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Referred: Resources and  
Finance

BY THE RULES COMMITTEE  
BY REQUEST OF THE  
LEGISLATIVE COUNCIL

1 IN THE HOUSE

2 HOUSE BILL NO. 109

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to historic preservation."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 41 is amended by adding a new chapter to read:

9 CHAPTER 35. ALASKA HISTORIC PRESERVATION ACT.

10 Sec. 41.35.010. DECLARATION OF PURPOSE. The legislature is  
11 concerned over the fact that there has been a continuing neglect,  
12 desecration, loss and destruction of the historical, archaeological  
13 and palaeontological resources of Alaska with a resulting loss to the  
14 people of the state of knowledge concerning their heritage. The legis-  
15 lature determines that the public has an interest in the preservation  
16 of all historical, archaeological and palaeontological resources for  
17 their scientific and historical information and value and that the  
18 public has a right to the knowledge to be derived and gained from the  
19 study of these resources. The legislature finds and declares that the  
20 historical, archaeological and palaeontological resources of the state  
21 are properly the subject of concerted and coordinated efforts exercised  
22 on behalf of the general welfare of the public in order that these  
23 resources may be located, preserved, studied, exhibited, evaluated and  
24 otherwise interpreted.

25 Sec. 41.35.020. TITLE TO HISTORICAL, ARCHAEOLOGICAL AND PALAEON-  
26 TOLOGICAL RESOURCES. The State of Alaska reserves to itself title to  
27 all historical, archaeological and palaeontological resources situated  
28 on land owned or controlled by the state, including tidelands and  
29 submerged lands, and reserves to itself the exclusive right of

1 historical, archaeological and palaeontological field research on state-  
2 owned or controlled lands. This reservation of ownership and right of  
3 field research shall be made part of every contract for the sale, lease  
4 or grant of state land and each deed to state land, properties or  
5 interest in state land.

6 Sec. 41.35.030. DESIGNATION OF MONUMENTS AND HISTORIC SITES.

7 Upon the recommendation of the Historic Sites Advisory Committee, the  
8 governor may declare by public order any particular historical, archaeo-  
9 logical or palaeontological structure, deposit, site or other object of  
10 scientific or historic interest that is situated on land owned or con-  
11 trolled by the state to be a state monument or historic site; and he  
12 may designate as a part of the monument or site as much land as is con-  
13 sidered necessary for the proper access, care and management of the  
14 object or site to be protected. When an object or site is situated on  
15 land held in private ownership, it may be declared a state monument or  
16 historic site in the same manner, with the written consent of the owner.

17 Sec. 41.35.040. ADMINISTRATION AND FINANCIAL SUPPORT OF MONUMENTS  
18 AND HISTORIC SITES. State-owned monuments, sites and other historical,  
19 archaeological or palaeontological properties owned or purchased by the  
20 state are under the control of the department and their maintenance  
21 shall be covered in the appropriations made to that department. Pri-  
22 vately owned state monuments or historic sites are eligible to receive  
23 state support for their maintenance if they are kept accessible to the  
24 general public and application for support is made in conformity with  
25 regulations adopted by the commissioner.

26 Sec. 41.35.050. REGULATIONS. The commissioner shall adopt regu-  
27 lations to carry out the purposes of this chapter.

28 Sec. 41.35.060. POWER TO ACQUIRE HISTORICAL, ARCHAEOLOGICAL OR  
29 PALAEOLOGICAL PROPERTIES. (a) The department, with the

1 recommendation of the committee, may acquire real and personal prop-  
2 erties that have statewide historical, archaeological or palaeonto-  
3 logical significance by gift, purchase, devise or bequest. The depart-  
4 ment shall preserve and administer property so acquired. The department  
5 may acquire property adjacent to the property having historical, archae-  
6 ological or palaeontological significance when it is determined to be  
7 necessary for the proper use and administration of the significant  
8 property.

9 (b) If a historical, archaeological or palaeontological property  
10 which has been found by the department, upon the recommendation of the  
11 committee, to be important for state ownership is in danger of being  
12 sold or used so that its historical, archaeological or palaeontological  
13 value will be destroyed or seriously impaired, or is otherwise in danger  
14 of destruction or serious impairment, the department may establish the  
15 use of the property in a manner necessary to preserve its historical,  
16 archaeological or palaeontological character or value. If the owner of  
17 the property does not wish to follow the restrictions of the department,  
18 the department may acquire the property by eminent domain under AS 09.-  
19 55.240 - 09.55.460.

20 Sec. 41.35.070. PRESERVATION OF HISTORICAL, ARCHAEOLOGICAL AND  
21 PALAEONTOLOGICAL RESOURCES THREATENED BY PUBLIC CONSTRUCTION. (a) The  
22 department shall locate, identify and preserve in suitable records infor-  
23 mation regarding historical, archaeological and palaeontological sites,  
24 locations and remains throughout the state. The information shall be  
25 submitted to the heads of the executive departments of the state.

26 (b) Before any public construction or public improvement of any  
27 nature is undertaken by the state, or a governmental agency of the  
28 state or by a private person under contract with or licensed by the  
29 state or governmental agency of the state, the information required

1 under (a) of this section shall be consulted by the state archaeologist  
2 to determine if the area to be affected by the public construction or  
3 improvement contains listed historical, archaeological or palaeonto-  
4 logical sites, locations or remains. The department shall survey the  
5 affected area to determine if the area contains historical, archaeolog-  
6 ical or palaeontological values if such surveys have not previously been  
7 made. If the affected area contains sites, locations or remains, the  
8 proposed public construction or improvement may not be commenced; or, in  
9 the event it has already begun, and a find made, work shall be delayed  
10 until the state archaeologist is advised and can review the find area.

11 (c) If the state archaeologist determines that historical, archae-  
12 ological or palaeontological sites, locations or remains will be ad-  
13 versely affected by the public construction or improvement, the depart-  
14 ment shall perform the necessary investigation, recording and salvage  
15 of the site, location or remains. All investigation, recording and  
16 salvage work shall be performed as expeditiously as possible so that no  
17 state construction project will be unduly impaired, impeded or delayed.

18 (d) The department shall be reimbursed for the costs of investi-  
19 gation, recording and salvage of the site by the agency sponsoring the  
20 construction project.

21 Sec. 41.35.080. NOTICE REQUIRED BY PRIVATE PERSON. Before any  
22 construction, alteration or improvement of any nature is undertaken on  
23 a privately owned, officially designated state monument or historic  
24 site by any person, he shall give the department three months notice of  
25 intention to construct on, alter or improve it. After the expiration  
26 of the three-month notification period, the department shall either  
27 begin eminent domain proceedings under sec. 50(b) of this chapter or  
28 undertake or permit the recording and salvaging of any historical,  
29 archaeological or palaeontological information considered necessary.

1           Sec. 41.35.090. PERMITS. The commissioner may issue a permit  
2 for the investigation, excavation, gathering or removal from the natural  
3 state, of any historical, archaeological or palaeontological resource  
4 of the state. A permit may be issued only to institutions qualified  
5 to make the investigations, excavations, gatherings or removals and  
6 only if the results of these authorized activities will be made avail-  
7 able to the general public by the investigating institutions. If the  
8 historical, archaeological or palaeontological resource involved is one  
9 which is, or is located on a site which is, sacred, holy or of religious  
10 significance to a cultural group, the consent of that cultural group  
11 must be obtained before a permit may be issued under this section.

12           Sec. 41.35.100. EXCAVATION AND REMOVAL OF HISTORICAL, ARCHAEOLOG-  
13 ICAL OR PALAEOLOGICAL REMAINS ON PRIVATE LANDS. Before any histori-  
14 cal, archaeological or palaeontological remains are excavated or removed  
15 from private lands by the department, the written approval of the owner  
16 of the land shall first be secured. When the value of the private land  
17 is diminished by the excavation or removal, the owner of the land may  
18 be compensated for the loss at a monetary sum mutually agreed on by the  
19 department and the owner or at a monetary sum set by the court.

20           Sec. 41.35.110. HISTORIC SITES ADVISORY COMMITTEE. There is  
21 created in the Department of Natural Resources the Historic Sites  
22 Advisory Committee.

23           Sec. 41.35.120. COMPOSITION OF COMMITTEE. The committee consists  
24 of the following persons:

- 25                   (1) the director of the Alaska State Museum;  
26                   (2) five persons appointed to represent each of the follow-  
27           ing fields: history, architecture, archaeology and other disciplines  
28           as determined to be appropriate;  
29                   (3) the State Liaison Officer appointed under the National

1 Historic Preservation Act of 1966, Public Law 89-665.

2 Sec. 41.35.130. APPOINTMENT OF MEMBERS. Members of the committee  
3 listed in sec. 120(2) of this chapter are appointed by the governor and  
4 confirmed by the legislature meeting in joint session.

5 Sec. 41.35.140. TERM OF MEMBERSHIP. The term of office for a  
6 member of the committee is three years, except for those who are members  
7 by virtue of their positions with the state. They serve for as long as  
8 they remain in the position by virtue of which they are members of the  
9 committee. A member appointed to fill a vacancy serves for the unex-  
10 pired term of the member he succeeds. Of those members listed in  
11 sec. 120(2) of this chapter, upon initial appointment, one shall serve  
12 for one year, two for two years, and two for three years.

13 Sec. 41.35.150. COMPENSATION. The members of the committee serve  
14 without compensation but are entitled to per diem and travel expenses  
15 authorized by law for other boards and commissions.

16 Sec. 41.35.160. OFFICERS. At the first meeting of each year,  
17 the committee shall elect a chairman from among its members.

18 Sec. 41.35.170. MEETINGS AND QUORUM. The committee shall meet  
19 at least twice a year. Additional meetings may be called by the chair-  
20 man or by petition of at least three members or business may be con-  
21 ducted by mail. Four members of the committee constitute a quorum.

22 Sec. 41.35.180. DUTIES OF THE COMMITTEE. The Historic Sites  
23 Advisory Committee shall

24 (1) develop criteria for the evaluation of state monuments  
25 and historic sites and all real and personal property which may be con-  
26 sidered to be of historical, archaeological or palaeontological signif-  
27 icance as would justify their acquisition and ownership by the state;

28 (2) cooperate with the department in formulating and admin-  
29 istering a statewide historic sites survey under the National Historic

1 Preservation Act of 1966, Public Law 89-665;

2 (3) review those surveys and historic preservation plans  
3 that may be required, and approve properties for nomination to the  
4 National Register as provided for in the National Historic Preservation  
5 Act of 1966, Public Law 89-665;

6 (4) provide necessary assistance to the governor and the  
7 legislature for achieving balanced and coordinated state policies and  
8 programs for the preservation of the state's historical, archaeological  
9 and palaeontological resources.

10 Sec. 41.35.190. POWERS OF CHAIRMAN. Subject to available appro-  
11 priations the chairman may, with the concurrence of a majority of the  
12 committee, request the commissioner to employ the necessary personnel  
13 and to contract for the services of experts and other persons who may  
14 be needed.

15 Sec. 41.35.200. UNLAWFUL ACTS. (a) It is unlawful for a person  
16 to appropriate, excavate, remove, injure, or destroy, without a permit  
17 from the commissioner, any historical, archaeological or palaeonto-  
18 logical resource of the state.

19 (b) It is unlawful for a person to knowingly possess, sell, buy  
20 or transport within the state, or offer to sell, buy or transport  
21 within the state, historical, archaeological or palaeontological re-  
22 sources taken or acquired in violation of this section or 16 U.S.C. 433.

23 (c) It is unlawful for a person to willfully destroy, mutilate,  
24 deface, injure, remove or excavate a gravesite or a tomb, monument,  
25 gravestone or other structure or object at a gravesite, even though the  
26 gravesite appears to be abandoned, lost or neglected.

27 (d) A historical, archaeological or palaeontological resource  
28 which is taken in violation of this section shall be seized by any  
29 person designated in sec. 220 of this chapter wherever found and at

1 any time. Objects seized may be disposed of as the commissioner  
2 determines by deposit in the proper public depository.

3 Sec. 41.35.210. PENALTIES. A person who violates a provision  
4 of this chapter or a regulation adopted under this chapter is guilty  
5 of a misdemeanor, and upon conviction is punishable by a fine of \$1,000,  
6 or by imprisonment for not more than six months, or by both.

7 Sec. 41.35.220. ENFORCEMENT AUTHORITY. The following persons are  
8 peace officers of the state and shall enforce this chapter:

9 (1) an employee of the department authorized by the commis-  
10 sioner;

11 (2) a police officer in the state;

12 (3) any other person authorized by the commissioner.

13 Sec. 41.35.230. DEFINITIONS. In this chapter, unless the context  
14 otherwise requires

15 (1) "commissioner" means the commissioner of natural  
16 resources;

17 (2) "committee" means the Historic Sites Advisory Committee;

18 (3) "department" means the Department of Natural Resources;

19 (4) "historical, archaeological and palaeontological re-  
20 sources" include but are not limited to deposits, structures, ruins,  
21 sites, buildings, graves, artifacts, fossils (both vertebrate and  
22 invertebrate), or other objects of antiquity which provide information  
23 pertaining to the past and present culture of people in Alaska, and  
24 which pertain to palaeontological values of the state.

25 Sec. 41.35.240. TITLE OF CHAPTER. This chapter may be cited as  
26 the Alaska Historic Preservation Act.

27 \* Sec. 2. AS 38.12 and 38.25 are repealed.

28 \* Sec. 3. AS 44.19 is amended by adding a new section to read:

29 Sec. 44.19.024. STATE ARCHAEOLOGIST AND DUTIES. (a) There is

1 established in the division of parks in the Department of Natural  
2 Resources the office of state archaeologist. The state archaeologist  
3 shall be a professional archaeologist, with administrative background  
4 and shall be hired under the personnel rules.

5 (b) The state archaeologist shall

6 (1) sponsor, engage in and coordinate fundamental research  
7 into the archaeology of the state and encourage archaeological research  
8 and investigation undertaken in the state;

9 (2) assist in preparing an inventory of historical, archaeo-  
10 logical and palaeontological sites in the state;

11 (3) assist in reviewing and issuing investigation, excavation,  
12 gathering and removal permits;

13 (4) ensure that historical, archaeological and palaeontolog-  
14 ical sites are properly reported by persons or agencies engaged in  
15 public construction work, and protect sites and objects of significance  
16 discovered at state sites or discovered during the course of public  
17 construction, and encourage the protection of sites and objects dis-  
18 covered during the course of any other construction work;

19 (5) investigate reported historical, archaeological or  
20 palaeontological sites and appraise them for any future excavation;

21 (6) serve as a central clearing-house for information on  
22 all historical, archaeological and palaeontological site excavation in  
23 the state; and

24 (7) cooperate with the federal government in all matters  
25 relating to historic preservation in the state, especially in regard  
26 to the granting of permits.

27 \* Sec. 4. AS 29.10 is amended by adding a new section to read:

28 Sec. 29.10.223. EXCEPTIONS FOR HISTORIC SITES, BUILDINGS AND  
29 MONUMENTS. Exceptions to the regulations provided for in secs. 213

1 and 219 of this chapter may be made in order to provide for the preser-  
2 vation, maintenance and protection of historic sites, buildings and  
3 monuments.

4 \* Sec. 5. AS 29.15 is amended by adding a new section to read:

5 Sec. 29.15.205. HISTORIC SITES, BUILDINGS AND MONUMENTS. The  
6 board of trustees may provide for the preservation, maintenance and  
7 protection of historic sites, buildings and monuments.

8 \* Sec. 6. AS 29.20 is amended by adding a new section to read:

9 Sec. 29.20.065. HISTORIC SITES, BUILDINGS AND MONUMENTS. The  
10 board of trustees of a city of the third class may provide for the  
11 preservation, maintenance and protection of historic sites, buildings  
12 and monuments.

13 \* Sec. 7. AS 29.25 is amended by adding a new section to read:

14 Sec. 29.25.305. ZONING EXCEPTIONS FOR HISTORIC SITES, BUILDINGS  
15 AND MONUMENTS. Exceptions to the zoning ordinances provided for under  
16 sec. 300 of this chapter and other ordinances regulating building  
17 requirements and specifications may be made in order to provide for  
18 the preservation, maintenance and protection of historic sites,  
19 buildings and monuments.

20 \* Sec. 8. AS 29.10 is amended by adding a new section to read:

21 Sec. 29.10.344. EXEMPTION OF HISTORIC SITES, BUILDINGS AND  
22 MONUMENTS. In levying, assessing and collecting taxes for school and  
23 city purposes, the council or assembly may by ordinance classify and  
24 exempt from taxation historic sites, buildings and monuments.