delivery or mailing of the notice, and that if the property is not removed within the time specified, the property may be sold; if the property is not removed within the time specified in the notice, the landlord may sell the property at a public sale; the landlord may dispose of perishable commodities in any manner the landlord considers fit;
 - 2. if the tenant has left personal property that is reasonably determined by the landlord to be valueless or of such little value that the cost of storing and conducting a public sale would probably exceed the amount that would be realized from the sale, the landlord may notify the tenant that the property be removed within the date specified in the notice but not less than 15 days after delivery or mailing of the notice, and that if the property is not removed within the time specified, the landlord intends to destroy or otherwise dispose of the property; if the property is not removed within the time specified in the notice, the landlord may destroy or otherwise dispose of the property; in the notice, the landlord shall indicate an election to sell certain items of the tenant's personal property at public sale and to destroy or otherwise dispose of the remainder.
- b. After notice as provided in (a) of this section, the landlord shall store all personal property of the tenant in a place of safekeeping and shall exercise reasonable care of the property, but is not responsible to the tenant for loss not caused by the landlord's deliberate or negligent act. The landlord may elect to store the property on the premises previously demised, in which event the storage cost may not exceed the fair rental value of the premises. If the tenant's property is removed to a commercial storage company, the storage cost shall include the actual charge for the storage and removal from the premises to the place of storage.
- c. After landlord's notice under (a) of this section, or otherwise, if the tenant makes timely response in writing of an intention to remove the personal property from the premises and does not do so within the time specified in the landlord's notice or within 15 days of the delivery or mailing of the tenant's written response whichever is later, it shall be conclusively presumed that the tenant has abandoned the property. If the tenant removes the property after notice, the landlord is entitled to the cost of storage for the period the property has remained in the landlord's safekeeping.

- d. The landlord is not liable in damages in an action by a tenant claiming loss by reason of the landlord's storage, destruction, or disposition of property under this section. A landlord who deliberately or negligently violates the provisions of this section is liable for actual damages and penal damages of an amount not to exceed actual damages.
- e. A public sale authorized under this section shall be conducted under AS 09.35.140. The landlord may dispose of any property upon which no bid is made at the public sale.

Sec. 34.03.270. Remedy after termination.

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement.

Sec. 34.03.280. Recovery of possession limited.

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including wilful diminution of services to the tenant by interrupting or causing the interruption of electricity, gas, water, sanitary, or other essential services to the tenant, except in case of abandonment, surrender, circumstances beyond the control of the landlord due to energy conditions, or as permitted in this chapter.

Sec. 34.03.285. Service of process upon tenant.

In an action for possession under this chapter, the summons and complaint shall be served under the provisions of Rule No. 85 of the Rules of Civil Procedure. A continuance may not be granted plaintiff or defendant except for good cause shown.

Article 07. PERIODIC TENANCY, HOLDOVER, AND ABUSE OF ACCESS

Sec. 34.03.290. Periodic tenancy and holdover.

- a. While rent is current, the landlord or the tenant may terminate a week to week tenancy by a written notice given to the other at least 14 days before the termination date specified in the notice.
- b. The landlord or the tenant may terminate a month to month tenancy by a written notice given to the other at least 30 days before the rental due date specified in the notice.
- c. If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or after its termination under (a) or (b) of this section, the landlord may, after serving a notice to quit to the tenant under AS

09.45.100 - 09.45.105, bring an action for possession and if the tenant's holdover is wilful and not in good faith the landlord, in addition, may recover an amount not to exceed one and one-half times the actual damages. If the landlord consents to the tenant's continued occupancy, AS 34.03.020 applies.

Sec. 34.03.300. Landlord and tenant remedies for abuse of access.

- a. If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or terminate the rental agreement. In either case, the landlord may recover an amount not to exceed the actual damages or one month's periodic rent, whichever is greater. If the landlord terminates the rental agreement, the landlord shall give written notice to the tenant at least 10 days before the date specified in the notice.
- b. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case, the tenant may recover an amount not to exceed the actual damages or one month's periodic rent, whichever is greater, court costs and reasonable attorney fees. If the tenant terminates the rental agreement, the tenant shall give written notice to the landlord at least 10 days before the date specified in the notice.

Article 08. RETALIATORY ACTION

Sec. 34.03.310. Retaliatory conduct prohibited.

- a. Except as provided in (c) and (d) of this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after the tenant has
 - 1. complained to the landlord of a violation of AS 34.03.100;
 - 2. sought to enforce rights and remedies granted the tenant under this chapter;
 - 3. organized or become a member of a tenant's union or similar organization; or
 - 4. complained to a governmental agency responsible for enforcement of governmental housing, wage, price, or rent controls.
- b. If the landlord acts in violation of (a) of this section, the tenant is entitled to the remedies provided in AS 34.03.210 and has a defense in an action against the tenant for possession.

- c. Notwithstanding (a) and (b) of this section, after serving a notice to quit to the tenant under AS 09.45.100 - 09.45.105, a landlord may bring an action for possession if
1. the tenant is in default in rent;
 2. compliance with the applicable building or housing code requires alteration, remodeling, or demolition that would effectively deprive the tenant of use of the dwelling unit;
 3. the tenant is committing waste or a nuisance, or is using the dwelling unit for an illegal purpose or for other than living or dwelling purposes in violation of the rental agreement;
 4. the landlord seeks in good faith to recover possession of the dwelling unit for personal purposes;
 5. the landlord seeks in good faith to recover possession of the dwelling unit for the purpose of substantially altering, remodeling, or demolishing the premises;
 6. the landlord seeks in good faith to recover possession of the dwelling unit for the purpose of immediately terminating for at least six months use of the dwelling unit as a dwelling unit; or
 7. the landlord has in good faith contracted to sell the property, and the contract of sale contains a representation by the purchaser corresponding to (4), (5) or (6) of this subsection.
- d. Notwithstanding (a) of this section, the landlord may increase the rent if the landlord
1. has become liable for a substantial increase in property taxes, or a substantial increase in other maintenance or operating costs not associated with compliance with the complaint or request, not less than four months before the demand for an increase in rent; and the increase in rent bears a reasonable relationship to the net increase in taxes or costs;
 2. has completed a capital improvement of the dwelling unit or the property of which it is a part and the increase in rent does not exceed the amount that may be claimed for federal income tax purposes as a straight-line depreciation of the improvement, prorated among the dwelling units benefited by the improvement;
 3. can establish by competent evidence that the rent now demanded of the tenant does not exceed the rent charged other tenants of similar dwelling units in the building or, in the case of a single-family residence or if there is no similar dwelling unit in the building, does not exceed the fair rental value of the dwelling unit.
- e. Maintenance of the action under (c) of this section does not release the landlord from liability under AS 34.03.160(b).

Article 09. GENERAL PROVISIONS

Sec. 34.03.320. Obligation of good faith.

Every duty under this chapter and every act that must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement. The aggrieved party has a duty to mitigate damages.

Sec. 34.03.330. Application and exclusions.

- a. This chapter applies to and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit in this state.
- b. Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:
 1. residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;
 2. occupancy under a contract of sale of a dwelling unit or the property of which it is a part if the occupant is the purchaser or a person who succeeds to the interest of a purchaser;
 3. occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;
 4. transient occupancy in a hotel, motel, lodgings, or other transient facility;
 5. occupancy by an employee of a landlord whose right to occupancy is conditioned upon employment substantially for services, maintenance, or repair to the premises;
 6. occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;
 7. occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes;
 8. occupancy under a rental agreement covering premises used as part of a transitional or supportive housing program that is sponsored or operated by a public corporation or by a nonprofit corporation and that provides shelter and related support services intended to improve the occupant's opportunity to obtain permanent housing.

Sec. 34.03.335. Proof of certain property damage claims.

In an action initiated by a party to recover damages or to obtain other relief to which a party may be entitled under this chapter, a premises condition statement and contents inventory prepared under AS 34.03.020(e) is presumptive evidence of the condition of the premises and its contents at the commencement of the term of the period of occupancy covered by the rental agreement between the

parties. Unless its authenticity is rebutted by clear and convincing evidence by the party against whom the statement and contents inventory is offered, the statement and contents inventory may be offered by a party, without additional supporting evidence, as the basis on which to compute the recovery of damages to which the party may be entitled under this chapter.

Sec. 34.03.340. Service of process.

If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by this chapter, or engages in a transaction subject to this chapter, the landlord may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The agent shall be the same person designated under AS 34.03.080. The designation shall be in writing and filed with the commissioner of commerce, community, and economic development. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the commissioner of commerce, community, and economic development, but the service upon the commissioner is not effective unless the plaintiff or petitioner immediately mails a copy of the process and pleadings by certified or registered mail to the defendant or respondent at the last ascertainable address of the defendant or respondent. An affidavit of compliance with this section shall be filed with the clerk of the court having jurisdiction on or before the return day for the process, if any, or within any further time allowed by the court.

Sec. 34.03.345. Mediation and binding arbitration.

- a. A landlord and a tenant may agree to mediate disputes between them as to an obligation of either of them arising out of the rental agreement. If the landlord and tenant agree to mediate disputes, they shall include the scope of the agreement within the executed rental agreement, incorporate a reference to that agreement within the rental agreement, or add the text of the agreement as a separate attachment to the rental agreement.
- b. A landlord and a tenant may agree to binding arbitration of the disputes between them as to an obligation of either of them arising out of the rental agreement. If the landlord and tenant agree to binding arbitration, they shall include the scope of the agreement within the executed rental agreement, incorporate a reference to that agreement within the rental agreement, or add the text of the agreement as a separate attachment to the rental agreement.

Sec. 34.03.350. Attorney fees.

Attorney fees shall be allowed to the prevailing party in any proceeding arising out of this chapter, or a rental agreement.

Sec. 34.03.360. Definitions.

- a. In this chapter,

1. "abandonment" means that the tenant has left the dwelling unit and the tenant's personal belongings in it and has been absent for a continuous period of seven days or longer without giving notice under AS 34.03.150 and has defaulted in the payment of rent;
2. "building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of a premise or dwelling unit;
3. "dwelling unit" means a structure or a part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household, and includes mobile homes, and if located in a mobile home park, the lot or space upon which a mobile home is placed;
4. "fair rental value" means the average rental rate in the community for available dwelling units of similar size and features;
5. "good faith" means honesty in fact in the conduct of the transaction concerned;
6. "illegal activity involving alcoholic beverages" means a person's delivery of an alcoholic beverage in violation of AS 04.11.010(b) in an area where the results of a local option election have, under AS 04.11.491, prohibited the Alcoholic Beverage Control Board from issuing, renewing, or transferring a liquor license or permit under AS 04;
7. "illegal activity involving a controlled substance" means a violation of AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or 11.71.040(a)(1), (2), or (5);
8. "illegal activity involving gambling or promoting gambling" means a violation of
 - A. AS 11.66.200, other than a social game as that term is defined by AS 11.66.280(9); and
 - B. AS 11.66.210 or 11.66.220;
9. "illegal activity involving an imitation controlled substance" means a violation of AS 11.73.010 - 11.73.030;
10. "illegal activity involving a place of prostitution" means a violation of AS 11.66.120(a)(1) or 11.66.130(a)(1) or (4);
11. "landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by AS 34.03.080;
12. "mobile home" has the meaning given to "manufactured home" in AS 45.29.120;
13. "organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal entity;
14. "owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership of

property and a right to present use of the premises; the term includes a mortgagee in possession;

15. "premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances in it and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant;
16. "prepaid rent" means that amount of money demanded by the landlord at the initiation of the tenancy for the purpose of ensuring that rent will be paid, but does not include the first month's rent or money received as security for damage;
17. "prostitution" means an act in violation of AS 11.66.100;
18. "rent" means the uniform periodic payment due the landlord, however denominated;
19. "rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under AS 34.03.130 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises;
20. "sanitary facility" means a flush toilet and proper drainage for all toilets, sinks, basins, bathtubs, and showers;
21. "single family residence" means a structure maintained and used as a single dwelling unit;
22. "tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others;
23. "undeveloped rural area" means an area where public sewer or water services are not available.

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