



Sectional Analysis

HB 329 (33-LS0552\R) Aquatic Farm and Hatchery Leases

“An Act relating to state; and relating to aquatic farming or related hatchery operation site leases.”

Section 1: Amends AS 38.05.081(a) to include the phrase *“Except as provided in (n) of this section,”* which sets the limitation on the commissioner that state tideland may not be leased to a person solely for carbon management purposes.

Section 2: Amends AS 38.05.081 to include Paragraph (n) which will limit the Commissioner of the Department of Natural Resources from leasing out state tidelands solely for carbon sequestration purposes.

Section 3: Amends AS 38.05.083(c) to remove the requirement that an aquatic farming or related hatchery operations lease be for not *“less than the appraised fair market value of the lease”* and replaces the requirement that said negotiations would be *“subject to appraisal under AS 38.05.840 only if the commissioner determines in writing that the site is subject to appraisal under AS 38.05.840.”* AS 38.05.840(a) in part states that land *“may not be sold or leased for less than the approved, appraised market value....”* This change would remove the requirement to have the land appraised every five years.

Section 4: Amends AS 38.05.083 (f) to include new subsections (1) and (2). Section (1) maintains the current requirement that the commissioner adopt regulations that *“provide for the consideration of whether the proposed use of a site is compatible with the traditional and existing uses of the area.”* Section (2) changes the current requirement for the consideration of upland management policies when the commissioner regulates under this section into an option to consider those policies.

Section 5: Amends AS 38.05.083 by adding new subsections (j) – (n).

(j) sets AS 38.05.073(m) as the framework for compensation paid for the tideland leases. Which, in the discretion of the commissioner, includes:

- (1) a percentage of the annual gross receipts...;
- (2) a guaranteed annual minimum rent or a percentage of gross receipts, whichever is greater;
- (3) the fair market rental value;
- (4) a fixed annual rent that is not less than the fair market rental value of the land;

- (5) a fee for each user;
- (6) other compensation acceptable to the commissioner; or
- (7) a combination of the above.

(k) gives the commissioner some discretion to determine whether a site should be subject to a survey under 22 AS 38.04.045.

(l) gives a preference to the lessee to release the site, but does not give a preference to purchase the site under AS 38.05.102.

(m) Sets the requirement that a site leased under this section be used for a hatchery for aquatic plants or shellfish or the commercial production of an aquatic farm product.

(n) Allows the director, with the approval of the commissioner, to negotiate a lease for a period of up to 25 years.

Section 6: Amends the uncodified law of the State of Alaska by adding a new section to make it clear that Sections 1 and 2 of this legislation only apply to a lease or renewal of state tideland for carbon management purposes entered into on or after the effective date of this Act.