AN ACT

Relating to charges paid or collected by users or occupants of an airport facility owned or controlled by the state; and providing for an effective date.

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

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AN ACT

Relating to charges paid or collected by users or occupants of an airport facility owned or controlled by the state; and providing for an effective date.

*Section 1.* AS 02.15.090(a) is amended to read:

(a) In operating an airport or air navigation facility owned or controlled by the state, the department may enter into contracts, leases, and other arrangements covering periods not exceeding 55 years with a person, municipality, or the United States, granting the privilege of using or improving an airport or air navigation facility or a portion of it or space in it for commercial, governmental, or other public purposes, including private plane tie down, or conferring the privilege of supplying goods, commodities, services, or facilities at an airport or air navigation facility. The department may establish the terms and conditions and fix the charges, rentals, and fees for the privileges or services that are reasonable and uniform for the same class of privilege or service. Charges, rentals, or fees authorized by this subsection may be
fixed for the international airports by order of the commissioner or by negotiated or
competitively offered contract. [HOWEVER, FOR THE PRIVILEGE OF
OCCUPYING OR USING A STATE-OWNED FACILITY ON AN AIRPORT,
WHICH FACILITY IS OR WILL BE ACQUIRED, CONSTRUCTED, EQUIPPED,
INSTALLED, OR IMPROVED WITH THE PROCEEDS OF INDEBTEDNESS,
THE PAYMENT OF WHICH IS SECURED SOLELY BY REVENUES FROM
CUSTOMER FACILITY CHARGES, THE DEPARTMENT SHALL REQUIRE
OCCUPANTS OR USERS OF ALL OR A PORTION OF THE FACILITY TO PAY
TO THE DEPARTMENT, OR SHALL REQUIRE PERSONS UNDER CONTRACT
TO OCCUPY OR USE ALL OR A PORTION OF THE EXISTING OR PROPOSED
FACILITY TO CHARGE THEIR CUSTOMERS, A UNIFORM CUSTOMER
FACILITY CHARGE STIPULATED BY THE DEPARTMENT IN AN AMOUNT
SUFFICIENT TO PAY THE PRINCIPAL OF, INTEREST ON, AND ANY OTHER
COST OF DEBT SERVICE ON THE INDEBTEDNESS.] Notwithstanding
AS 37.10.050(a), the fixing of charges, rentals, or fees as permitted under this
subsection is not subject to the adoption of regulation provisions of AS 44.62
(Administrative Procedure Act). The terms, conditions, charges, rentals, and fees shall
be established with due regard to the property and improvements used and the expense
of operation to the state. However, use of state land and buildings by the Alaska
Wing, Civil Air Patrol and its squadrons shall be permitted without rental charges. If
the department permits space in state-owned or state-controlled airports to be used as
lounges for members of the United States armed forces, the Alaska National Guard,
the Alaska Naval Militia, or the Alaska State Defense Force, and if the lounges are
operated by persons exempt from taxation under 26 U.S.C. 501(c)(3) (Internal
Revenue Code), rent may not be charged for the use of the space. The department
shall provide for public notice and an opportunity to comment before a charge, rental,
or fee is fixed by order of the commissioner as permitted under this subsection. The
public may not be deprived of its rightful, equal, and uniform use of the airport, air
navigation facility, or a portion of them.

* Sec. 2. AS 02.15.090 is amended by adding new subsections to read:

(h) For the privilege of occupying or using a state-owned facility on an airport,
which facility is or will be acquired, constructed, equipped, installed, or improved with the proceeds of indebtedness, the payment of which, with approval of the commissioner, is or will be secured solely by proceeds from customer facility charges, the department may require all persons under contract to occupy or use all or a portion of the planned facility, and shall require occupants or users of all or a portion of the facility, to collect from their customers a uniform customer facility charge and remit the proceeds to (1) the department if the state on behalf of the department incurred the indebtedness; or (2) a trustee or another third party bound to use the proceeds for the principal, interest, reserves, and any other applicable requirements of the indebtedness documentation if the state on behalf of the department did not incur the indebtedness. The commissioner shall set the customer facility charge at an amount projected to generate proceeds sufficient to satisfy all requirements established by the indebtedness documentation, including payment of principal and interest on the indebtedness, maintenance of any reserves, and satisfaction of any other requirement of the indebtedness documentation. The commissioner shall periodically adjust the amount of the customer facility charge to reflect changes in the amounts necessary to pay the principal of and interest on the indebtedness, to maintain any required reserves, and to satisfy all other requirements established by the indebtedness documentation and to reflect changes in the number of occupants, users, or customers of the facility. The proceeds of the customer facility charge are not revenue of the state securing any other indebtedness. The commissioner may impose charges authorized by this subsection for the international airports by order or by negotiated or competitively offered contract. The department shall provide for public notice and an opportunity to comment before a charge is set by order of the commissioner under this subsection. Notwithstanding AS 37.10.050(a), the setting of charges under this subsection is not subject to the adoption of regulation provisions of AS 44.62 (Administrative Procedure Act).

(i) In addition to requiring collection of a customer facility charge to be applied as described in (h) of this section, the department may require occupants or users of, or persons under contract to occupy or use, all or a portion of a state-owned facility on an airport, which facility is or will be acquired, constructed, equipped,
installed, or improved with the proceeds of indebtedness, the payment of which is
secured solely by proceeds of a customer facility charge, to collect from their
customers a uniform customer facility maintenance charge and to remit the proceeds
to (1) the department if the state on behalf of the department incurred the
indebtedness; or (2) a trustee or another third party if the state on behalf of the
department did not incur the indebtedness. The commissioner shall set the customer
facility maintenance charge at an amount projected to generate proceeds sufficient to
pay some or all, as determined by the commissioner, of the costs, fees, and expenses
required to operate and maintain the facility, including costs of insurance and
maintenance of reserves for the facility. The commissioner shall periodically adjust
the amount of the customer facility maintenance charge to reflect changes in costs,
fees, and expenses to operate and maintain the facility, including costs of insurance
and maintenance of reserves for the facility and to reflect changes in the number of
occupants, users, or customers of the facility. If the proceeds of the customer facility
maintenance charge are remitted to a trustee or another third party as set out in this
subsection, the proceeds of the customer facility maintenance charge are not, unless
otherwise contractually required, revenue of the state securing any indebtedness. The
commissioner may impose charges authorized by this subsection for the international
airports by order or by negotiated or competitively offered contract. The department
shall provide for public notice and an opportunity to comment before a charge is set by
order of the commissioner under this subsection. Notwithstanding AS 37.10.050(a),
the setting of charges under this subsection is not subject to the adoption of regulation
provisions of AS 44.62 (Administrative Procedure Act).

* Sec. 3. AS 37.15.410 is amended to read:

Sec. 37.15.410. Bond authorization. For the purpose of providing part or all
of the money to be used, with or without any grants or other money that may become
available, the issuance and sale of revenue bonds of the state in a total principal sum
not to exceed $524,500,000 is authorized to acquire, equip, construct, and install the
additions, improvements, extensions, and facilities authorized in AS 37.15.510. The
principal of and interest on these bonds shall be paid out of and secured by the gross
revenue derived by the state from the ownership, lease, use, and operation of the
airports, and of all the facilities of them, and out of any other money that may be approprieted for the purpose, excepting only proceeds of any customer facility charge, and unless otherwise contractually required any customer facility maintenance charge, set by the commissioner of transportation and public facilities under AS 02.15.090.

* Sec. 4. AS 37.15.430(a) is amended to read:

(a) There is established an enterprise fund known as the "International Airports Revenue Fund," into which shall be paid all revenue, fees, charges, and rentals derived by the state from the ownership, lease, use, and operation of the airports and all of the facilities and improvements of them and facilities and improvements used in connection with them, excepting only proceeds of any customer facility charge, and unless otherwise contractually required any customer facility maintenance charge, set by the commissioner of transportation and public facilities under AS 02.15.090. The revenue, charges, fees, and rentals may not include the proceeds of any state tax or license. The money in the revenue fund may only be used for the purpose of

(1) paying or securing the payment of the principal of and interest on the bonds and of and on any other revenue bonds issued by authorization of the legislature to provide money to acquire, equip, construct, and install additions and improvements to, and extensions of and facilities for, the airports, and to be payable out of the revenue fund;

(2) paying the normal and necessary costs of maintaining and operating the airports and all of the improvements and facilities of them;

(3) paying the costs of renewals, replacements, and extraordinary repairs to the airports and all of the improvements and facilities of them;

(4) redeeming before their fixed maturities any and all revenue bonds issued for the purposes of the airports;

(5) providing money to acquire, construct, and install necessary additions and improvements to and extensions of and facilities for the airports and all of their facilities; and

(6) providing money to pay any and all other costs relating to the
ownership, use, and operation of the airports.

* Sec. 5. AS 37.15.430(c) is amended to read:

   (c) For proceeds of a customer facility charge set by the commissioner of transportation and public facilities under AS 02.15.090 but required to be collected from [CHARGED TO] customers by occupants or users of, or persons under contract to occupy or use, all or a portion of a facility that is or will be acquired, constructed, equipped, installed, or improved for state ownership with the proceeds of indebtedness incurred [BY A PERSON] other than by the state on behalf of the Department of Transportation and Public Facilities, the Department of Transportation and Public Facilities shall by regulation or contract require that the proceeds of the customer facility charge be remitted directly to a [BOND] trustee or another third party designated to receive the [SUCH] proceeds and to use the proceeds as provided under AS 02.15.090(h) [PAY THE PRINCIPAL OF OR INTEREST ON, AND ANY OTHER COST OF DEBT SERVICES ON, THE INDEBTEDNESS]; and

   (2) the [SUCH] proceeds are [MAY] not [BE CONSIDERED A] revenue of the state securing any indebtedness other than the indebtedness described in AS 02.15.090(h).

* Sec. 6. AS 37.15.430 is amended by adding a new subsection to read:

   (d) For proceeds of a customer facility maintenance charge set by the commissioner of transportation and public facilities under AS 02.15.090 but required to be collected from customers by occupants or users of, or persons under contract to occupy or use, all or a portion of a facility that is or will be acquired, constructed, equipped, installed, or improved with proceeds of indebtedness incurred other than by the state on behalf of the Department of Transportation and Public Facilities,

   (1) the Department of Transportation and Public Facilities shall by regulation or contract require that the proceeds of the customer facility maintenance charge be remitted directly to a trustee or another third party designated to receive the proceeds and to pay some or all of the costs, fees, and expenses as determined by the
commissioner of transportation and public facilities under AS 02.15.090(i); and

(2) the proceeds are not, unless otherwise contractually required, revenue of the state securing any indebtedness.

* Sec. 7. AS 43.52.099(1) is amended to read:

(1) "fees and costs" means all charges incurred by the renter before the tax imposed under this chapter except

(A) fees from the sale of automobile liability insurance, loss damage waiver insurance, and personal accident insurance;

(B) parking tickets;

(C) sales or excise taxes;

(D) payment for damages to the vehicle during the rental period; [AND]

(E) concession fees paid to an airport;

(F) customer facility charges set by the commissioner of transportation and public facilities under AS 02.15.090; and

(G) customer facility maintenance charges set by the commissioner of transportation and public facilities under AS 02.15.090;

* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).