

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 4/24/96

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."

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 is amended to read:

19 Sec. 02.15.090. OPERATION AND USE PRIVILEGES. (a) In operating an
20 airport or air navigation facility owned or controlled by the state, the department may
21 enter into contracts, leases, and other arrangements covering periods not exceeding 55
22 years with a person, municipality, or the United States, granting the privilege of using
23 or improving an airport or air navigation facility or a portion of it or space in it for
24 commercial, governmental, or other public purposes, including private **aviation uses**
25 [PLANE TIE DOWN]; or conferring the privilege of supplying goods, commodities,
26 services, or facilities at an airport or air navigation facility. The department may
27 establish the terms and conditions and fix the charges, rentals, and fees for the
28 privileges or services that are reasonable and uniform for the same class of privilege
29 or service. Charges, rentals, or fees authorized by this subsection may be fixed for the
30 international airports by order of the commissioner or by negotiated or competitively
31 offered contract. Notwithstanding AS 37.10.050(a), the fixing of charges, rentals, or

1 fees as permitted under this subsection is not subject to the adoption of regulation
2 provisions of AS 44.62 (Administrative Procedure Act). The terms, conditions,
3 charges, rentals, and fees shall be established with due regard to the property and
4 improvements used and the expense of operation to the state. However, use of state
5 land and buildings by the Alaska Wing, Civil Air Patrol and its squadrons shall be
6 permitted without rental charges. The department shall provide for public notice and
7 an opportunity to comment before a charge, rental, or fee is fixed by order of the
8 commissioner as permitted under this subsection. The public may not be deprived of
9 its rightful, equal, and uniform use of the airport, air navigation facility, or a portion
10 of them.

11 (b) The department may by contract or other arrangement, upon a
12 consideration fixed by it, grant to a qualified municipality or person for a reasonable
13 period of time the privilege of operating, as agent of the state or otherwise, an airport
14 owned or controlled by the state. A municipality or person granted that privilege may
15 not operate the airport other than as a public airport or enter into any contract, lease
16 or other arrangement in connection with the operation that the department may not
17 have undertaken under [(a) OF] this section.

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

19 (c) Notwithstanding the right of the public to rightful, equal, and uniform use
20 under (a) of this section, before the expiration of a land lease, including the
21 termination of a lease in holdover status, entered into under this section, the lessee may
22 apply for a new lease, or for an extended term under the existing lease, for the same
23 land. The commissioner shall approve the application for a new land lease or an
24 extended term under this section without offering the land to other persons for leasing
25 if

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

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

30 (d) A land lessee owns title to the permanent improvements that the lessee
31 constructed or purchased during the term of the lease, unless the lease expressly

1 provides that the state is the owner of the permanent improvements.

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

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

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

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

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

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

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

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

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