

Introduced: 1/13/81  
Referred: Resources and  
Judiciary

1 IN THE SENATE

BY RAY

2 SENATE BILL NO. 7

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to accretion, reliction, and erosion;  
7 and providing for an effective date."

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

9 \* Section 1. INTENT. It is the intent of the legislature, in adopting  
10 this Act, to establish, as a statutory rule of construction in the inter-  
11 pretation of land conveyance contracts and instruments, the common law rule  
12 relating to the effect of accretion, reliction, and erosion on the boundaries  
13 of real estate. In particular, since the effect of glacio-isostasy on the  
14 boundaries of real estate has had little, if any, review in the common law  
15 of the United States, and since glacio-isostasy is a gradual, imperceptible,  
16 physical process which, under the common law, generally describes the  
17 processes of accretion, reliction, and erosion, it is the intent of the  
18 legislature to clearly indicate that accretion, reliction, and erosion  
19 include glacio-isostasy for purposes of the common law rule. Further, while  
20 art. I, sec. 15, Constitution of the State of Alaska, and art. I, sec. 10,  
21 Constitution of the United States, may prevent the legislature from providing  
22 for the retroactive effect of this Act, these constitutional provisions do  
23 not prevent the courts of this state from applying the principles enunciated  
24 in this Act to land conveyance contracts and instruments executed before the  
25 effective date of this Act, -and the legislature urges the courts of the  
26 state, in the interest of preventing unnecessary confusion as to land titles  
27 and needless litigation, to accept the rule of construction stated in this  
28 Act in the interpretation of land conveyance contracts and instruments  
29 executed before the effective date of this Act.

1 \* Sec. 2. AS 34.15 is amended by adding a new section to read:

2 Sec. 34.15.075. EFFECT OF ACCRETION, RELICTION, AND EROSION. (a)  
3 If an instrument used to convey real estate which is adjacent to a body  
4 of water contains or incorporates by reference a description of the  
5 boundary of the real estate, in whole or in part, by reference to the  
6 location of the body of water or by reference to the high or low water  
7 mark or the high or low mean tide of the body of water, the intent of  
8 the conveyance is for the boundary of the real estate to change with a  
9 change in the location of the body of water or with a change in the  
10 high or low water mark or the high or low mean tide of the body of  
11 water if the change is a result of accretion, reliction, or erosion.

12 (b) This section does not apply to an instrument used to convey  
13 real estate if the instrument expressly states a contrary intent.

14 (c) In this section, "accretion, reliction, or erosion" means the  
15 gradual, imperceptible, physical process or processes by which new land  
16 emerges, is created, or is exposed or by which existing land submerges,  
17 wears away, or disintegrates without regard to the specific cause or  
18 causes. "Accretion, reliction, or erosion" includes, but is not limited  
19 to, glacio-isostasy.

20 \* Sec. 3. AS 38.05.365(15) is amended to read:

21 (15) "shorelands" means lands belonging to the state which  
22 are covered by nontidal waters that are navigable under the laws of the  
23 United States up to ordinary high water mark as modified by accretion,  
24 erosion, or reliction, including, but not limited to accretion or relic-  
25 tion resulting in whole or in part from glacio-isostasy;

26 \* Sec. 4. AS 38.05.365(17) is amended to read:

27 (17) "submerged lands" means lands covered by tidal waters  
28 between the line of mean low water, as modified by accretion, erosion,  
29 or reliction, including but not limited to accretion or reliction re-

1 sulting in whole or in part from glacio-isostasy, and seaward to a dis-  
2 tance of three geographical miles or further as may hereafter be prop-  
3 erly claimed by the state;

4 \* Sec. 5. AS 38.05.365(18) is amended to read:

5 (18) "tidelands" means those lands which are periodically  
6 covered by tidal waters between the elevation of mean high and mean low  
7 tides, as modified by accretion, erosion, or reliction, including  
8 but not limited to accretion or reliction resulting in whole or in  
9 part from glacio-isostasy;

10 \* Sec. 6. AS 38.05.365 is amended by adding a new paragraph to read:

11 (25) "glacio-isostasy" means the isostatic adjustment of the  
12 earth's crust relative to the ice mass resting upon it.

13 \* Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-  
14 0/0(c).