

SENATE BILL NO. 228

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY SENATOR DYSON

Introduced: 1/16/08

Referred: Community and Regional Affairs, State Affairs

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to and permitting certain uses and occupancies of real property that do**
2 **not comply with changes made to municipal land use ordinances."**

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

4 *** Section 1.** AS 29.10.200 is amended by adding a new paragraph to read:

5 (64) AS 29.40.045 (regulation of the use of real property).

6 *** Sec. 2.** AS 29.40 is amended by adding a new section to read:

7 **Sec. 29.40.045. Certain uses of real property permitted.** (a) If an ordinance
8 governing the use and occupancy of real property is adopted, amended, or repealed
9 and the property was being used for a purpose previously permitted but that the
10 change in ordinance prohibits, that use must be allowed to continue until the
11 municipality determines that the use has a negative effect on neighbors, the
12 neighborhood, or the area in which the property is located. In determining whether the
13 use has a negative effect, consideration must be given to all significant factors, which
14 may include, among others,

1 (1) visual, auditory, or olfactory effects of the use;

2 (2) whether the property being put to the use is adequately screened by
3 fencing, vegetation, or natural topography;

4 (3) whether the use causes traffic or parking problems.

5 (b) If an ordinance governing the use and occupancy of real property is
6 adopted, amended, or repealed and the property was being used for a home business
7 previously permitted but that the change in ordinance prohibits, the property must be
8 allowed to continue to be used for the home business until ownership of the property is
9 transferred. The owner of the real property may apply to the municipality to change or
10 expand the home business, and the proposed change or expansion shall be permitted
11 unless, after considering all significant factors, including those described in (a) of this
12 section, the municipality determines that the proposed change or expansion would
13 have a negative effect on neighbors, the neighborhood, or the area in which the
14 property is located.

15 (c) If an ordinance governing the use and occupancy of real property is
16 adopted, amended, or repealed, property owned by a resident who is at least 65 years
17 of age, is a disabled veteran, or is a disabled person may not be required to conform to
18 the change in ordinance for 10 years from the effective date of the ordinance or until
19 ownership of the property is transferred, whichever occurs first. In this subsection,

20 (1) "disabled person" means a person who has a physical or mental
21 disability or a physical or mental impairment, as defined in AS 18.80.300;

22 (2) "disabled veteran" has the meaning given in AS 29.45.030(i).

23 (d) This section applies to home rule and general law municipalities.