

**CS FOR HOUSE BILL NO. 37(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 5/8/05**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVES GARA, Elkins, Foster**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to voluntary land trades and purchases to enhance public access to**  
2 **fishing streams."**

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

4 **\* Section 1.** AS 16.05 is amended by adding a new section to read:

5 **Sec. 16.05.096. Identification of privately held land along fishing**  
6 **waterways.** (a) Before July 1 of each year, the commissioner shall submit to the  
7 commissioner of natural resources a list of land along fishing waterways where access  
8 to the waterways is impeded by private land ownership.

9 (b) When identifying land for the list in (a) of this section, the commissioner  
10 shall solicit and review input from the public concerning land that may be included on  
11 the list.

12 (c) Factors to be considered by the commissioner when identifying land to be  
13 listed under (a) of this section include whether

14 (1) public access is needed to allow desirable access to and

1 recreational or subsistence use of the fishery resources present in the waterway;

2 (2) private land ownership prevents public access to a section of the  
3 waterway that is highly desirable for its fishing or recreational attributes;

4 (3) public access to a section of the waterway would significantly  
5 enhance the public's enjoyment of that waterway;

6 (4) the waterway contains wild sport fish or fish of a species, physical  
7 size, and abundance that may support a commercial, personal use, sport, or subsistence  
8 fishery;

9 (5) the fish population on the waterway may support a catch and  
10 release sport fishing or other sport, commercial, personal use, or subsistence fishery.

11 (d) In reviewing land for identification under (a) of this section, the  
12 commissioner shall give priority to land leading to and along fishing waterways that

13 (1) is reasonably accessible by foot, including by backcountry hiking,  
14 from the state's road system;

15 (2) is undeveloped and may be acquired by the state through purchase  
16 or trade;

17 (3) has the greatest potential for public recreational or subsistence use  
18 and enjoyment based on the size and abundance of fish, even if the location may be in  
19 a remote part of the state.

20 (e) The decision by the commissioner to include or exclude land on the list in  
21 (a) of this section is within the discretion of the commissioner and is not subject to  
22 appeal. The commissioner shall, however, make the list proposed to be submitted to  
23 the commissioner of natural resources publicly available before submission of the list  
24 and may consider public comment before submission of the list.

25 (f) In this section, "fishing waterway" means a waterway that contains wild  
26 sport fish or fish of a species, physical size, and abundance that may support a  
27 commercial, personal use, or subsistence fishery.

28 \* **Sec. 2.** AS 38.50 is amended by adding a new section to read:

29 **Sec. 38.50.015. Access to fishing waterways.** (a) After receiving from the  
30 commissioner of fish and game a list prepared under AS 16.05.096 that identifies land  
31 along fishing waterways where access to the waterways is impeded by private land

1 ownership, the commissioner may proceed to acquire public access to waterways  
 2 across those lands. The right of eminent domain may not be exercised to acquire land  
 3 or interest in land under this section.

4 (b) Public access may be acquired by

5 (1) purchasing or leasing an easement for access across each parcel of  
 6 land;

7 (2) trading state land for private land; or

8 (3) purchasing or leasing private land.

9 (c) Before February 1 of each year, the commissioner and the commissioner of  
 10 fish and game shall submit a plan to acquire public access to fishing waterways  
 11 through trade or purchase for the following fiscal year. The plan must include a  
 12 minimum access to not less than a total of two meander miles along fishing  
 13 waterways. Within 60 days after receiving a written request from a landowner  
 14 requesting the removal of the landowner's land from the list to be acquired under the  
 15 plan, the commissioner shall remove the landowner's land from the list, even if the  
 16 removal leaves less than two meander miles along fishing waterways.

17 (d) In this section,

18 (1) "fishing waterway" has the meaning in AS 16.05.096;

19 (2) "meander mile" means a distance of one mile measured following  
 20 the course of a waterway.

21 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
 22 read:

23 **LAND TO BE CONSIDERED FOR FIRST LIST.** Notwithstanding the discretion of  
 24 the commissioner of fish and game under AS 16.05.096 as enacted in sec. 1 of this Act, the  
 25 initial list to be submitted to the commissioner of natural resources before July 1 following the  
 26 effective date of this Act shall include land

27 (1) adjacent to or near Montana Creek and Willow Creek above the Parks  
 28 Highway on waterways that are open to trout and grayling fishing;

29 (2) along Anchor River and Deep Creek on the Kenai Peninsula where the  
 30 waterways are open to steelhead, salmon, Dolly Varden, or trout fishing; and

31 (3) along the Salcha River located off the Richardson Highway where the river

1 is open to grayling fishing.