

CS FOR HOUSE BILL NO. 49(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 3/2/09

Offered: 2/11/09

Sponsor(s): REPRESENTATIVES JOHNSON, Ramras, Hawker, Lynn, Tuck

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.

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

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

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

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

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

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

13 * **Sec. 3.** AS 09.55.240(h) is amended by adding a new paragraph to read:

14 (6) "recreational structure" means a permanent structure that

15 (A) is used by the owner or beneficiary of a trust holding legal
 16 title to the structure as a dwelling for seasonal recreational purposes, as
 17 opposed to a rental, storage, or other commercial space; and

18 (B) may not have been constructed, placed, or occupied for the
 19 purpose of avoiding eminent domain proceedings.