

April 26, 2014

The Honorable Sean Parnell
Governor
State of Alaska
P. O. Box 110001
Juneau, Alaska 99811-0001

Re: CSHB 282(JUD) -- relating to the rights and obligations of residential landlords and tenants; and relating to the taking of a permanent fund dividend for rent and damages owed to a residential landlord
Our file: JU2014200347

Dear Governor Parnell:

At the request of your legislative director, we have reviewed CSHB 282(JUD), relating to the rights and obligations of residential landlords and tenants; and relating to the taking of a permanent fund dividend for rent and damages owed to a residential landlord.

The bill would amend the Alaska Uniform Residential Landlord and Tenant Act (URLTA). The bill amends the URLTA in the following ways:

1. Premises Condition Statement.

The bill would require the landlord and tenant to sign a premises condition statement that describes the condition of a rental unit and, if applicable, a contents inventory. Once signed, the statement would become part of the rental agreement and can be used by the landlord and tenant to determine whether, and the extent of, and damage done to the unit. Currently, such a condition statement is permissive, but not required. AS 34.03.020(e).

2. Normal Wear and Tear.

The bill would amend the URLTA by adding "normal wear and tear" as the standard for assessing damages a landlord may assess from a tenant upon termination of the tenancy and would add a definition of "normal wear and tear." Current language defines "damages" to exclude a tenant's use of the premises by "normal, nonabusive living." "Normal wear and tear" is a more common standard, and is defined in the bill to mean "deterioration that occurs from the intended use of the rental unit and without negligence, carelessness, accident, misuse, or abuse of

the premises or contents by the tenant, members of the household of the tenant, or the invitees or guests of the tenant." Proposed AS 34.03.070(i)(1).

3. Separate Accounting of Funds and Return of Security Deposit.

The bill would require a landlord to separately account for prepaid rent and security deposits. A landlord may commingle these funds, but may not use money received from one tenant to refund a security deposit of another tenant, to apply to the payment of another tenant's accrued rent, or to pay for damages caused by another tenant. The bill also would extend the time a landlord has to refund a security deposit from 14 days to 30 days if costs are deducted for damages to the rental unit. AS 34.03.070(c).

4. Pet Deposit.

The bill would add a section that allows a landlord to collect a pet deposit from a tenant, not to exceed one month's rent. The pet deposit must be accounted for separately and can only be applied to damages directly related to the pet of the tenant. A pet would not include a service animal, which is defined to mean an animal that is individually trained to do work or perform tasks that are directly related to and for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Proposed AS 34.03.070(i)(2).

5. Dry Cabins.

The bill would add a provision to the URLTA that allows a landlord to rent a "dry cabin," which is rental that does not have a well or water provided by a direct public utility. The bill would require that the rental agreement state that the duty of the landlord to provide running water or hot water is waived by the tenant. Proposed AS 34.03.100(a)(5)(B).

6. Occupancy Limits.

The bill would add a provision that specifically states the number of individuals who occupy a rental unit cannot exceed the number allowed by law, by a covenant limiting the landlord's use of the premises, or the rental agreement. This would allow the landlord to restrict the number of occupants to a number less than that allowed by law if the landlord and tenant agree to such a restriction. Proposed AS 34.03.120(a)(10).

7. Eviction for Engaging in Illegal Activities.

Current requirements in the URLTA allow a landlord to issue a notice to quite to a tenant who engages in prostitution or other illegal activity, but cannot require a termination of the rental agreement for at least 10 days after the notice is delivered. The bill would amend the URLTA to allow a landlord to terminate a rental agreement not less than 24 hours or more than five days after delivery of a notice to quit for engaging in these activities. AS 34.03.220(a)(1).

8. Garnishment of Permanent Fund Dividend for Unpaid Rent or Damages.

The bill would amend AS 43.23.065(b) to include a judgment for unpaid rent or damage on the list of items that are not exempt from collection against a permanent fund dividend. Judgments for unpaid rent and damages appear eighth on the list, and would be given priority in the order they are listed. Thus, these judgments would have priority over all other claims that are not above it on the list. Proposed AS 43.23.065(b)(8).

9. Applicability.

If the bill is enacted into law, it would take effect 90 days after enactment. Article 2, sec. 18 of the Alaska Constitution. Section 13 of the bill would apply its provisions to residential rental agreements for the period beginning on or after the effective date of the bill.

The bill presents no constitutional or other legal concerns.

Sincerely,

/ s /
Michael C. Geraghty
Attorney General

MCG/CES/lkr