

THE ALASKA LANDLORD & TENANT ACT: *what it means to you*





This publication summarizes landlord and tenant rights and obligations under Alaska law. In accordance with Alaska Statute (AS) 44.23.020(b)(8) it has been approved by the Alaska Department of Law.

WARNING:

Landlords and tenants should read and familiarize themselves with the Alaska Uniform Residential Landlord and Tenant Act (AS 34.03-010 – 34.03.380) prior to taking any action affecting your or another person's rights. The Alaska Landlord and Tenant Act is not included in this publication, but is available for reference at your local law library or from the Alaska Department of Law website at www.law.alaska.gov/consumer. This publication is not landlord and tenant law and should not be used in court as evidence or as a reference to the law.

The Alaska Landlord and Tenant Act may be amended by the state legislature. If you use this publication in 2014 or later, it is advisable to check with your nearest Legislative Information Office to find out whether the law has been amended.

2014

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THE LANDLORD & TENANT ACT: WHAT IT MEANS TO YOU

When a landlord and tenant get along well, things are better all around. Dealing with unhappy tenants is a lot of trouble for a landlord, and few tenants want the inconvenience and expense of moving simply because they cannot get along with their landlords.

Yet, landlords and tenants frequently have problems. Sometimes, landlords do not make repairs or unfairly keep back security deposits. Sometimes, tenants damage property or refuse to pay the rent.

This publication briefly explains your responsibilities as a landlord or a tenant under the Uniform Residential Landlord and Tenant Act (AS 34.03.010 et seq., the "Landlord and Tenant Act"). It explains what a tenant needs to know when he or she is:

- Moving in: pages 2-7
- Living in a rental property: pages 8-15
- Moving out: pages 16-26

Sample forms, such as notices to quit, etc., begin on page 27.

What housing is covered by the act?

The Landlord and Tenant Act covers rental of a residence, such as an apartment, a mobile home, or a house. It does not apply to rooming houses, hotels or motels, temporary housing at a shelter or supportive housing program, or any type of commercial property.¹

Tenants who receive a government housing subsidy or live in a government housing project may have rights in addition to those provided by state law. This publication does not cover those issues.

Such tenants should check their lease agreements and may also wish to consult with the Alaska Housing Finance Corporation or an attorney for specific advice.

DEFINITIONS

Several important terms are used in this publication. This is what some of them mean:

- ***Dwelling unit, property or premises:*** the place that is rented, which could be a house, apartment, condo, mobile home, or mobile home park space.
- ***Landlord:*** the property owner or his agent, which could include either a licensed property manager or a resident manager.
- ***Property Manager:*** an individual licensed to practice real estate in Alaska who works on behalf of the property owner to rent, manage and safeguard a property.
- ***Resident Manager:*** an individual who resides on the property and manages it on behalf of the property owner or the licensed property manager.
- ***Tenant:*** any of the people who rent the dwelling.
- ***Damages:*** money claimed by, or ordered to be paid to, a person as compensation for loss or injury. It may mean the amount claimed by the landlord from the tenant's security deposit based on the damages the landlord has incurred because of the tenant's failure to comply with the obligations imposed under the Landlord and Tenant Act. Or it may

¹ AS 34.03.330.

mean the monetary compensation that a person wins in a lawsuit, such as the value of lost rent or the cost of repairing property damage (to a landlord), or the value of housing or utility services not provided (to a tenant).

- **Security Deposit:** payment to a landlord or property manager by a tenant to ensure that the tenant will pay the rent due, will maintain the property, and will not damage it. Security deposits are held in trust by the owner or manager until the tenant moves out, and are then returned to the tenant or applied to damages and/or delinquent rent with an accounting to the tenant.
- **Rental Agreement:** means all agreements, written or oral, and valid rules and regulations adopted by the landlord, making up the terms and conditions for the use of the dwelling unit.
- **Lease:** a contract which conveys the right to use and occupy property for a certain specified period of time in exchange for consideration, usually rent.

For precise legal definitions of many of the terms used in the Landlord and Tenant Act see AS 34.03.360.

MOVING IN

Get a written agreement:

Before a tenant moves in, the landlord and tenant must come to an agreement. It may be verbal or written, but written is best. Without written proof, even two honest people can later disagree on what was actually said. The written agreement may be called a “*Rental Agreement*,” a “*Tenant Agreement*,” or a “*Lease*.”

The agreement should include:

- the name and address of the person authorized to manage the premises;
- the name and address of an owner of the premises, or a person authorized to act as an agent of the owner, for the purpose of service of process and receiving notices and demands from the tenant or the owner’s agent; and
- the name and address of the tenant(s);²
- how many tenants and pets are to occupy the unit;
- who holds the deposit;
- reasons the deposit or a portion of it may be retained by the landlord;
- the amount to be paid for rent and deposits;
- when, where, and how the rent is to be paid;
- when the rent is considered delinquent, and what the penalty will be for late payment;
- whether this is a month-to-month tenancy or a lease with a definite contract period;
- who pays for utilities and what services are provided;
- a list of prohibited equipment (snowmobiles, musical equipment, motorcycles, etc.);



² AS 34.03.080(a).

- a list of landlord and tenant repair and maintenance duties and who pays for them;
- rules on subleasing or assignment of the property;
- a premises condition statement and contents inventory;
- disclosure of lead-based paint as applicable for units built prior to 1978 (as required by the federal Environmental Protection Act); and
- any additional rules, covenants and regulations in place.

Late charges

The Landlord and Tenant Act does not state whether landlords may assess late charges when the rent is late or NSF fees when a check is returned for insufficient funds. It maybe all right for the rental agreement to specify a small flat-rate late charge or NSF fee that reasonably approximates the landlord's actual costs caused by the tenant's failure to pay rent on time or writing a bad check. It may also be all right for the rental agreement to specify a reasonable percentage-per-day late charge. Such a charge is limited by the state usury law to an annual interest rate of a maximum of five percentage points above the Federal Reserve discount rate, or, if no precise rate is specified, 10.5%.³ Remember, no automatic late charge or NSF fee is legally enforceable, unless it has been agreed upon beforehand.

Resolving disputes

A landlord and tenant can agree to mediation or binding arbitration to resolve disputes between them. If both parties want to mediate or arbitrate disputes, they should include in the rental agreement (or in an addendum to it) specific details of the types of disputes to be resolved in this way and the procedures to be followed.⁴

Understanding the agreement

Rental agreements are normally prepared by the landlord or the landlord's agent. It is very important that tenants make sure they understand all the terms of the agreement. Tenants should ask for an explanation of any section they do not understand, *before* signing the agreement.

What to watch out for:

Rental agreements **cannot**:

- require the tenant or the landlord to waive any legal rights under the Landlord and Tenant Act;⁵
- permit the landlord to get an "automatic" court judgment against the tenant (called a "confession of judgment");⁶
- require the tenant to agree to pay the landlord's attorney fees;⁷
- limit the liability of landlords or tenants when either has failed to meet their responsibilities;⁸
- make the tenant liable for rent even if the landlord fails to maintain the premises as required by law;⁹ or allow the landlord to take the tenant's personal belongings.¹⁰

Standard form agreements

Some standard form rental agreements have been written to conform to the laws of other states, or are based on older versions of Alaska law. These forms may need to be changed before signing them. In addition to the illegal provisions already listed, any of the following statements should be removed from the agreement before signing it:

- agreement to let the landlord come into the dwelling whenever he or she wants;

³ AS 45.45.010.

⁴ AS 34.03.345.

⁵ AS 34.03.040(a)(1).

⁶ AS 34.03.040(a)(2).

⁷ AS 34.03.040(a)(4).

⁸ AS 34.03.040(a)(3).

⁹ AS 34.03.050; AS 34.03.100(a).

¹⁰ AS 34.03.250.

- agreement to immediate eviction for nonpayment of rent;
- agreement that the tenant will make all repairs;
- release of the landlord from liability for accidents due to his or her neglect;
- giving up of the tenant's right to the return of the deposit; or
- grant of a power of attorney to the landlord by the tenant, or to the tenant by the landlord.

Illegal provisions in the contract

To remove illegal wording, draw a line in ink through any provision that is not legally binding. Both the landlord and tenant should initial the agreement next to each item that has been removed.

Illegal provisions in an agreement are not enforceable against the tenant, even if both parties sign.

Special rules for mobile home rentals

Absent very specific exceptions, agreements between mobile home park operators and mobile home park tenants may **not**:

- prohibit the tenant from selling his or her mobile home;
- require the mobile home tenant to provide permanent improvements to park property;
- require a fee to let the tenant sell or transfer the mobile home; or
- require a fee to let the tenant set up or move a mobile home into or out of the park.¹¹

Mobile home park operators must give tenants a list of all capital improvements that will be required (such as skirting, utility hook-ups, and tie downs) before the tenant moves into the park.¹² Park operators may specify the type of equipment required, but cannot require that it be purchased from a particular supplier or company.¹³

Unsigned or undelivered agreements

Once the agreement has been carefully reviewed, both parties should sign it. The landlord must give the tenant a copy.

If the landlord and the tenant agree to a rental agreement, and the landlord signs and delivers the agreement to the tenant but the tenant doesn't sign it, the legal provisions of the agreement are nonetheless binding if the tenant moves in and begins paying rent. Likewise, if the tenant signs and delivers the agreement to the landlord but the landlord doesn't sign it, the rental agreement is binding if the landlord accepts payment of rent without reservation from the tenant.¹⁴

What is a lease?

A lease is a rental agreement that specifies how long the tenant will stay in the property. If there is a lease, the landlord cannot raise the rent or evict the tenant during the period of the lease, unless the tenant breaks the terms of the lease or the lease agreement provides for the increases.

If the tenant decides to move during the term of the lease, the tenant is usually still responsible for the rent for the rest of the lease period, unless the dwelling can be subleased or re-rented earlier. (See sections on "*Moving Prior to the End of a Lease*" and "*Subleasing*," pg. 15.)

There may be times, however, when the tenant may move before the end of the lease and not be responsible for the rent for the remainder of the lease. (See section on "*Tenant Remedies*," pg. 10.)

What is a security deposit?

Many landlords demand a security deposit before a tenant moves in. This deposit protects the landlord from financial loss if the tenant fails to pay the rent, causes damage to the property, or does not clean up properly when he or she leaves.

¹¹ AS 34.03.040(c).

¹² AS 34.03.080(d).

¹³ AS 34.03.130(c).

¹⁴ AS 34.03.030(a) and (b).

Except for units renting for more than \$2,000 per month, security deposits and prepaid rents may not total more than two months' rent.¹⁵ A landlord may require an additional deposit, of up to one month's rent, from a tenant who will be keeping a pet that is not a service animal.¹⁶

Sometimes a landlord asks for a nonrefundable application fee to place a prospective tenant on a waiting list for an apartment. If an application fee covers the landlord's actual, reasonable costs for services performed (such as checking the applicant's credit history), it is probably lawful.

However, it is NOT lawful to charge a fee that becomes the security deposit if the tenant moves in, but is forfeited if the tenant decides not to take the unit. At most, such a tenant would be responsible for rent during the time it takes the landlord to find a replacement tenant, and for the actual costs (such as newspaper ads) of finding one.

Where are deposits kept?

Deposits and prepaid rent must be deposited by the landlord or the property manager in a trust account in a bank or savings and loan association, or with a licensed escrow agent.¹⁷ (Exceptions could be made in rural Alaska, if there is no bank in town and it would be impractical to bank the money.) A trust account can be any separate savings or checking account labeled "trust account" and used only for deposits and prepaid rents. A receipt should be written whenever the tenant pays a deposit or prepays rent. The landlord cannot mix prepaid rent and security deposit funds with other money. Although a landlord can keep the security deposits and prepaid rents from several tenants in a single account, each tenant's funds are to be accounted for separately, and may not be refunded to another tenant, or applied to another tenant's rent or damage obligations.¹⁸

Landlords are required to provide tenants with the terms and conditions under which prepaid rents or deposits (or any portion of those monies) might be withheld by the landlord. The additional "pet deposit" noted above is to be accounted for separately from the regular security deposit or prepaid rent, and can be applied only to the amount of damage directly related to the pet.¹⁹

Can deposits earn interest?

The Landlord and Tenant Act does not require that the trust account earn interest, but if the tenant's deposit does earn interest, the tenant is entitled to the interest under general trust law principles, unless both parties have agreed otherwise. It is a good idea to specify in the rental agreement whether the deposit will earn interest, and if so, who gets the interest.

If the property is managed by a licensed property manager, the interest on the tenant's money in the trust account must go to the tenant, under the terms of the real estate license law, unless the tenant agrees in writing that the interest may go to the property owner. The property manager may not keep the interest.²⁰

When there's a new owner...

When rental housing is sold, a new owner is responsible for refunding any security deposits and prepaid rents that may be owed to the tenants who move out after the ownership is transferred.²¹ Therefore, a buyer of rental property should make sure that the previous owner transfers all deposits and prepaid rents along with the property. If the previous owner makes a proper transfer of these funds and notifies the tenants of the sale of the dwelling unit, he is relieved of further responsibility. If not, the previous owner will still be responsible to the tenants for deposits and prepaid rents, even though the new owner is **also** responsible.²²



¹⁵ AS 34.03.070(a).

¹⁶ AS 34.03.070(h). A service animal is an animal individually trained to do work or perform tasks directly related to and for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. AS 34.03.070(i).

¹⁷ AS 34.03.070(c).

¹⁸ AS 34.03.070(c).

¹⁹ AS 34.03.070(h).

²⁰ 12 AAC 64.210.

²¹ AS 34.03.070(f).

²² AS 34.03.110(a).

When the property is sold at a foreclosure sale because the landlord has defaulted on his mortgage payments, the buyer (usually the lender) often treats the tenancy as terminated, and tries to disclaim responsibility for the tenant's security deposit. Unless the landlord/seller has given the security deposits to the new owner, the landlord/seller remains liable for the security deposits.²³ The issue of whether the buyer in a foreclosure sale is responsible for the tenants' security deposits has not yet been decided by the courts.

Get a written inspection report

An inspection report describes the condition of the property when the tenant moves in. It generally has two parts:

- a "premises condition statement" describing the condition of the unit; and
- a "contents inventory" itemizing any furnishings and describing their condition.

Ordinarily, the landlord prepares the draft premises condition statement, then the landlord and tenant go through the premises together, writing down any additional damaged areas (such as scratches or burns), and then both landlord and tenant sign and date the revised version and keep a copy. But if the landlord does not prepare it, the tenant should do so, sign it, keep a copy, and give the original to the landlord for signature.

An accurate and thorough inspection report helps protect the interests of both landlords and tenants. Tenants, for example, can use it to prove that they were not responsible for damages that existed before they moved in. Landlords can also use it to establish when damage occurred.

If the landlord is agreeing to make repairs or changes, the landlord and tenant should make another list showing which damages the landlord has agreed to repair or change, and the date the work should be done (a common limit is ten days). This list should be signed and dated by the landlord before move-in, and signed and dated by the tenant when the work has been completed. Again, everyone should keep a copy.

If either landlord or tenant refuses to cooperate in completing the inspection report, that is not a good sign. Finding another place to live, or another tenant, before a conflict arises is much easier than trying to settle disagreements when the tenancy ends.

Living by the landlord's rules

Nearly every landlord has rules that tenants must live by.

The law requires that the landlord show the tenant the rules and regulations before the tenant enters into the rental agreement, and that a copy of the rules be prominently posted on the premises where it can be seen by everyone living there.²⁴ These rules should include homeowner association or community association rules or covenants.

Tenants should read the rules carefully, and if they believe that they cannot live by the landlord's rules, they should not rent the unit.

The rules must be reasonable, must apply to all tenants equally, and must be clearly defined.

Enforcing the rules

The landlord's rules may be enforced *only* if their purpose is to:

- promote the convenience, safety, health or welfare of the tenants;
- preserve the landlord's property from abuse; or
- make a fair distribution of services and facilities.

The landlord cannot make rules that allow him to avoid his obligations.

Once the tenant has seen the rules and moved in, he has agreed to abide by those rules. Failure to do so could mean an eviction. (See section on "*Moving Out*," pg. 16)

²³ See *In re Wise*, 120 B.R. 537 (Bkrcty.D Alaska 1990).

²⁴ AS 34.03.130(a).

Changing the rules

If the tenant has a lease, the rules may *not* be changed during the term of the lease if the changes would substantially modify the lease agreement. For example, the landlord cannot decide during the term of a lease that he will no longer allow pets on the premises.

If the tenancy is month-to-month, the landlord may make such changes, but only after giving the tenant written notice at least 30 days before the rental due date when the rule changes will take effect. Tenants who do not wish to accept the rule changes may give a 30-day written notice before the rental due date and move out.

If circumstances change

Once the tenant and the landlord make a rental agreement, the tenant may NOT have the right to get back full deposits or prepaid rent if he or she decides not to move in.

In a month-to-month tenancy, the tenant is responsible for as much as one month's rent, or prorated rent on a day-to-day basis until someone else rents the unit, whichever is less. The landlord must make a reasonable effort to re-rent the unit as soon as possible, at a fair rental price.²⁵

If the tenant refuses to move in because the landlord misrepresented the condition of the unit, the tenant may owe nothing, and may be entitled to a full refund of the deposit and prepaid rent.

If the premises are not ready on the first day of the rental term per the rental agreement or the landlord refuses to allow the tenants to move in, the tenants may cancel the agreement, or they may ask a court to order the landlord to live up to the agreement.²⁶

Tenants may also sue the landlord and any person wrongfully living there for damages. If the landlord's refusal to allow the tenants to move in is willful and in bad faith, the tenants may sue for 1½ times the actual damages.²⁷

When is discrimination illegal?

It is illegal under both state and federal law for landlords to refuse to rent to someone because of sex, race, religion, national origin, color, physical or mental disability, or pregnancy. Under state law it is also illegal to refuse to rent to someone because of marital status or change in marital status.²⁸ A landlord may not even make an inquiry regarding the tenant's status in any of these areas.²⁹

It is a violation of federal law to refuse to rent on the basis of a disabling disease which is not readily communicable, such as cancer or AIDS, or because a tenant has children. Federal fair housing laws may not apply to single family homes or two-, three- or four-family structures where the owner occupies one unit. State laws, however, apply to *all* residential rental units.

In the Municipality of Anchorage, it is illegal to refuse to rent to someone because of age.³⁰ Other communities may have similar specific ordinances. Check with your local Equal Rights Commission regarding local requirements.

Each landlord may choose whether he or she wishes to rent to smokers. Neither state nor federal law makes smokers a protected class.

It is unlikely that a landlord will openly refuse to rent to someone for an illegal reason. Frequently, a tenant may suspect there is an illegal reason behind some seemingly legal landlord practices.

These are some indications that a landlord may be practicing discrimination:

- the apartment the tenant called about is suddenly "already taken" when the landlord sees the tenant;
- a unit the landlord said was rented remains vacant;
- the rent or deposit quoted is much higher than that advertised or charged for similar units;

²⁵ AS 34.03.230(c).

²⁶ AS 34.03.170(a).

²⁷ AS 34.03.170(b).

²⁸ AS 18.80.200; AS 18.20.240; *Foreman v. Anchorage Equal Rights Commission*, 779 P.2d 1199 (Alaska 1989); *Swanner v. Anchorage Equal Rights Commission*, 874 P.2d 274 (Alaska 1994).

²⁹ AS 18.80.240(3).

³⁰ A.M.C. 05.20.020.

- rules are different for one tenant than for others in the same apartment building;
- a real estate broker or agent does *not* refer a tenant to a rental listing that fits his needs, or
- an advertisement indicates a preference for a certain race, color, religion, sex, age, marital status or national origin.

For more help in illegal discrimination matters, contact the **Equal Rights Commission** in your community, or:

Alaska State Commission for Human Rights

800 A Street, Suite 204
 Anchorage, AK 99501-3669
 Phone: (907) 274-4692
 Fax: (907) 278-8588
 Complaint Hot Line: (800) 478-4692 (toll free)
 TTY/TDD: (800) 478-3177 (toll free)
 Website: www.humanrights.alaska.gov

Anchorage Equal Rights Commission

632 W. 6th Avenue, Suite 110
 Anchorage, AK 99501
 Phone: (907) 343-4342
 TTY/TDD: (907) 343-4894
 Fax: (907) 249-7328
 Website: www.muni.org/departments/aerc

U. S. Department of Housing and Urban Development

3000 C Street, Suite 401
 Anchorage, AK 99503
 Phone: (907) 677-9800
 TTY: (907) 677-9825
 Website: www.hud.gov/complaints/

LIVING IN A RENTAL PROPERTY

The landlord's responsibilities

The law requires that the landlord or his agent must:

- give the tenant a copy of any written rental agreement;
- abide by the lawful terms of the agreement;
- keep the tenant informed of any change in the landlord's or his agent's address;
- make sure the premises are ready for the tenant when the rental agreement takes effect;
- ensure that the tenant's enjoyment of the premises is not disturbed;
- maintain a fit premises (See section titled "*Property Maintenance*," pg. 9);
- give adequate notice of a rent increase;
- give the required notice before demanding that a tenant move out; and
- return the tenant's security deposit and/or prepaid rent when the tenant moves out and/or give a complete written accounting of money held for accrued rent, damages and the cost of repair within the time limit required by law.

Property Maintenance

The Landlord and Tenant Act provides that the landlord must:³¹

- (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;³²
- (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, with exceptions as noted in the "Varying landlord duties" below.
- (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 and carbon monoxide detection devices as required under AS 18.70.095.



Examples of typical property maintenance duties which may fall under these statutory provisions include the landlord's duty to maintain:

- doors, windows, roofs, floors, walls and ceilings, ensuring that they do not leak or have holes;
- plumbing that works, does not leak, and provides hot and cold water at reasonable water pressure;
- a working, safe stove and oven;
- a reliable heating system which provides adequate heat to all rooms;
- a safe electrical wiring system (with no loose or exposed wires, sockets that do not spark and adequate circuit breakers);
- windows or fans that provide fresh air;
- enough garbage cans or dumpsters to provide an adequate and safe trash removal service;
- extermination service if roaches, rats, mice or other pests infest the building, apartment or property;
- proper maintenance of any vacuum cleaners, washing machines, dishwashers, etc., supplied by the landlord (when not abused or broken by the tenant); and
- properly working smoke and carbon monoxide detection devices.³³

Varying landlord duties

The landlord's duty to supply running water, hot water and heat can be changed if:

- (1) heat and hot water are supplied by a direct public utility connection through an installation that, due to the building's construction, is under the exclusive control of the tenant; or

³¹ AS 34.03.100(a).

³² Including the removal of snow and ice from common areas. *Coburn v. Burton*, 790 P.2d 1355 (Alaska 1990).

³³ AS 18.70.095.

(2) there is no well or water provided by a direct public utility connection and the rental agreement specifically states that the tenant is waiving the landlord's duty to supply running water or hot water.³⁴

If the rental is a single family residence located in an undeveloped rural area, or where public sewer or water service has never been connected, and where no private system for running water, hot water, sewage, or sanitary facilities was in place at the start of the tenancy, the landlord is not liable for failing to provide those services.³⁵

If the rental is a one- or two-family residence, wherever located, the landlord and tenant can agree in writing that the tenant perform the landlord's duties for waste removal, running water, hot water, heat, locks and keys, and provision of fire and carbon monoxide detection devices. The agreement can also provide that the tenant perform specified repairs, maintenance tasks, alterations, and remodeling (except for elevators). In rentals where the rent exceeds \$2000 per month, the duty-shifting agreement can also cover electrical, plumbing, sanitary, heating, ventilating, air-conditioning kitchen, and other facilities and appliances. All such agreements have to be entered into in good faith, and not for the purpose of evading the obligations of the landlord.³⁶

If the rental is a two-family residence, the above agreements are permissible, but must be in a writing separate from the lease, must be supported by adequate consideration, and cannot diminish or affect the obligation of the landlord to any other tenant. Also, the landlord may not treat performance of the tenant's duties under that separate agreement as a condition of the rental agreement itself.³⁷

If the rental is larger than a two-family unit, duty-shifting agreements are more limited. The landlord and tenant can agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling. Like the agreements for two-family residences, the agreement must be in good faith, must not be for the purpose of evading the duties of the landlord, must be in a separate writing, must be supported by adequate consideration, and the tenant's duties cannot be treated as a condition of the rental agreement itself.³⁸

Tenant remedies

If the landlord does not meet his or her responsibilities, the law provides remedies for the tenant. The type of remedies available depends on the type of noncompliance by the landlord.

Remedies for landlord's noncompliance in general

1) *The tenant may move.*³⁹ If there is material noncompliance by the landlord with the rental agreement or a noncompliance with the Landlord and Tenant Act which materially affects health and safety the tenant may move. The tenant must first give the landlord written notice describing the problem and stating that if the problem is not fixed within 10 days from receipt of the notice, the tenant will move in 20 days. If the problem is fixed within 10 days the tenancy does not terminate. If the tenant still wants to move, a regular 30-day notice is required (in a month-to-month tenancy).

If the tenant notified the landlord in writing of a problem and the landlord fixed it within the time allowed, but the landlord allows substantially the same problem to occur again within six months, the tenant may terminate the agreement with a ten-day written notice without allowing the landlord an opportunity to fix the problem. The notice must specify the problem and the date of termination of the tenancy.

If the rental agreement is terminated, the landlord must return all prepaid rent or security deposits recoverable by the tenant. Tenants may not terminate a rental agreement for problems they themselves have caused.

2) *The tenant may obtain damages or injunctive relief.*⁴⁰ A tenant may sue in court for damages or obtain injunctive relief for any noncompliance by the landlord with the rental agreement or for certain violations of the Landlord and Tenant Act. If the total amount at issue is less than \$10,000 the tenant may sue for damages in small claims court. For larger claims, or requests for injunctive relief, the tenant should see an attorney.

Remedies for landlord's failure to supply essential services

³⁴ AS 34.03.100(a)(5).

³⁵ AS 34.03.100(b).

³⁶ AS 34.03.100(c).

³⁷ AS 34.03.100(c), (d), (e).

³⁸ AS 34.03.100(d), (e).

³⁹ AS 34.03.160(a).

⁴⁰ AS 34.03.160(b).

If the landlord deliberately or negligently fails to supply an **essential** service (such as heat, water, sewer, electricity or plumbing), the tenant has several other alternative remedies. Prior to taking one of the remedies a tenant must give the landlord a written notice stating the problem and the remedy the tenant plans to take.

1) *The tenant may make repairs and deduct the cost from rent.* Once written notice is given to the landlord stating that the tenant plans to do so the tenant may get the problem fixed and deduct the actual and reasonable expenses from the next month's rent.⁴¹ (If the repair is very expensive, it is a good idea to consult with an attorney before taking this step.) The tenant should retain receipts for all costs, and submit them to the landlord for rent credit.

2) *The tenant may procure reasonable substitute housing.* The tenant can give the landlord written notice that he or she is moving into reasonable substitute housing. The tenant is then excused from paying rent until the problem is cured.

If the tenant has to pay more than his or her regular rent to secure housing during this time, the tenant can charge the landlord for the difference.⁴²

3) *The tenant may obtain damages.* In some cases, when the problem is really serious, it may reduce the value of the dwelling. If this happens, the tenant may sue, or in an action by the landlord for possession or rent, the tenant may counterclaim, to recover damages against the landlord based on the diminution in the fair rental value of the dwelling.⁴³

Housing codes

The primary purpose of housing codes is to protect the health and safety of the people who live in houses and apartments.

A minimum standard of maintenance is set, making the landlord (not the tenant) responsible for keeping rental property in decent shape. (See "*Landlord Responsibilities*," pg. 8.)

The law protects tenants who exercise their right to report code violations. If they call to complain and ask for an inspection, the landlord cannot take revenge by harassing them (i.e. threatening eviction).⁴⁴

Alaska has a statewide fire code, but does not have a statewide housing code. Many communities do have local codes. To learn more about housing codes in your community, or to report housing code violations or substandard living conditions, contact your local city, municipal, or borough government.

Tenant responsibilities

The Landlord and Tenant Act provides that the tenant:⁴⁵

- (1) shall keep the part of the premises occupied and used by the tenant as clean and safe as the condition of the premises permit;
- (2) shall dispose of 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 and carbon monoxide detection devices as required under AS 18.70.095; and
- (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

⁴¹ AS 34.03.180(a)(1).

⁴² AS 34.03.180(a)(3).

⁴³ AS 34.03.180(a)(2), AS 34.03.190; *Zeller v. Poor*, 577 P.2d 695 (Alaska 1978).

⁴⁴ AS 34.03.310.

⁴⁵ AS 34.03.120(a).

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 (fees for police protective services).

(10) may not allow the number of persons occupying the premises to exceed the number allowed by the rental agreement, by applicable law, or by a covenant limiting the landlord's use of the premises.

To comply with the Landlord and Tenant Act and the rental agreement a tenant should:

- abide by the lawful terms of the rental agreement and the reasonable rules established by the landlord;
- pay the rent on time;⁴⁶
- be considerate of other tenants;
- keep the premises clean and safe;
- remove snow and ice from leased premises (this does not include the common areas);⁴⁷
- dispose of garbage and other waste in a clean and safe manner;
- prevent damage to the premises;
- replace or repair anything destroyed or damaged by accident or carelessness on the part of the tenant or the tenant's guests;
- make sure the unit's smoke and carbon monoxide detectors are working by testing them periodically and changing the batteries as needed;⁴⁸
- give adequate notice before moving;
- move out when the rental agreement ends; and
- clear the premises of possessions when moving out.

The tenant must pay the rent each month as it becomes due. The landlord is not required to ask the tenant each month for the rent.⁴⁹

If a different place for payment is not agreed upon when the tenant moves in, it is assumed that the rent will be collected at the dwelling unit.⁵⁰

If the tenant rents monthly, the rent is due every month on the day of the month that the tenancy began, unless otherwise agreed.⁵¹ Thus, if the tenant moves in on the 8th, the rent is due on or before the 8th of every month, unless both parties agree to another rental due date, which is typically the 1st of the month.

Landlord remedies

If tenants do not meet their responsibilities, the landlord can terminate the rental agreement by **written notice** and require that the tenants move. The written notice must be specific about the problem in question. (See "*Termination of tenancy*," pg. 19.)

If the tenants are notified of a problem and remedy the problem within the time allowed, but the problem occurs again within six months, the landlord may terminate the rental agreement using a three- or five-day written notice, depending on the type of problem. If this occurs the landlord does not need to give the tenant an opportunity to fix the problem. The notice must specify the problem and the date of termination (See pg. 22 for specific notice requirements).⁵²

⁴⁶ AS 34.03.020(c).

⁴⁷ *Coburn v. Burton*, 790 P.2d 1355, 1357-58 (Alaska 1990).

⁴⁸ AS 18.70.095(b)(2).

⁴⁹ AS 34.03.020(c).

⁵⁰ AS 34.03.020(c).

⁵¹ AS 34.03.020(c).

⁵² AS 34.03.220(a)(2) and (e).

A lawsuit to evict a tenant is called a “Forcible Entry and Detainer Action”, or “FED”. A landlord who evicts a tenant may contact an attorney for representation, or landlords who are owners may elect to represent themselves.

If the landlord who is an owner chooses to represent him or herself, it is a good idea to contact the Alaska Court System for its publication called “Eviction” (form number CIV-720 which may be found at www.courts.alaska.gov/forms/civ-720.pdf). This publication describes in detail the procedure for evictions from residential property for failure to pay rent, but will also help landlords with evictions for other reasons, since the process is quite similar.

If the landlord needs to get in...

A landlord may enter the premises only to:⁵³

- make repairs or perform maintenance;
- supply necessary or agreed services;
- inspect for damages;
- show the premises to prospective buyers, renters, or contractors; or
- remove personal property belonging to the landlord that is not covered under the rental agreement.

In these situations, the landlord **MUST** give the tenant 24 hours notice, say what time he or she is coming, and try to pick a time that is mutually convenient. The landlord may enter for these reasons only with the tenant’s consent and only at reasonable times.

The only time a landlord may enter the premises without permission is when:

- it is not possible to contact the tenant by ordinary means;
- the tenant has been gone from the property more than seven days without notice; or
- there is an emergency (such as smoke, water, or explosion).

Tenants **CANNOT** unreasonably refuse to allow the landlord to enter. If the tenant does so, the landlord can get a court order, or injunction, requiring that the tenant let him or her in. The landlord may also sue for actual damages or one month’s rent, whichever is greater, or terminate the tenancy with a 10-day notice.⁵⁴

The landlord **CANNOT** abuse the right to request entry, or use it to harass tenants.⁵⁵

When a landlord abuses his or her right to enter by coming in without the tenant’s permission or repeatedly without need, the tenant can ask a court for an injunction ordering the landlord to stop. The tenant may also sue for actual damages or one month’s rent, whichever is greater, plus court costs and attorney fees. If the tenant wishes to move because the landlord has abused the access privilege, a 10-day written notice from tenant to landlord is required.⁵⁶

The lowdown on locks

Tenants can insist that the landlord repair or replace the locks if the residence is not secure.⁵⁷

Tenants may want to add an extra lock on their own to increase security. With the landlord’s permission, a tenant may add locks that can be used from the inside, such as chain bolts. If the tenant makes holes in the door or frame, he or she must leave the lock in place when moving out.

Neither a landlord nor a tenant may be locked out. If a landlord adds or changes locks, new keys must be given to the tenant right away.



⁵³ AS 34.03.140(a).

⁵⁴ AS 34.03.300(a).

⁵⁵ AS 34.03.140.

⁵⁶ AS 34.03.300(b).

⁵⁷ AS 34.03.100(a)(6).

Before changing locks, the tenant must generally get the landlord's written permission. However, in an emergency, when the landlord can't be contacted first, the tenant can change locks, provided he or she gives a new set of keys to the landlord within five days.⁵⁸

Can the landlord raise the rent?

Unless there is a lease, the landlord is legally entitled to raise the rent by any amount. But the landlord must give the tenant at least 30 days notice before the increase takes effect on a month-to-month tenancy.

Tenants then have two choices:

- they can agree to pay the rent; or
- they can move out.

Legally, a notice of rent increase is probably equivalent to a termination of the rental agreement at the old rate and an offer to rent the same unit at a higher rate.

A landlord should, therefore, notify tenants of any rate increase at least 30 days before the increase goes into effect, and tenants who wish to leave rather than accept the increase should give the landlord a written 30-day notice of intent to terminate tenancy.

Tenants who receive a housing subsidy or live in a federal or state housing project may have rights in addition to those provided by state law. For example, the U.S. Department of Housing and Urban Development (HUD) or the Alaska Housing Finance Corporation (AHFC) may control rent increases in housing where HUD has provided loan or rent guarantees to the owner. Contact the HUD office, your AHFC Public Housing case worker, an attorney, or if low income, Alaska Legal Services, if you have questions about HUD or AHFC rent controls.

Fire or casualty damage

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

When only a part of the unit is damaged and it is lawful for the tenant to continue to live there, the tenant should move out of the damaged part. The rent can be reduced to an amount that reflects the fair rental value of the undamaged part of the dwelling.⁵⁹

If the tenant can no longer live in the unit, he or she can move out, notify the landlord, and stop paying rent. The rental agreement and responsibility to pay rent end when the tenant moves.⁶⁰

After the tenant moves, the landlord must return any recoverable deposit and prepaid rent to the tenant. Rent paid for time the tenant did not live in the dwelling (counted from the day of the casualty and including the day of the casualty) must be returned to the tenant.⁶¹

Condemned dwellings

Buildings inspected and found to be very unsafe may be condemned. The city or borough housing inspector will tell the landlord that he or she must repair the problem or be taken to court.

When the problems are so serious that the inspector feels that the building is beyond repair, the inspector will order that it be torn down.

If the building is condemned, tenants may come home one day and find a sign posted on the building stating that it is unsafe for anyone to live there.

Tenants should immediately find out when the inspector and landlord expect them to move. They should also see an attorney before paying any more rent.

⁵⁸ AS 34.03.120(a)(8).

⁵⁹ AS 34.03.200(a)(2).

⁶⁰ AS 34.03.200(a)(1).

⁶¹ AS 34.03.200(b).

Moving prior to the end of a lease

When a lease is signed, the tenant is promising to stay for a certain length of time. The tenant commits to paying the rent each month, whether or not he or she is living at the property. Unless the landlord signs a statement permitting it, the tenant CANNOT simply have someone else “take over” the rental unit.

Generally, there are only two ways a tenant can get out of a lease without breaking the lease:

- 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 can move (after giving 20 days written notice), unless the landlord corrects the problem within 10 days;⁶² or
- if the landlord agrees to allow the tenant to sublease the property (See “*Subleasing*,” below).

If the tenant decides to move during the term of the lease, the tenant is usually still responsible for the rent for the rest of the lease period, unless the dwelling can be re-rented earlier. The landlord is responsible for making a good faith effort to re-rent the property, and may not charge the original tenant rent after the property is re-rented, or for any time during which the landlord does not make a reasonable, good faith effort to rent the property.

If the landlord attempts to re-rent the property, the tenant may be responsible for rent while the property is vacant during the term of the lease.

Subleasing

If a rental agreement requires the landlord’s consent to sublease, the tenant may obtain one or more persons who are willing to take over the lease. Each prospective occupant must make a signed written offer to the landlord containing the following information about the person:

- name, age⁶³, and present address;
- occupation, present employment, and name and address of employer;
- how many people will live in the apartment;
- two credit references; and
- names and addresses of all landlords of the applicant for the past three years.

Once given this information, the landlord has 14 days to answer the request.⁶⁴ No answer within 14 days is the same as consent, and the tenant can go ahead and sublease.⁶⁵ The new tenants may be rejected only for certain specific reasons, and the landlord cannot unreasonably prevent subleasing.⁶⁶

Lawful reasons for denial

If the landlord decides not to allow the sublease, a written basis for the decision must be provided. The only legal reasons are:⁶⁷

- insufficient credit standing or financial responsibility;
- too many people for the residence;
- unwillingness of the new tenant to accept the terms of the rental agreement;
- the tenant’s pets are not acceptable;
- the tenant’s proposed commercial activity; or
- a bad report from a former landlord of the prospective tenant.

⁶² AS 34.03.160(a).

⁶³ In the Municipality of Anchorage a sublease applicant may not be asked their age. AMC 05.20.020.

⁶⁴ AS 34.03.060(d).

⁶⁵ AS 34.03.060(f).

⁶⁶ AS 34.03.060.

⁶⁷ AS 34.03.060(d).

If the landlord refuses the new tenant-applicant, but does not give one of these reasons, the tenant can either go ahead with the sublease or move out.⁶⁸

If the choice is to move, the tenant must give a written notice to the landlord 30 days in advance of the rental due date by which the tenant plans to move.

MOVING OUT

Give plenty of notice!

Sooner or later, most tenants decide to move on, or the landlord, for some reason, decides that he or she no longer wants to rent the unit. Whether you are the landlord or the tenant, be sure that when this happens, your notice to terminate the tenancy is **in writing**.

The notice from the tenant to the landlord must include:

- the address of the premises;
- the date the tenancy is to end; and
- the signature of the person giving the notice.

The notice from the landlord to the tenant must include the above, plus, the notice must contain:⁶⁹

- an explanation of why the tenancy is being terminated;
- if applicable, an explanation of any remedial action which the tenant must take in order to avoid termination of the tenancy and the date and time when the corrective action must be completed;
- a date and time when the tenancy will end and the tenant must be gone; and
- notice that if the tenant continues to occupy the dwelling after the termination date the landlord may sue to remove the tenant.

How much notice is enough?

The amount of notice needed to end a rental agreement varies, depending upon whether the rental agreement is week-to-week, month-to-month, or year-to-year.

When a tenant with a month-to-month tenancy wants to move, the law requires that he or she give the landlord written notice at least 30 days before the rental due date specified as the termination date in the notice. If the tenant wants to move between rental due dates, the notice must be delivered on or before the rental due date which falls at least 30 days before the move-out date.⁷⁰

For example, if rent is due the 8th of each month and the tenant wants to move on April 8, written notice must be delivered to the landlord by March 8. If the same tenant wishes to move on April 21, notice would still have to be delivered by March 8, or there would not be a full tenancy month's notice. The tenant could then end up paying an extra month's rent.

If the same landlord wants the same tenant to move out by April 30, notice would have to be delivered to the tenant before March 8. If the landlord does not deliver notice until March 9, the tenant will not have to move until May 8, when he or she has had a full tenancy month's notice.

Tenants in a month-to-month tenancy who do not give proper notice are responsible for rent for one rental period or until the unit is re-rented, whichever is less.⁷¹

(This does not include tenants who are moving because of serious problems which the landlord has not fixed.)

⁶⁸ AS 34.03.060(e).

⁶⁹ AS 34.03.290 (b) and AS 09.45.105.

⁷⁰ AS 34.03.290(b).

⁷¹ AS 34.03.230(c).

Tenants who do not give proper notice may also experience a delay in getting back their deposit. (See “*Returning the Deposit*,” pg. 18)

Tenants who wish to terminate a week-to-week tenancy must give the landlord written notice at least 14 days before the termination date specified in the notice.⁷² For example, a week-to-week tenant wishing to move on July 26 must give notice by July 12.

Notice is notice

When a landlord accepts a moving notice, but a tenant fails to move out by the date specified in the notice, the landlord may sue for eviction. If the tenant stays beyond the specified move-out date willfully and not in good faith, the landlord may also sue for 1½ times actual damages.⁷³

If a landlord sells the property while tenants are residing there, the new owner must also give proper notice if they want to terminate tenancy.

How to deliver notice

The way notice is delivered is very important. A landlord’s notice to quit to a tenant must either be delivered personally, or by registered or certified mail. If notice is mailed, a landlord should send the notice to the address of the premises rented by the tenants.

If the landlord is not able to serve notice by one of the two methods listed above, the landlord then has two options. The notice may be given to any adult who appears to live with the tenants, or the notice may be posted in plain sight on the premises.⁷⁴

A tenant may hand deliver or mail a notice to the landlord to the address where rent is paid.

However notice is delivered, it is important that the landlord or tenant complete and retain the Record of Service at the bottom of the Notice. If the tenant does not move and must be evicted, it will be important in the FED action to show that notice was delivered according to law (see “*Serving Notices to Quit*,” pg 22, for more information on notices to quit).

Cleaning up and clearing out

A wise tenant will start to clean up well before moving day. Tenants are expected to clean the dwelling unit completely, including the bathtubs, toilets, and all appliances. Other cleaning responsibilities should be listed in the rental agreement or lease, or in the landlord’s posted rules. In general, tenants are expected to keep and leave the place as clean as the condition of the premises permit.⁷⁵ In particular, if the carpets were professionally cleaned immediately before the tenancy began, the landlord can insist that the tenant have the carpets professionally cleaned at move-out.⁷⁶

Damages

Once the cleaning is complete, the tenant should inspect the premises with the landlord, noting any damages that were not there when the tenant moved in. Both should sign the inspection report and keep a copy. (See “*Returning the Deposit*,” pg. 18)

Tenants cannot be charged for damages caused by “normal wear and tear.”⁷⁷ “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 tenant’s household, or the tenant’s guests and invitees. Landlords and tenants frequently disagree about what constitutes normal wear and tear, so here are a few guidelines:

- A family with children or pets will normally wear things out faster than an adult living alone. This type of wear is the landlord’s responsibility, and must be expected when renting to a family with children or pets.
- If something cannot be cleaned because of the landlord’s acts or negligence, it is the landlord’s responsibility. This includes things like walls left dirty because of non-washable paint and stains on the walls resulting from faulty plumbing.

⁷² AS 34.03.290(a).

⁷³ AS 34.03.290(c).

⁷⁴ AS 09.45.100.

⁷⁵ AS 34.03.120(a).

⁷⁶ AS 34.03.120(c).

⁷⁷ AS 34.03.070(b).

- Dry cleaning draperies and washing walls are major cleaning tasks that cannot be charged against a tenant's security deposit if the tenant fails to perform these tasks at the termination of the tenancy. A landlord must expect that any property in which people live will need walls and drapes cleaned before another tenant rents the property. Withholding a tenant's security deposit for such tasks would be holding a tenant responsible for normal wear and tear, in violation of the Landlord and Tenant Act.⁷⁸
- Painting the walls, repairing holes in the carpet, and replacing draperies are tenant responsibilities only if such repair or replacement is needed due to tenant negligence.

Damage caused by the tenant is the tenant's responsibility, even if it was caused by accident or by the actions of a tenant's guest. The landlord may keep enough of the deposit to repair such accidental damage.

If the tenant has purposely destroyed the landlord's property (by throwing a rock through the window, writing on the walls, or smashing the furniture, for example), the tenant may be guilty of criminal mischief and could face up to five years in prison and a \$50,000 fine, and still have to pay for the damage.

Returning the deposit

If the tenant has given proper notice of moving out, the landlord must provide a written, itemized list of accrued rent and damages along with any refund due the tenant within 14 days of the date the tenancy is terminated and possession is delivered by the tenant.⁷⁹ If the landlord willfully fails to comply with these requirements, the tenant may recover up to twice the amount withheld by the landlord.⁸⁰ However, the landlord has 30 days if costs are deducted for damages due to the tenant's failure to fulfill the obligations listed on page 17 above.⁸¹

The itemized list may be hand-delivered or mailed to the tenant's last known address. Tenants can help ensure receipt of the itemized list and refund by providing the landlord with a current mailing address. If the landlord does not know the current mailing address of the tenant, but knows or has reason to know how to contact the tenant, the landlord must make a reasonable effort to deliver the notice and refund to the tenant.

If the tenant does not give proper notice or abandons the dwelling, the landlord may take up to 30 days after the tenancy is terminated (or after he or she becomes aware of the abandonment) to return the deposit or provide a written notice of accrued rent and damages.⁸²

When the landlord keeps the deposit

When a tenant moves out, he or she has a right to get back the full security deposit if:

- no damage has been done beyond that caused by normal wear and tear; and
- the rent is paid.

Otherwise, the landlord has the right to keep all or part of the security deposit to cover these costs.⁸³

Some landlords try to get around the law by specifying that unless the tenant stays for a certain time period (six months, for example), the tenant automatically forfeits a portion of the security deposit. This is unlawful, since the law requires that to hold the tenant responsible for rent the landlord must try to re-rent the unit as soon as possible, and may only hold the tenant liable for rent during the time the unit is actually empty.

Another unlawful practice is charging a "nonrefundable cleaning fee." A "cleaning fee" is simply another name for a security deposit. If the tenant keeps the unit as clean and safe as the condition of the premises permit,⁸⁴ the tenant has fulfilled his or her legal obligation, and the landlord has no cleaning expenses that can properly be charged against the deposit.

Under no circumstances may the landlord seize property belonging to the tenant to satisfy rent or to cover damages.⁸⁵

⁷⁸ AS 34.03.040(a)(1), AS 34.03.070(b).

⁷⁹ AS 34.03.070(b).

⁸⁰ AS 34.03.070(d).

⁸¹ AS 34.03.070(g)

⁸² AS 34.03.070(g).

⁸³ AS 34.03.070(b).

⁸⁴ AS 34.03.120(a)(1).

⁸⁵ AS 34.03.250.

Termination of tenancy

You may have heard that tenants cannot be evicted in the winter in Alaska or that tenants with small children cannot be evicted. Neither is true.

The term “eviction” is often used to refer to the landlord’s action in ending a tenancy and requiring that the tenant move. But only a court can order the eviction of a tenant if he or she **refuses** to move. (See “*How FED Cases Work*,” pg. 25) When the Landlord and Tenant Act speaks of the landlord’s action as “terminating the tenancy,” it is important to remember that either the landlord or the tenant can terminate the tenancy by giving the proper notice; and that terminating the tenancy does not give the landlord the right to forcibly remove a tenant who has not moved out, as this can only be done by a court.

There are several different sets of circumstances under which a landlord may terminate a tenancy. Some problems can be cured by the tenant, stopping the eviction. Others cannot. In each case, a written notice is required.

Termination for late rent

A seven-day written notice is required to terminate a tenancy when a tenant is behind in rent. The notice must state the correct amount of rent to be paid by the tenant. If the rent is paid before the seven complete days are up, then the tenant may stay.

(If the tenant tries to pay after the seven days are up, the landlord may refuse to accept the rent and continue with the eviction.)⁸⁶ The notice must tell tenants that they have the choice of paying or moving.⁸⁷

If a landlord accepts a partial rent payment after giving a seven-day notice for nonpayment, the landlord must either make a new written agreement with the tenant to extend the eviction for a specific period of time or begin the eviction process all over again.⁸⁸

Termination for deliberate infliction of substantial damage to the premises

A minimum 24-hour written notice must be given to terminate a tenancy when the tenant or the tenant’s guests have intentionally caused more than \$400 damage to the landlord’s property.⁸⁹

Even if the tenant agrees to repair the damage (and the tenant will be liable for the damage in any event), the landlord may still go through with the eviction.

Termination for illegal activity on the premises

If the tenant or a guest of the tenant is engaged in an illegal activity on the premises (such as prostitution, gambling, or illegal drug or alcohol production or sale), the tenant may be evicted upon service of a five-day notice.⁹⁰ The law refers to these types of illegal activities as “nuisances.”

In addition, if a court ever finds in another legal proceeding (in a criminal case, for example) that a nuisance is being conducted on particular leased premises, the court can issue an order of abatement that, provided that the tenant received proper notice in that other case, will have the effect of terminating the tenancy immediately.⁹¹

Termination for failure to pay utility bills

If a utility company discontinues service to the premises due to the tenant’s failure to pay the utility bill, the landlord may issue a five-day notice to terminate the tenancy. If the tenant reinstates the service within three days after service of the notice and repays the landlord for any payments made to the utility company, and provided the premises were not somehow damaged due



⁸⁶ AS 34.03.220(b).

⁸⁷ AS 09.45.105.

⁸⁸ AS 34.03.240.

⁸⁹ AS 34.03.220(a)(1).

⁹⁰ AS 34.03.220(a)(1) allows notice of 24 hours to five days; the corresponding statute in the F.E.D. laws, AS 09.45.090(a)(2)(G), specifies five days.

⁹¹ AS 09.50.210(a)(1), AS 34.03.220(d).

to the lapse in service, the eviction process ends and the tenant can stay. However, in the absence of due care by the tenant, if the same utility service is disconnected again within six months, the landlord can terminate the tenancy with a three-day notice, and the tenant has no right to fix the problem.⁹²

Termination for breach of duties

A ten-day written notice is required when the landlord wishes to terminate a tenancy because the tenant has breached an important part of the rental agreement or the tenant's responsibilities under the Landlord and Tenant Act (such as disturbing other tenants with too much noise or failing to maintain the rental unit, so that the health and safety of others are endangered).

If the problem is corrected before expiration of the notice period, the tenant may stay.⁹³ However, if the tenant violates the rental agreement in substantially the same way more than once in a six-month period, the landlord can evict the tenant with a five-day notice, and the tenant has no right to fix the problem.

Some types of problems may not be remediable, such as a pattern of behavior by the tenant that has a significant impact on the other tenants or leaves the other tenants frightened for their safety. In such situations, the tenant is obligated to leave by the end of the 10-day period.⁹⁴

Ten days notice is also required when the landlord is terminating a tenancy because the tenant has refused the landlord's reasonable requests to enter the dwelling.⁹⁵

Landlord's termination of rental agreement by choice

A 30-day written notice is required when the landlord wishes to terminate a month-to-month tenancy for general reasons.⁹⁶ This notice must be delivered 30 days before the rental due date specified in the notice as the termination date.

For example, if a tenant's rent is due on the 15th of the month and the landlord wishes that the tenant move by October 15, the tenant must be given the notice on or before September 15.

To terminate a week-to-week tenancy, the landlord must give written notice at least 14 days before the termination date given in the notice.⁹⁷

A termination notice may not be used to end a **lease** prior to the end of the lease term without cause.

Termination of mobile home tenancies

While most renters can have their tenancies terminated for a variety of reasons, the law says that mobile home park tenants can be evicted from the park **only** for these reasons:⁹⁸

- the tenants are behind in space rent and don't pay even after receiving a seven-day written notice from the landlord;
- the tenants have been convicted of violating a law or ordinance, the violation is continuing, and the violation endangers the health, safety or welfare of others in the park;
- the tenant has violated a reasonable provision of the rental agreement or lease and doesn't stop the violation even after receiving a written notice from the landlord; or⁹⁹
- there is to be a change in the use of the land on which the park is located. (This last reason is subject to several limitations. The notice has to be at least 270 days, or longer if a local municipal ordinance sets a longer period, and has

⁹² AS 34.03.220(e).

⁹³ AS 34.03.220(a)(2).

⁹⁴ Osness v. Dimond Estates, Inc., 615 P.2d 605, 609-10 (Alaska 1980); Taylor v. Gill Street Investments, 743 P.2d 345, 348 (Alaska 1987).

⁹⁵ AS 34.03.300(a).

⁹⁶ AS 34.03.290(b).

⁹⁷ AS 34.03.290(a).

⁹⁸ AS 34.03.225(a); See Osness v. Dimond Estates, Inc., 615 P.2d 605, 607-08 (Alaska 1980).

⁹⁹ This can include a termination if the mobile home is not in a fit and habitable condition. However, the termination cannot be based solely on the age of the mobile home, unless (1) the age limit was already in effect when the mobile home was moved into the park, (2) the mobile home has been sold after the age limitation is exceeded, and (3) the owner or tenant of the mobile home has not brought the mobile home into compliance with certain life safety requirements specified in part 3280 of Title 24 of the Code of Federal Regulations. AS 34.03.220(b).

to be at least a year if the change of land use is a conversion to a “common-interest community” (condominiums, for example). The termination date cannot be earlier in the year than May 1, nor later than October 15.)¹⁰⁰

Except for termination of tenancy due to change in the use of the land on which the park is located, the same notice periods are required for mobile home park tenants as for other types of tenants.¹⁰¹

Termination for absence or abandonment

According to the law, rental agreements must require that tenants notify their landlord every time they plan to be gone for more than seven days. If the tenant plans to be gone only two or three days, then finds he will actually be gone for more than a week, the tenant must notify the landlord as soon as possible.¹⁰² This is to help protect the property from damage such as that caused by freezing pipes.

Tenants who willfully fail to give notice of being gone can be sued by their landlord for 1½ times the actual damages caused by any calamity occurring during their absence.¹⁰³

When tenants are gone, the landlord may enter the dwelling only if there is an emergency or with the tenant’s consent and proper notice. However, if tenants are gone more than a week without notifying the landlord, the landlord may, at times reasonably necessary, go into the unit for reasonable repairs, inspections, or to show the dwelling.¹⁰⁴

When is it abandonment?

A landlord may assume the dwelling has been abandoned when the following three elements are met:

- the tenant is behind in rent; and
- the tenant has left behind his or her personal belongings in the dwelling, but has been gone for more than seven consecutive days; and
- the tenant did not notify the landlord that he or she would be gone for more than seven days.¹⁰⁵

When a dwelling has been abandoned, the landlord may enter, clean up, and re-rent it. If the landlord makes a good faith effort to re-rent the unit at fair rental value, the former tenant is obligated for rental payment until the end of the following rental period, the end of the lease period (if the agreement is a lease), or until a new tenant moves in, whichever is sooner.¹⁰⁶

Abandoned belongings

If a tenant abandons a dwelling leaving personal belongings behind, the landlord must notify the tenant:

- where the property is being held;
- that the tenant has a minimum of 15 days to remove the property. (The time period may be lengthened at the discretion of the landlord or agreement of the parties or maybe made shorter if the parties agree to a shorter time period); and
- what the landlord intends to do with the property if it is not removed.

Belongings not removed within that time may be:

- sold at public sale (property not sold may be disposed of);
- disposed of as the landlord sees fit (if it is food or something perishable); or
- destroyed or otherwise disposed of (such as by charitable donation) when the cost of having a public sale would exceed the value of the items.

The landlord must exercise reasonable care over the tenant’s belongings and keep them in a safe place, but is not responsible for damage or loss not caused by his or her neglect or deliberate action. If the tenant’s property is stored

¹⁰⁰ AS 34.03.225(a).

¹⁰¹ AS 34.03.225(c).

¹⁰² AS 34.03.150.

¹⁰³ AS 34.03.230(a).

¹⁰⁴ AS 34.03.140; AS 34.03.230(b).

¹⁰⁵ AS 34.03.360(1).

¹⁰⁶ AS 34.03.230(c).

in the dwelling, storage charges may not exceed the rent. If the property is held at a commercial storage company, the landlord may pass the moving and storage costs on to the tenant.¹⁰⁷

Holding a public sale

To hold a public sale, the landlord should post a written or printed public sale notice in three specific places within five miles of the location of the sale, not less than 10 days prior to the sale. One of the notices must be posted at the post office nearest the place of the sale.¹⁰⁸

The law does not specify what should be done with the sale proceeds, but presumably the landlord may apply them to storage costs, the costs of holding the sale, and to any damages (such as unpaid rent) not satisfied by the security deposit. The excess, if any, should be paid to the tenant. (If the tenant cannot be located, the landlord may be required to pay the excess to the Department of Revenue under the unclaimed property law.¹⁰⁹ Landlords in this situation may wish to consult an attorney.)

A tenant cannot make claims against a landlord who has fairly exercised the landlord's rights regarding abandonment. However, when a landlord deliberately or negligently violates the law governing abandonments, the tenant may sue for up to twice his or her actual damages.¹¹⁰

Serving notices to quit

Notices of Termination of Tenancy (also called "Notices to Quit") from the landlord must be served on the tenant by:

- delivering the notice in person to the tenant or occupant;
- leaving the notice at the dwelling when the tenant is absent from the premises; or
- sending the notice by registered or certified mail.¹¹¹

A Notice to Quit must:¹¹²

- be in writing;
- say why the tenancy is being terminated;
- give the date and time when the tenancy will end and the tenant must be gone;
- give the tenant the required number of days allowed by law to move out;
- if the termination is based on a tenant's breach or violation of the rental agreement and the breach may be corrected by the tenant, the notice must specify what corrective actions the tenant must take to remedy the violation and the date and time when the corrective action must be completed to avoid termination of the tenancy; and
- give notice that if the tenant continues to occupy the dwelling after the termination date the landlord may sue to remove the tenant.

Once the tenant receives a Notice to Quit from the landlord, he or she may move at any time during the notice period. The tenant owes rent until the end of the notice period.

If a tenant who is served with a Notice to Quit does not wish to move, he or she should **not** simply refuse to see or speak to the landlord. It is important to take immediate action.

To challenge a termination of tenancy, a tenant may want to:

- give the landlord a letter explaining why the tenant disagrees with the landlord's reasons for eviction;
- give the letter to the landlord **before** the notice expires; and
- consult an attorney, or if low income, contact Alaska Legal Services.

¹⁰⁷ AS 34.03.260(b).

¹⁰⁸ AS 34.03.260(e); AS 09.35.140.

¹⁰⁹ AS 34.45.

¹¹⁰ AS 34.03.260(d).

¹¹¹ AS 09.45.100.

¹¹² AS 09.45.105.

When the landlord receives this letter, the landlord may choose whether to go to court to enforce eviction or just drop the matter. If the landlord goes to court, a judge will give both the landlord and the tenant an opportunity to present their case before making a decision.

Foreclosure problems

When a landlord misses mortgage payments on the rental property, tenants may receive demands from the lender that they pay rent to the lender rather than to the landlord. This is because mortgages or deeds of trust often give the lender the right to collect rents if the borrower defaults. But if the landlord continues to demand that the tenant pay him or her, the tenant is placed in a very difficult position. A tenant who pays rent to the party who is not legally entitled to it could end up paying twice.

Tenants experiencing conflicting demands should get written proof from the lender that the lender is entitled to collect the rent. They might also try to get an assurance that the lender will defend them against eviction attempts by the landlord.

Tenants who find themselves in this situation may wish to consult an attorney. He or she may be able to set up an arrangement in which the rent is paid into court or into a special account. The landlord and the lender can then fight it out to determine who is entitled to the rent.

Tenant protections after foreclosure

Federal law,¹¹³ applicable to state eviction proceedings, requires a new owner who takes title to residential property through foreclosure to honor existing leases until the end of the lease term.

There are three exceptions to this rule:

- (1) if there is an existing term lease and a new purchaser of the foreclosed property wants to occupy the foreclosed property as a personal residence before the end of the lease term;
- (2) if there is an existing term lease with less than 90 days to the end of the lease term; or
- (3) if the existing lease on the foreclosed property is a month-to-month tenancy or tenancy at will.

In each of these cases, the owner must provide the tenant at least 90 days notice to terminate the tenancy.

Section 8 voucher tenants have additional protections. When there is a Section 8 tenancy, the owner who is an immediate successor in interest at foreclosure takes the property subject to the Section 8 voucher recipient's lease and the Section 8 Housing Assistance Payments (HAP) contract. During the term of the lease, an owner's desire to have the property vacant prior to sale does not constitute good cause for eviction, except the new owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner –

- (1) will occupy the unit as a primary residence; and
- (2) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.

At the end of the term of the Section 8 voucher lease, the new owner may terminate the tenancy if the owner provides a 90-day notice prior to the end date of the lease.

Lockouts, utility shutoffs and threats

A landlord may not coerce a tenant to move by:

- shutting off utilities;
- changing the locks;
- taking the tenant's belongings; or
- taking possession of the dwelling by force without a court hearing.

¹¹³ Protecting Tenants at Foreclosure Act, Title VII of S. 896, Pub. L. No. 111-22, § 701-704 (2009) (effective May 20, 2009.) The federal protections in this section are currently set to expire as of December 31, 2014, and it is not clear if they will be extended beyond that. It is possible that state law may afford some protection to tenants of properties being foreclosed upon, but that is not clear at this point.

These actions are unlawful even if the rental agreement says that the tenant waives notice and eviction procedures, since the Landlord and Tenant Act prohibits waivers of a tenant's rights.¹¹⁴

If the landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services, the tenant may sue the landlord to regain possession of the premises or terminate the rental agreement. In either case, the tenant may recover up to 1½ times actual damages.¹¹⁵

Using a charge or threat of criminal trespass against tenants in order to evict them without the benefit of a court hearing is an abuse of the law. Police who participate in such an action may be guilty of official misconduct.¹¹⁶ In such cases, tenants may sue both the landlord and the police for abusing the law. Tenants subjected to this treatment should see an attorney.

Subsidized housing

If you receive a housing subsidy or live in a federal or state housing project, you may have rights in addition to those provided by state law. For example, if AHFC, Division of Public Housing pays part of your rent under the Section 8 program, your tenancy may be terminated only in accordance with your lease. Contact your local AHFC, Division of Public Housing office for more information about special requirements.

Retaliation by the landlord

The landlord may not retaliate (in the manner described here) against a tenant because:

- the tenant complains to the landlord about his failure to perform the landlord's responsibilities;
- the tenant exercises his legal rights under the Alaska Landlord and Tenant Act;¹¹⁷
- the tenant organizes or joins a tenant union or similar organizations; or
- the tenant complains to a government agency responsible for enforcement of governmental housing, wage, price or rent controls.

The law prohibits retaliation by the landlord. This means the landlord cannot:

- raise the rent;
- decrease services (such as shutting off utilities); or
- start or threaten to start an eviction proceeding against the tenant.¹¹⁸

If a tenant feels that illegal retaliation has occurred, the tenant can move out or stay, and in either case, sue for as much as 1½ times the actual damages.¹¹⁹

When it's NOT retaliation

An eviction proceeding is not considered illegal retaliation if the landlord (in good faith) acts because:

- the tenant is behind in rent;
- the landlord needs the dwelling vacant to make repairs needed to meet code requirements;
- the tenant is using the unit for illegal purposes;
- the landlord wants to use the unit for something other than a residential dwelling for at least six months or for personal purposes;
- the landlord wishes to substantially remodel or demolish the unit; or

¹¹⁴ AS 34.03.040(a)(1).

¹¹⁵ AS 34.03.210.

¹¹⁶ AS 11.56.850.

¹¹⁷ Claims for compensation for personal injuries are not protected by the anti-retaliation statute, Helfrich v. Valdez Motel Corp., 207 P.3d 552 (Alaska 2009).

¹¹⁸ AS 34.03.310(a); Vinson v. Hamilton, 854 P. 2d 733, 736 (Alaska 1993).

¹¹⁹ AS 34.03.310(b); AS 34.03.210.

- the property is being sold and the new owner intends it for personal use, or intends to substantially remodel or demolish, or change it from rental use for at least six months.¹²⁰

A rent increase is not considered illegal retaliation if the landlord can show, in good faith:

- a recent sizable increase in taxes or cost of maintaining the property (not including the cost of repairing something because of the tenant's complaint);¹²¹
- that similar dwellings are being rented for a higher rate or, if there are no similar dwelling units, the proposed rent does not exceed the fair rental value of the dwelling;¹²² or
- that the true costs of major improvements made to the property are being passed on to all tenants fairly and equally.¹²³

If the tenant won't move

If the tenant refuses to move at the end of the period specified in the Notice to Quit, the landlord must go to court to evict. The landlord may NOT take over the rental dwelling by force or by locking out the tenant. The court refers to most eviction suits by landlords as "Forcible Entry and Detainer" (FED) cases.

How FED cases work

The landlord files his or her claim with the court. The tenant receives a complaint and summons to appear in court. The tenant has 20 days to file an answer to the complaint.

There will be two hearings. The first hearing, which will usually be held before the tenant's written answer is due, is to address who gets possession of the dwelling unit. The second hearing, which will be scheduled by the court for a date after the first hearing, is to determine whether the landlord or the tenant owes the other any money (and this may not be necessary if neither party is claiming to be owed money). At the second hearing both the landlord and tenant have a right to present evidence of damages and the parties have a right to a jury trial.

The first hearing (possession hearing) will be scheduled not more than 15 days after the case has been filed in court. The summons should be served on the tenant no less than two days before the day of the hearing.¹²⁴

At the hearing, both the landlord and the tenant will have an opportunity to tell their side of the story to the judge. The landlord and tenant can raise defenses and counterclaims to the complaint at that time. There is no right to a jury trial at the possession hearing.¹²⁵

If the judge finds in favor of the tenant, the tenant will be allowed to stay and the landlord may have to pay the tenant's attorney fees.

If the judge finds in favor of the landlord, the judge will decide how long the tenant has before he or she must be out of the rental unit. If the tenant still does not move, the landlord can get a writ of assistance from the court that will permit the police to assist in the eviction. In addition, the tenant may have to pay the landlord's attorney fees.

FED cases are usually handled by district court. For more information on eviction procedures, see AS 09.45.060-AS 09.45.160, Forcible Entry and Detainer, and Civil Rule 85 of the Alaska Rules of Court. More specific answers to questions on FEDs may be found in the Eviction booklet prepared by the Administrative Office of the Alaska Court System. Inquire at your local court or magistrate's office or at www.courts.alaska.gov/forms/civ-720.pdf.

Tenants may have a legal defense or claim against the property owner which could prevent an eviction. If they do not want to be evicted, tenants must act quickly and should see an attorney.

When a problem arises ...

When landlords and tenants disagree, sometimes tempers flare and things are said or done which are totally outside the law. Sometimes the disagreement can be easily resolved if the parties just talk and listen to one another. But if you

¹²⁰ AS 34.03.310(c).

¹²¹ AS 34.03.310(d)(1).

¹²² AS 34.03.310(d)(3).

¹²³ AS 34.03.310(d)(2).

¹²⁴ Alaska R. Civ. P. 85(a)(2).

¹²⁵ *Vinson v. Hamilton*, 854 P.2d 733, 737 (Alaska 1993).

cannot resolve your disagreement, remember that each party has a legal obligation to act in good faith,¹²⁶ which means that all actions must be taken in an honest, reasonable and forthright manner.

Follow these suggestions:

- Try to remain calm. Do everything possible to prevent the situation from getting worse.
- Gather your facts and put them in writing.
- Pay careful attention to the sections of the law requiring written notices and specifying the number of days allowed for landlords and tenants to remedy problem situations.
- Present your position to the other party in writing, clearly stating what you want to change and what you will do if the situation does not change.

The rental of dwelling is a business, and as in any business, both parties should conduct themselves in a fair, honest manner.

There are not many agencies that will mediate landlord/tenant disputes, and the amounts at stake are usually not high enough to justify hiring a lawyer to go to court.

Most landlord and tenant problems can be satisfactorily settled if both parties simply act “in good faith.”

If serious problems arise, it is always advisable to see a lawyer. But first, give the other person a chance to try to work it out with you.

Where to go for help

- Low-income tenants may call Alaska Legal Services Corporation (ALSC) for help. If your landlord is trying to evict you, be sure you mention the eviction when you call ALSC. You can call the Anchorage ALSC office at (907) 272-9431 or (888) 478-2572. ALSC also has several local offices. As of 2014, these are in Barrow, Bethel, Dillingham, Fairbanks, Juneau, Kenai, Ketchikan, Kotzebue, Palmer, and Nome. Contact information for the local offices is available from ALSC’s web page, www.alsc-law.org/contact-us. For information about free legal clinics and hotlines offered by ALSC, visit www.alsc-law.org/legal-clinics/.
- If you need a lawyer but do not qualify for Alaska Legal Services, call the statewide lawyer referral service in Anchorage at (800) 770-9999. They may be able to refer you to a lawyer in your area.
- For information about landlord/tenant and other housing and legal issues, visit the website www.alaskalawhelp.org.
- To file a claim for damages of \$10,000 or less without a lawyer, you can file in Small Claims Court. See the clerk or magistrate at your local courthouse and ask for their publication, Alaska Small Claims Handbook, or go to the Alaska Court System’s website at www.courts.alaska.gov/forms/sc-100.pdf. Information on filing Small Claims actions is also available from the Alaska Court System’s website at www.courts.alaska.gov/faq.htm#sc.
- To get information on court procedures for evictions, the informational booklet “Eviction: Information for Landlords and Tenants about Forcible Entry and Detainer (F.E.D.) Actions” is available through the Alaska Court System website www.courts.alaska.gov/forms/civ-720.pdf.
- To report a licensed property manager who has violated the law, or an unlicensed individual unlawfully acting as a property manager, contact the Alaska Real Estate Commission at (907) 269-8160.
- To file a complaint regarding illegal discrimination, contact the Equal Rights Commission in your community or the Alaska State Commission for Human Rights. The Commission’s statewide complaint hot line is (907) 274-4692 or toll free (800) 478-4692. TTY/TDD: (907) 276-3177 or toll free (800) 478-3177. See humanrights.alaska.gov for more information.
- To file a complaint about disability-based discrimination, contact the Disability Law Center of Alaska at 1 (800) 478-1234 or, in Anchorage, at 565-1002. See www.dlcak.org for more information.
- For complaints about federal housing projects, call HUD (U.S. Department of Housing and Urban Development) at (907) 677-9800 or (877) 302-9800 (toll free), or visit www.hud.gov.

¹²⁶ AS 34.03.320.

- For complaints about state housing programs, call Alaska Housing Finance Corporation (AHFC), Division of Public Housing at (907) 330-8432
- Some Alaska communities have tenants' unions, tenant advocacy organizations, landlord associations, or similar groups that can help you. Check your telephone book for local organizations.

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SAMPLE

NOTICE TO LANDLORD OF TERMINATION OF MONTH-TO-MONTH TENANCY

To: _____ (Landlord) _____ (Date)

Re: _____ (Address of rental unit)

(City, State)

You are notified that I am terminating my tenancy effective on the rental due date at least 30 days from the date you receive this notice. Rent is due on the ___ day of each month, so the next rental due date at least 30 days in the future is the ___ day of _____, 20___. I will move out by the _____ day of _____, 20__.

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

(Tenant's Name)

(Tenant's New Address)

(City, State)

I understand that the law requires that my deposit be returned or accounted for within 14 days of the termination of my tenancy and the day I move (or 30 days if costs are being deducted for damages due to tenant noncompliance with AS 34.03.120), and that under AS 34.03.070 a wilfull violation of this requirement can result in landlord liability for twice the actual amount withheld.

Signed: _____
(Tenant)

Tenant's Record of Service

Instructions: Serve a copy of this notice on the landlord. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Landlord acknowledges receipt of this notice on _____.
(Date) (Landlord/Property Manager's Signature)
- This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)
- I attempted to make personal service on the landlord. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises.

This was done on the _____ day of _____, 20__ at _____ a.m./p.m.
- I mailed a copy of this notice to landlords address at _____,
on the _____ day of _____, 20___. (Address)
- Landlord was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO LANDLORD OF TERMINATION OF WEEK-TO-WEEK TENANCY

To: _____ (Date) _____
(Landlord)

Re: _____
(Address of rental unit)

(City, State)

You are notified that I am terminating my tenancy effective fourteen (14) days from the date you receive this notice. I will move out by the _____ day of _____, 20 ____.

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

(Tenant's Name)

(Tenant's New Address)

(City, State)

I understand that the law requires that my deposit be returned or accounted for within 14 days of the termination of my tenancy and the day I move (or 30 days if costs are being deducted for damages due to tenant noncompliance with AS 34.03.120), and that under AS 34.03.070 a wilfull violation of this requirement can result in landlord liability for twice the actual amount withheld.

Signed: _____
(Tenant)

Tenant's Record of Service

Instructions: Serve a copy of this notice on the landlord. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Landlord acknowledges receipt of this notice on _____.
(Date) (Landlord/Property Manager's Signature)
- This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)
- I attempted to make personal service on the landlord. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises.

This was done on the _____ day of _____, 20____ at _____ a.m./p.m.

- I mailed a copy of this notice to landlords address at _____,
on the _____ day of _____, 20____. (Address)
- Landlord was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO LANDLORD OF DEFECTS IN ESSENTIAL SERVICES

To: _____ (Date) _____
(Landlord)

Re: _____
(Address of rental unit)

(City, State)

You are notified that you are failing to provide (water/hot water/heat/sewer service/other essential services) at the address listed above, as required by law. I did not cause these problems, nor did my family or guests. These are the specific defects:

If you do not fix the defect IMMEDIATELY, I have a right to:

1. have it fixed and deduct the cost from my rent,
2. sue you for damages based on the diminution in fair rental value of the dwelling, or
3. move into substitute housing, stop paying rent until the essential services are restored, and hold you responsible for the amount by which the cost of the substitute housing exceeds my rent.

Signed: _____
(Tenant)

Tenant's Record of Service

Instructions: Serve a copy of this notice on the landlord. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Landlord acknowledges receipt of this notice on _____.
(Date) (Landlord/Property Manager's Signature)
- This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)
- I attempted to make personal service on the landlord. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises.

This was done on the ____ day of _____, 20__ at _____ a.m./p.m.

- I mailed a copy of this notice to landlords address at _____,
on the ____ day of _____, 20__. (Address)
- Landlord was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO LANDLORD OF NEED FOR REPAIR AND DEDUCTION FROM RENT

To: _____ (Date) _____
(Landlord)

Re: _____
(Address of rental unit)

(City, State)

You are notified that in my rental unit, the following essential services are in need of repair:

I did not cause these problems, nor did my family or guests.

If you do not repair these problems by _____, I will arrange for the repairs myself, and will deduct the cost of the repairs from my rent, as I am permitted to do under AS 34.03.180.

Signed: _____
(Tenant)

Tenant's Record of Service

Instructions: Serve a copy of this notice on the landlord. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Landlord acknowledges receipt of this notice on _____.
(Date) (Landlord/Property Manager's Signature)
- This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)
- I attempted to make personal service on the landlord. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises.

This was done on the ____ day of _____, 20__ at _____ a.m./p.m.

- I mailed a copy of this notice to landlords address at _____,
on the ____ day of _____, 20__. (Address)
- Landlord was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO LANDLORD OF TERMINATION OF TENANCY FOR VIOLATION OF RENTAL AGREEMENT OR LAW

To: _____ (Landlord) _____ (Date)

Re: _____ (Address of rental unit)

(City, State)

You are notified, pursuant to AS 34.03.160, that you have seriously violated your agreement with me or your duties under the law. These are the specific violations:

- If you do not remedy these violation(s) within TEN DAYS after you receive this notice, my tenancy will terminate on _____, which is at least TWENTY DAYS from the date you receive this notice.
- Since this is substantially the same violation for which I previously gave notice within the past six months, I am electing to terminate my tenancy on _____, which is at least TEN DAYS from the date you receive this notice.

Please send my security deposit, or an explanation of how it was used, to my new address:

I understand that the law requires that my deposit be returned or accounted for within 14 days of termination and the day I move (or 30 days if costs are being deducted for lawful damages), and that under AS 34.03.070 a wilfull violation of this requirement can result in landlord liability for twice the actual amount withheld.

Signed: _____
(Tenant)

Tenant's Record of Service

Instructions: Serve a copy of this notice on the landlord. Fill out this section to describe how service was accomplished. Keep the completed original.

- Landlord acknowledges receipt of this notice on _____ (Date) _____ (Landlord/Property Manager's Signature)
- This notice was personally served on _____ (Name) by the undersigned on _____ (Date)
- I attempted to make personal service on the landlord. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises.

This was done on the _____ day of _____, 20____ at _____ a.m./p.m.

- I mailed a copy of this notice to landlords address at _____, on the _____ day of _____, 20____. (Address)
- Landlord was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO TENANT OF TERMINATION OF MONTH-TO-MONTH TENANCY (NOTICE TO QUIT)

To: _____ (Tenant) _____ (Date)
Re: _____ (Address of rental unit)
_____ (City, State)

You are notified that your tenancy is terminated and that you must move from the address above by the rental due date at least 30 days from the date you receive this notice. Rent is due on the ____ day of each month, so the next rental due date at least 30 days in the future is the ____ day of _____, 20___. You must be moved out of the dwelling place by the _____ day of _____, 20_____ at _____ o'clock a.m./p.m.

If you are not gone by _____, a lawsuit may be filed to evict you.
(Date)

Signed: _____
(Landlord/Property Manager)

Landlord's Record of Service

Instructions: Serve a copy of this notice on the tenant. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Tenant acknowledges receipt of this notice on _____.
(Date) (Tenant's Signature)
- This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)
- I attempted to make personal service on the tenant. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises. This was done on the _____ day of _____, 20__ at _____ o'clock a.m./p.m.
- Tenant was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO TENANT OF TERMINATION OF WEEK-TO-WEEK TENANCY (NOTICE TO QUIT)

To: _____ (Tenant) _____ (Date)
Re: _____ (Address of rental unit)
_____ (City, State)

You are notified that your tenancy is terminated and that you must move from the address above by the rental due date at least 14 days from the date you receive this notice. You must be moved out of the dwelling place by the _____ day of _____, 20____ at _____ o'clock a.m./p.m.

If you are not gone by _____, a lawsuit may be filed to evict you.
(Date)

Signed: _____
(Landlord/Property Manager)

Landlord's Record of Service

Instructions: Serve a copy of this notice on the tenant. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Tenant acknowledges receipt of this notice on _____.
(Date) (Tenant's Signature)
- This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)
- I attempted to make personal service on the tenant. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises. This was done on the _____ day of _____, 20__ at _____ o'clock a.m./p.m.
- Tenant was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO TENANT OF TERMINATION OF TENANCY FOR NONPAYMENT OF RENT

To: _____
(Tenant)

Re: _____
(Address of rental unit)

(City, State)

You are notified that you owe rent in the amount of \$_____. (This amount does not include any late fees that you may also owe. You may not be evicted for non-payment of late fees.)

If you do not pay this rent by the date stated below (which must be at least SEVEN DAYS after the date and time you receive this notice), your tenancy is terminated and you must move.

Date and time by which rent must be paid: Date: _____ Time: _____ a.m./p.m.

If you pay your rent in full before this date and time, you do not have to move.

If you do not pay your rent or move by this date and time, a lawsuit may be filed to evict you.

Date: _____ Signature: _____

Print Name: _____

Print Title: _____

Landlord's Record of Service

Instructions: Serve a copy of this notice on the tenant. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

Tenant acknowledges receipt of this notice on _____.
(Date) (Tenant's Signature)

This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)

I attempted to make personal service on the tenant. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises. This was done on the _____ day of _____, 20__ at _____ o'clock a.m./p.m.

Tenant was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO TENANT OF TERMINATION OF TENANCY FOR NONPAYMENT OF UTILITIES

To: _____ (Date) _____
(Tenant)

Re: _____
(Address of rental unit)

(City, State)

You are notified that you have violated your rental agreement by failing to pay utility bills to _____ in the amount of \$_____. This delinquency has caused the utility company to shut off the service to the rental property.

- You are notified that your tenancy is therefore terminated FIVE DAYS from the date you receive this notice, which means that you must move out by the _____ day of _____, 20____, at _____ o'clock a.m./p.m. If within THREE DAYS of the date you received this notice, you have made arrangements to reinstate the discontinued service, and you deliver to me \$_____ (the amount I have paid to continue service), and if the rental was not damaged due to the discontinuation, you may stay and the tenancy does not terminate. If this violation occurs again within 6 months, you may not have an opportunity to cure. If you have not reinstated service and paid within three days and have not moved out by the above date, a lawsuit may be filed to evict you.
- You were previously notified of a prior occurrence of this violation on the ___ day of ___, which is less than six months ago. Therefore, per AS 34.03.220(e), your tenancy is being terminated three days from the date you receive this notice. If you have not moved out by the ___ day of ___, at ___ a.m./p.m., a lawsuit may be filed to evict you.

Signed: _____
(Landlord/Property Manager)

Landlord's Record of Service

Instructions: Serve a copy of this notice on the tenant. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Tenant acknowledges receipt of this notice on _____.
(Date) (Tenant's Signature)
- This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)
- I attempted to make personal service on the tenant. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises. This was done on the _____ day of _____, 20__ at _____ o'clock a.m./p.m.
- Tenant was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO TENANT OF TERMINATION OF TENANCY FOR VIOLATION OF AGREEMENT/LAW

To: _____ (Tenant) _____ (Date)

Re: _____ (Address of rental unit)

(City, State)

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

If you do not remedy the violation(s) listed above by: _____

(explanation of remedial action to be taken by tenant to correct violation)

within TEN DAYS of the date you receive this notice, your tenancy will terminate, and you must move. Failure to remedy the violations listed here will mean that you must move out by the _____ day of _____, 20____, at _____ o'clock a.m./p.m. If you have not remedied the problem(s) and have not moved out by the date above, a lawsuit may be filed to evict you. If you remedy the problem(s) within ten days, you may stay. If the same problem occurs again within 6 months, you may be given a notice to terminate the tenancy and you will not be given an opportunity to fix the problem.

Since this is substantially the same violation for which you were previously given notice within the past six months on the __ day of __, I am electing to terminate your tenancy on _____, which is at least FIVE DAYS from the date you receive this notice.

Signed: _____
(Landlord/Property Manager)

Landlord's Record of Service

Instructions: Serve a copy of this notice on the tenant. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

Tenant acknowledges receipt of this notice on _____.
(Date) (Tenant's Signature)

This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)

I attempted to make personal service on the tenant. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises. This was done on the _____ day of _____, 20__ at _____ o'clock a.m./p.m.

Tenant was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO TENANT OF TERMINATION OF TENANCY FOR INTENTIONAL DAMAGE TO DWELLING

To: _____ (Tenant) _____ (Date)
Re: _____ (Address of rental unit)
_____ (City, State)

You have deliberately inflicted substantial damage (loss, destruction or defacement exceeding \$400) to the above premises as follows:

Therefore, you are hereby notified that your tenancy is terminated and you must move from the address listed above by the _____ day of _____, 20____ (not less than 24 hours after service of the notice), at _____ o'clock a.m./p.m. If you are not gone by that time, a lawsuit may be filed to evict you.

Signed: _____
(Landlord/Property Manager)

Landlord's Record of Service

Instructions: Serve a copy of this notice on the tenant. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Tenant acknowledges receipt of this notice on _____ (Date). _____ (Tenant's Signature)
- This notice was personally served on _____ (Name) by the undersigned on _____ (Date).
- I attempted to make personal service on the tenant. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises. This was done on the _____ day of _____, 20____ at _____ o'clock a.m./p.m.
- Tenant was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO TENANT OF INCREASE IN RENT OF MONTH-TO-MONTH TENANCY

To: _____ (Tenant) _____ (Date)
Re: _____ (Address of rental unit)
_____ (City, State)

You are notified that your rent will increase to \$_____ per month effective on the rental due date at least 30 days from the date you receive this notice. Your rent is due on the _____ day of each month, so this increase will take effect on _____, 20____.

You may elect to either accept this increase or move. If you choose to move, you must provide me a written notice of termination of the tenancy at least 30 days prior to the rental due date when you plan to move.

Signed: _____
(Landlord/Property Manager)

Landlord's Record of Service

Instructions: Serve a copy of this notice on the tenant. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Tenant acknowledges receipt of this notice on _____ (Date). _____ (Tenant's Signature)
- This notice was personally served on _____ (Name) by the undersigned on _____ (Date).
- I attempted to make personal service on the tenant. I knocked on the door, but no one answered. I believed the landlord was absent, so I securely affixed the notice to the entry door of the premises. This was done on the _____ day of _____, 20__ at _____ o'clock a.m./p.m.
- Tenant was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

NOTICE TO TENANT OF TERMINATION OF TENANCY FOR ILLEGAL ACTIVITY ON THE PREMISES OR USE OF PREMISES FOR ILLEGAL PURPOSE

To: _____ (Date) _____
(Tenant)

Re: _____
(Address of rental unit)

(City, State)

You have violated the law and/or your rental agreement by engaging in an illegal activity on the premises (such as prostitution, gambling, illegal activity involving a controlled substance) or by using the premises for an illegal purpose at the address listed above as follows:

Pursuant to AS 09.45.090(a)(2)(G), and AS 34.03.220(a)(1), you are hereby notified that your tenancy is terminated on the _____ day of _____, 20____, at _____ o'clock, a.m./p.m. (which is not less than 5 days from the date of this Notice is served on you), and you must move from the premises not later than this date and time. If you have not moved by the date and time indicated on this notice, a lawsuit may be filed to evict you.

Signed: _____
(Landlord/Property Manager)

Landlord's Record of Service

Instructions: Serve a copy of this notice on the tenant. Immediately fill out this section to describe how service was accomplished. Complete all statements that apply. Keep the completed original.

- Tenant acknowledges receipt of this notice on _____.
(Date) (Tenant's Signature)
- This notice was personally served on _____ by the undersigned on _____.
(Name) (Date)
- I attempted to make personal service on the tenant. I knocked on the door, but no one answered. I believed the tenant was absent, so I securely affixed the notice to the entry door of the premises. This was done on the _____ day of _____, 20____ at _____ o'clock a.m./p.m.
- Tenant was served by registered or certified mail. (I have retained the receipt.)

Date: _____ Signature: _____ Print Name: _____

Keep a copy of this notice.

SAMPLE

LANDLORD'S SECURITY DEPOSIT OFFSET STATEMENT

To: _____
(Tenant)

(Address)

From: _____
(Landlord)

(Address)

This statement concerns the following premises:

Description: _____
(house, 4-plex, apartment building, trailer, trailer space, etc.)

Location: _____
(street address, apartment number, city and state)

This statement is made pursuant to AS 34.03.070(b). It accurately sets forth the amount of rent due and is an itemization of damages to the premises.

Date of tenant's departure from premises: _____

Amount of tenant deposit: \$ _____

Offset for rent due landlord \$ _____

Offset for damages to premises \$ _____

Itemize the offsets below: (attach continuation sheets as necessary)

TOTAL OFFSETS (if any) \$ _____

AMOUNT DUE TENANT, IF ANY (check enclosed) \$ _____

(Date)

Signature: _____

Print Name: _____

Instructions: Provide or serve a copy of this statement to tenant at checkout or thereafter, or mail to tenant's last known address within 14 days of tenant's departure (or 30 days if costs are being deducted for damages due to tenant's noncompliance with the duties listed in AS 34.03.120). Immediately make a notation of service or mailing on the retained original and copies of this statement. Complete all that apply.

Tenant acknowledges receipt of this statement on _____.
(Date) (Tenant's Signature)

This notice was personally served on _____ by the undersigned on _____.
(Date) (Name of Tenant)

This statement has been mailed to tenant at tenant's last known address which is set forth above. It was mailed on _____.

(Date)

Signature: _____

Print Name: _____