

CS FOR HOUSE BILL NO. 543(FIN) am S

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/4/96

Offered: 4/18/96

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the procedures and conditions for lessees of land leases at
2 state airport and air navigational facilities, including leases in holdover status
3 to receive a new lease of the same land or an extended term of the existing
4 lease; and relating to the title and ownership, and the sale, removal, and other
5 disposition, of permanent improvements made to a leasehold under an airport
6 or air navigational facility lease; and providing for an effective date."

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

8 * **Section 1.** FINDINGS AND STATEMENT OF PURPOSE. (a) The legislature finds
9 that

10 (1) it often takes considerable commitment, time, and resources for a lessee
11 to establish a fully developed revenue-producing business or noncommercial enterprise on
12 leased land on an airport owned and operated by the state;

13 (2) a developed business or noncommercial enterprise by an airport lessee

1 produces a stable long-term flow of revenue to the local community and the state in the form
2 of income from jobs created and taxes paid;

3 (3) a developed business by an airport lessee usually has established a positive
4 reputation with its clientele that enhances future tourism and commerce in this state;

5 (4) a developed business by an airport lessee is better positioned to generate
6 more federal passenger entitlement money for the airport and the state;

7 (5) a developed business or noncommercial enterprise on an airport land lease
8 generally maximizes the use of the airport infrastructure, and this maximization makes the
9 airport's operation more economical; and

10 (6) providing a right and option to lessees of airport land to continue to lease
11 the land will encourage and enhance compliance with state law and airport leases, and this
12 compliance will benefit the overall operations of the state airport system.

13 (b) It is the purpose of the legislature to preserve and establish, for qualifying land
14 lessees who are in compliance with state law and airport leases, a right, consistent with sound
15 airport planning, to continue to lease the land in order to continue their businesses and
16 noncommercial enterprises and in order to promote a strong aviation industry in this state with
17 long-term benefits to local communities, the airports, and the state.

18 * **Sec. 2.** AS 02.15.090(b) is amended to read:

19 (b) The department may by contract or other arrangement, upon a
20 consideration fixed by it, grant to a qualified municipality or person for a
21 reasonable period of time the privilege of operating, as agent of the state or
22 otherwise, an airport owned or controlled by the state. A municipality or person
23 granted that privilege may not operate the airport other than as a public airport
24 or enter into any contract, lease or other arrangement in connection with the
25 operation that the department may not have undertaken under (a) or (c) - (e)
26 of this section.

27 * **Sec. 3.** AS 02.15.090 is amended by adding new subsections to read:

28 (c) Notwithstanding the right of the public to rightful, equal, and uniform use
29 under (a) of this section, before the expiration of a land lease, including the
30 termination of a lease in holdover status, entered into under this section, the lessee may
31 apply for a new lease, or for an extended term under the existing lease, for the same

1 land. The commissioner shall approve the application for a new land lease or an
2 extended term under this section without offering the land to other persons for leasing
3 if

4 (1) the lessee is in compliance with the terms and conditions of the
5 existing or holdover lease; and

6 (2) the continued use of the leasehold is consistent with written airport
7 operation policies and is in the state's best interest.

8 (d) A land lessee owns title to the permanent improvements that the lessee
9 constructed or purchased during the term of the lease, unless the lease expressly
10 provides that the state is the owner of the permanent improvements.

11 (e) At the expiration, termination, or cancellation of a land lease entered into
12 under this section,

13 (1) a lessee who owns the improvements under (d) of this section shall
14 continue to own the permanent improvements that the lessee constructed or purchased
15 on a leasehold if the lessee is granted under (c) of this section a new lease or an
16 extended term for the same land;

17 (2) a lessee may sell the permanent improvements owned by the lessee
18 to a succeeding lessee of the same land;

19 (3) at the option of the lessee, the permanent improvements owned by
20 the lessee may be sold by the state at public auction with the proceeds from the sale
21 of the improvements going to the lessee, less administrative costs of the auction and
22 obligations owed under the lease to the state; the successful bidder has the same right
23 to enter into a new lease under (c) of this section without the department offering the
24 land to other persons for leasing;

25 (4) after notice by the department, the permanent improvements owned
26 by the lessee shall be removed at the lessee's sole expense if

27 (A) the permanent improvements do not comply with written
28 airport operational policies or are not in the state's best interest;

29 (B) the permanent improvements are not sold under (e)(2) or (3)
30 of this section; or

31 (C) the department makes written findings that the permanent

1 improvements are a hazard to the public health and safety;
2 (5) title to the permanent improvements vests in the department if the
3 state purchases or otherwise contracts for the ownership of the permanent
4 improvements, or if the lessee abandons the permanent improvements.

5 * **Sec. 4.** REGULATIONS. The Department of Transportation and Public Facilities may
6 proceed to adopt regulations to implement AS 02.15.090(c) - (e), added by sec. 3 of this Act.
7 The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
8 effective date of sec. 3 of this Act.

9 * **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).