

**HOUSE BILL NO. 49**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES JOHNSON, Ramras

Introduced: 1/20/09

Referred: Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the prohibition of the exercise of the power of eminent domain  
2 against a recreational structure for the purposes of developing a recreational facility or  
3 project."

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

5 \* **Section 1.** AS 09.55.240(e) is amended to read:

6 (e) The power of eminent domain may not be exercised for the purpose of  
7 developing a recreational facility or project if the property to be acquired includes an  
8 individual landowner's personal residence **or recreational structure** or that portion of  
9 an individual's property attached to and within 250 linear feet of an individual  
10 landowner's personal residence **or recreational structure** unless the landowner  
11 consents either before or after a condemnation proceeding has been filed. **In this**  
12 **subsection, "recreational structure" means a permanent structure that is used by**  
13 **the owner of or beneficiary of a trust holding legal title to the structure as a**  
14 **dwelling for seasonal recreational purposes.**

1 \* **Sec. 2.** AS 09.55.240(h)(3) is amended to read:

2 (3) "personal residence" means a structure that is the dwelling place of  
3 an individual that

4 (A) must be used by the owner or beneficiary of a trust holding  
5 legal title to the structure as a dwelling unit, as opposed to a rental, storage, or  
6 other commercial space;

7 (B) must be inhabited by the owner, prior owner, or beneficiary  
8 of a trust holding legal title to the structure for at least 90 days during the 12-  
9 month period immediately before the date an action for the exercise of the  
10 power of eminent domain is filed;

11 (C) must constitute an ordinary home for general living  
12 purposes [, AS OPPOSED TO A DWELLING USED ONLY FOR  
13 SEASONAL RECREATIONAL OR TEMPORARY PURPOSES]; and

14 (D) may not have been constructed, placed, or occupied for the  
15 purpose of avoiding eminent domain proceedings;