

CS FOR HOUSE BILL NO. 37(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/9/05

Offered: 5/8/05

Sponsor(s): REPRESENTATIVES GARA, Elkins, Foster, Gardner, Guttenberg

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 foot, motorized or other

1 access to and recreational or subsistence use of the fishery resources present in the
2 waterway;

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

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

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

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

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

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

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

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

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

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

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

30 **Sec. 38.50.015. Access to fishing waterways.** (a) After receiving from the
31 commissioner of fish and game a list prepared under AS 16.05.096 that identifies land

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

5 (b) Public access may be acquired by

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

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

9 (3) purchasing or leasing private land.

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

18 (d) In this section,

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

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

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

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

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

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

- 1 (3) along the Salcha River located off the Richardson Highway where the river
- 2 is open to grayling fishing.