

CS FOR HOUSE BILL NO. 104(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/11/15

Referred: Judiciary

Sponsor(s): REPRESENTATIVE TILTON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to immunity for a fire department and employees or members of a fire**
2 **department."**

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

4 *** Section 1.** AS 09.65.070(c) is repealed and reenacted to read:

5 (c) An action for tort or breach of a contractual duty based on the act or
6 omission of an employee or member of a fire department in the execution of a function
7 for which the department is established may not be maintained against an employee or
8 member of a fire department. An action for tort or breach of a contractual duty based
9 on the act or omission of an employee or member of a fire department in the execution
10 of a function for which the department is established may not be maintained against a
11 fire department unless the action alleges intentional misconduct or gross negligence.
12 This subsection does not apply to an action for tort or breach of a contractual duty
13 based on the act or omission of an employee or member of a fire department in the
14 execution of a duty under contract with a private entity. In this subsection, "fire

1 department" means a fire department that is

2 (1) operated and maintained by a municipality or village; or

3 (2) registered with the state fire marshal and provides services under
4 contract or agreement with a municipality or village.

5 * **Sec. 2.** AS 09.65.070(d) is amended to read:

6 (d) **Notwithstanding (c) of this section, an** [AN] action for damages may not
7 be brought against a municipality or any of its agents, officers, or employees if the
8 claim

9 (1) is based on a failure of the municipality, or its agents, officers, or
10 employees, when the municipality is neither owner nor lessee of the property
11 involved,

12 (A) to inspect property for a violation of any statute, regulation,
13 or ordinance, or a hazard to health or safety;

14 (B) to discover a violation of any statute, regulation, or
15 ordinance, or a hazard to health or safety if an inspection of property is made;
16 or

17 (C) to abate a violation of any statute, regulation, or ordinance,
18 or a hazard to health or safety discovered on property inspected;

19 (2) is based upon the exercise or performance or the failure to exercise
20 or perform a discretionary function or duty by a municipality or its agents, officers, or
21 employees, whether or not the discretion involved is abused;

22 (3) is based upon the grant, issuance, refusal, suspension, delay, or
23 denial of a license, permit, appeal, approval, exception, variance, or other entitlement,
24 or a rezoning;

25 (4) is based on the exercise or performance during the course of
26 gratuitous extension of municipal services on an extraterritorial basis;

27 (5) is based upon the exercise or performance of a duty or function
28 upon the request of, or by the terms of an agreement or contract with, the state to meet
29 emergency public safety requirements; or

30 (6) is based on the exercise or performance of a duty in connection
31 with an enhanced 911 emergency system and is not based on an intentional act of

1 misconduct or on an act of gross negligence.