

Original sponsor: Resources Committee

Offered: 6/3/81  
Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 132 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the commissioner of natural re-  
7 sources to acquire certain timber cutting rights."

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

9 \* Section 1. AS 41.17 is amended by adding a new section to read:

10 Sec. 41.17.105. ACQUISITION OF TIMBER CUTTING RIGHTS. (a) If  
11 requested by the commissioner of fish and game or the owner of timber  
12 cutting rights, the commissioner of natural resources may acquire for  
13 the state the right to cut and remove timber from private forest land  
14 if

15 (1) the timber is on land which is adjacent to a river,  
16 lake, or stream specified under AS 16.05.870 as important to the spawn-  
17 ing, rearing, or migration of anadromous fish;

18 (2) the commissioner of fish and game provides written  
19 notice to the owner of the timber cutting rights of his intention to  
20 determine if timber cutting in a defined area of the private forest  
21 land would be hazardous to the spawning, rearing, or migration of  
22 anadromous fish; and

23 (3) the owner of the timber cutting rights agrees under (b)  
24 of this section to convey his timber cutting rights to the state subject  
25 to (c) of this section for a term of not less than 30 years or more  
26 than 150 years, which term shall be the period required for regrowth of  
27 the timber after cutting as determined by the commissioner of natural  
28 resources based on site and soil characteristics and comparable periods  
29 for regrowth of timber in adjacent areas or in other areas with similar

1 geography and climate.

2 (b) The money or other consideration offered for timber cutting  
3 rights under this section shall equal the fair market value of the  
4 timber cutting rights. For the purposes of this section, fair market  
5 value shall be measured under criteria determined by a person agreed to  
6 by the commissioner of natural resources and the owner of the timber  
7 cutting rights and agreed to by the commissioner of natural resources  
8 and the owner of the timber cutting rights.

9 (c) The commissioner of fish and game shall, when requested by  
10 the owner of the timber cutting rights acquired under this section,  
11 reevaluate the importance of the adjacent waters for, or the hazardous  
12 nature of the timber cutting to, the spawning, rearing, or migration of  
13 anadromous fish. If, upon reevaluation, the commissioner of fish and  
14 game determines that timber cutting is no longer hazardous to the  
15 spawning, rearing, or migration of anadromous fish or that the adjacent  
16 waters are no longer important to the spawning, rearing, or migration  
17 of anadromous fish, the owner of the timber cutting rights is entitled  
18 to repurchase the timber cutting rights from the Department of Natural  
19 Resources for the current value of the timber or to reacquire the  
20 timber cutting rights through an exchange of timber cutting rights  
21 approved by the Department of Natural Resources.

22 (d) The commissioner of natural resources may acquire privately  
23 owned timber cutting rights under this section by

- 24 (1) paying money;
- 25 (2) exchanging state land or an interest in state land;
- 26 (3) purchasing private or public land to exchange that land  
27 for the timber cutting rights; and
- 28 (4) using any combination of the methods described in (1) -  
29 (3) of this subsection which is agreed to by the commissioner of natural

1 resources and the owner of the timber cutting rights and consistent  
2 with (b) and (g) of this section.

3 (e) The commissioner of natural resources shall

4 (1) advise the commissioner of fish and game on the perfor-  
5 mance of his duties under this section;

6 (2) at least 120 days before the acquisition of timber cut-  
7 ting rights under this section, determine the consideration to be paid  
8 for those rights; and

9 (3) give public notice of the proposed exchange of state  
10 land in the manner specified in AS 38.05.345 for the sale of state land  
11 by public auction.

12 (f) AS 38.50 does not apply to an exchange of state land under  
13 this section.

14 (g) If there is an agreement to purchase timber cutting rights  
15 under this section, the state has 100 days from the date of the agree-  
16 ment to tender the consideration specified in the agreement. If the  
17 state fails to tender the consideration within 100 days from the date  
18 of the agreement, the state or the owner of the timber cutting rights  
19 may terminate the agreement. If the state fails to tender the consider-  
20 ation within 100 days from the date of the agreement, and neither the  
21 state nor the owner of the timber cutting rights terminates the agree-  
22 ment, the state shall pay the lawful rate of interest on the considera-  
23 tion from the 100th day after the date of execution of the agreement.

24 (h) If there is an agreement to purchase timber cutting rights  
25 under this section, the commissioner of natural resources shall reim-  
26 burse the owner of timber cutting rights for costs determined by the  
27 commissioner to be reasonable costs of the owner of timber cutting  
28 rights necessary to achieve an agreement with the state for the purchase  
29 of timber cutting rights.

1 (i) If the value of a proposed acquisition of privately owned  
2 timber cutting rights under (d) of this section exceeds \$1,000,000, the  
3 timber cutting rights may not be acquired unless acquisition is ap-  
4 proved by the legislature by concurrent resolution.

5 (j) The commissioner of natural resources may not agree to pur-  
6 chase timber cutting rights under this section unless an amount neces-  
7 sary to purchase the timber cutting rights has been appropriated by the  
8 legislature.

9 (k) This section does not authorize a state department or agency  
10 to exercise the power of eminent domain to acquire timber cutting  
11 rights for the protection of waters important to the spawning or migra-  
12 tion of anadromous fish.

13 (l) In this section, "owner of the timber cutting rights" means a  
14 person who owns the right to cut or harvest standing timber even if the  
15 person holds no other interest in the land on which the timber is  
16 located.