

CS FOR HOUSE BILL NO. 207(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/18/95

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to adjustments to royalty reserved to the state to encourage
2 otherwise uneconomic production of oil and gas; and providing for an effective
3 date."

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

5 * Section 1. AS 38.05.180(j) is amended to read:

6 (j) **The** [TO PROLONG THE ECONOMIC LIFE OF AN OIL AND GAS
7 FIELD OR TO REESTABLISH COMMERCIAL PRODUCTION OF SHUT-IN OIL
8 OR GAS THAT WOULD NOT OTHERWISE BE ECONOMICALLY FEASIBLE,
9 THE] commissioner

10 (1) **may** [SHALL ADOPT REGULATIONS TO] allow reduction of
11 royalty on **individual leases, leases unitized as described in (p) of this section,**
12 **leases subject to an agreement described in (s) or (t) of this section, or interests**
13 **unitized under AS 31.05**

14 **(A) to allow for production from an oil or gas field, pool, or**

1 portion of a field or pool if

2 (i) the oil or gas field, pool, or portion of the field or
3 pool has been sufficiently delineated to the satisfaction of the
4 commissioner;

5 (ii) the field, pool, or portion of the field or pool has
6 not previously produced oil or gas for sale; and

7 (iii) oil or gas production from the field, pool, or
8 portion of the field or pool would not otherwise be economically
9 feasible;

10 (B) to prolong the economic life of an oil or gas field, pool,
11 or portion of a field or pool as per barrel or barrel equivalent costs
12 increase or as the price of oil or gas decreases, and the increase or
13 decrease is sufficient to make future production no longer economically
14 feasible; or

15 (C) to reestablish production of shut-in oil or gas that would
16 not otherwise be economically feasible;

17 (2) [. THE COMMISSIONER] may not grant a reduction of royalty
18 unless the lessee or lessees requesting the reduction make [MAKES] a clear and
19 convincing showing that a reduction of royalty meets the requirements of this
20 subsection and is in the best interests of the state;

21 (3) shall [THE REVENUE FROM THE LESSEE'S SHARE OF ALL
22 HYDROCARBONS PRODUCED FROM THE FIELD IS AND IS LIKELY TO
23 CONTINUE TO BE INSUFFICIENT TO PRODUCE A REASONABLE RATE OF
24 RETURN WITH RESPECT TO THE LESSEE'S TOTAL INVESTMENT IN THE
25 FIELD. THE COMMISSIONER MAY] condition any [A] royalty modification
26 [REDUCTION] granted under this subsection in any way necessary to protect the
27 state's best interests; the commissioner shall provide for an increase or decrease
28 or other modification of the state's royalty share by a sliding scale royalty or
29 other mechanism that shall be based on a change [INTEREST, INCLUDING
30 RESTORATION OF THE STATE'S ROYALTY SHARE IN THE EVENT OF AN
31 INCREASE] in the price of oil or gas and may also be based on other relevant

1 factors such as a change in production rate, projected ultimate recovery,
2 development costs, and operating costs;

3 (4) may not grant a royalty reduction for a field, pool, or portion
4 of a field or pool

5 (A) under (1)(A) of this subsection that exceeds 75 percent
6 of the royalty originally specified in a lease entered into under the
7 provisions of (f) of this section or AS 38.05.134;

8 (B) under (1)(B) or (1)(C) of this subsection that exceeds 90
9 percent of the royalty originally specified in a lease entered into under the
10 provisions of (f) of this section or AS 38.05.134;

11 (5) shall require the lessee or lessees to submit, with the application
12 for the royalty reduction, financial and technical data that demonstrates that the
13 requirements of this subsection are met; the commissioner

14 (A) may require disclosure of only the financial and
15 technical data relating to production that is reasonably available to the
16 applicant; and

17 (B) shall keep the data confidential under AS 38.05.035(a)(9)
18 upon the lessee's request;

19 (6) may require the lessee or lessees making application for the
20 royalty reduction to retain and pay for the services of a contractor, selected by
21 the lessee or lessees from a list of qualified consultants in hydrocarbon production
22 and economics provided by the commissioner, to assist the commissioner in
23 evaluating the application and financial and technical data; when the
24 commissioner requires the lessee or lessees to retain the services of a contractor,
25 the commissioner shall determine the relevant scope of the work to be performed
26 by the contractor;

27 (7) shall make and publish a preliminary findings and
28 determination on the royalty reduction application, give reasonable public notice
29 of the preliminary findings and determination, and invite public comment to the
30 preliminary findings and determination during a 30-day period for receipt of
31 public comment;

1 (8) shall make copies of the preliminary findings and determination
2 available to

3 (A) the presiding officer of each house [. BEFORE
4 APPROVING A ROYALTY REDUCTION, THE COMMISSIONER SHALL
5 MAKE A WRITTEN FINDING THAT THE STATE HAS OBTAINED THE
6 MAXIMUM POSSIBLE ECONOMIC RETURN THAT IS COMPATIBLE
7 WITH ALLOWING A REASONABLE RATE OF ECONOMIC RETURN FOR
8 THE LESSEE, AND SEND COPIES OF THE FINDING TO ALL MEMBERS]
9 of the legislature;

10 (B) the chairs of the legislature's standing committees on
11 resources; and

12 (C) the chairs of the legislature's special committees on oil
13 and gas, if any;

14 (9) shall, within 30 days after the close of the public comment period
15 under (7) of this subsection,

16 (A) prepare a summary of the public response to the
17 commissioner's preliminary findings and determination;

18 (B) make a final findings and determination; the
19 commissioner's final findings and determination prepared under this
20 subparagraph regarding royalty reduction is final and not appealable to the
21 court; and

22 (C) with the applicant's consent, amend the applicant's lease
23 or unitization agreement consistent with the commissioner's final decision;

24 (10) shall

25 (A) transmit a copy of the final findings and determination
26 to the lessee; and

27 (B) make copies of the final findings and determination
28 available to a person who submitted comment under (7) of this subsection
29 and who has filed a request for the copies;

30 (11) is not limited by the provisions of AS 38.05.134(3) or (f) of this
31 section in the commissioner's determination under this subsection.

32 * Sec. 2. AS 38.05.180(p) is amended to read:

1 (p) To conserve the natural resources of all or a part of an oil or gas pool,
2 field, or like area, the lessees and their representatives may unite with each other, or
3 jointly or separately with others, in collectively adopting or operating under a
4 cooperative or a unit plan of development or operation of the pool, field, or like area,
5 or a part of it, when determined and certified by the commissioner to be necessary or
6 advisable in the public interest. The commissioner may, with the consent of the
7 holders of leases involved, establish, change, or revoke drilling, producing, and royalty
8 requirements of the leases and adopt regulations with reference to the leases, with like
9 consent on the part of the lessees, in connection with the institution and operation of
10 a cooperative or unit plan as the commissioner determines necessary or proper to
11 secure the proper protection of the public interest. **The commissioner may not**
12 **reduce royalty on leases in connection with a cooperative or unit plan except as**
13 **provided in (j) of this section.** The commissioner may require oil and gas leases
14 issued under this section to contain a provision requiring the lessee to operate under
15 a reasonable cooperative or unit plan, and may prescribe a plan under which the lessee
16 must operate. The plan must adequately protect all parties in interest, including the
17 state.

18 * **Sec. 3.** AS 38.05.180(s) is amended to read:

19 (s) When separate tracts cannot be individually developed and operated in
20 conformity with an established well-spacing or development program, a lease, or a
21 portion of a lease, may be pooled with other land, whether or not owned by the state,
22 under a communication or drilling agreement providing for an apportionment of
23 production or royalties among the separate tracts of land comprising the drilling or
24 spacing unit when determined by the commissioner to be in the public interest.
25 Operations or production under the agreement are considered as operations or
26 production as to each lease committed to the agreement. **The commissioner may not**
27 **reduce royalty on leases in connection with a communization or drilling**
28 **agreement except as provided in (j) of this section.**

29 * **Sec. 4.** AS 38.05.180(t) is amended to read:

30 (t) The commissioner may prescribe conditions and approve, on conditions,
31 drilling, or development contracts made by one or more lessees of oil or gas leases,

1 with one or more persons, when, in the discretion of the commissioner, the
2 conservation of natural resources or the public convenience or necessity requires it or
3 the interests of the state are best served. All leases operated under approved drilling
4 or development contracts and interests under them, are excepted in determining holding
5 or control under AS 38.05.140. **The commissioner may not reduce royalty on a**
6 **lease or leases that are subject to a drilling or development contract except as**
7 **provided in (j) of this section.**

8 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).