



LAWS OF ALASKA

1996

Source

CSHB 543(FIN) am S

Chapter No.

105

AN ACT

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

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 25, 1996

Actual Effective Date: Section 4 takes effect June 26, 1996; remainder of Act takes effect September 23, 1996

AN ACT

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

6

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

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

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

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

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

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

1 extended term under this section without offering the land to other persons for leasing
2 if

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

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

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

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

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

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

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

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

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

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

30 (C) the department makes written findings that the permanent
31 improvements are a hazard to the public health and safety;

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1 (5) title to the permanent improvements vests in the department if the
2 state purchases or otherwise contracts for the ownership of the permanent
3 improvements, or if the lessee abandons the permanent improvements.

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

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