

CS FOR HOUSE BILL NO. 207(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 4/19/95

Offered: 4/18/95

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 OR
8 GAS THAT WOULD NOT OTHERWISE BE ECONOMICALLY FEASIBLE, THE]
9 commissioner

10 (1) **may** [SHALL ADOPT REGULATIONS TO ALLOW REDUCTION]
11 **provide for modification** of royalty on **individual** leases, **leases unitized as described**
12 **in (p) of this section, leases subject to an agreement described in (s) or (t) of this**
13 **section, or interests 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, or
11 portion of a field or pool as per barrel or barrel equivalent costs increase or
12 as the price of oil or gas decreases, and the increase or decrease is sufficient
13 to make future production no longer economically feasible; or

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

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

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

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

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

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

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

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

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

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

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

28 (8) shall offer to appear before the Legislative Budget and Audit
29 Committee on a day that is not earlier than 10 days and not later than 20 days after
30 giving public notice under (7) of this subsection, to provide the committee a review
31 of the commissioner's preliminary findings and determination on the royalty
32 reduction application and administrative process; if the Legislative Budget and

1 Audit Committee accepts the commissioner's offer, the committee shall give notice
2 to all members of the legislature of the committee's meeting;

3 (9) shall make copies of the preliminary findings and determination
4 available to

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

12 (B) the chairs of the legislature's standing committees on
13 resources; and

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

16 (10) shall, within 30 days after the close of the public comment
17 period under (7) of this subsection,

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

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

24 (C) transmit a copy of the final findings and determination
25 to the lessee;

26 (D) with the applicant's consent, amend the applicant's lease
27 or unitization agreement consistent with the commissioner's final decision
28 and;

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

32 (11) is not limited by the provisions of AS 38.05.134(3) or (f) of this

1 section in the commissioner's determination under this subsection.

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

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

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

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

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

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

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