

HOUSE BILL NO. 398

IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE OLBERG

Introduced: 1/26/94

Referred: Community & Regional Affairs, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to rights in certain tide and submerged land."

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

3 * Section 1. AS 38.05.820(b) is amended to read:

4 (b) A home [HOME] rule, [CITIES AND CITIES OF THE] first class, or
5 second class city [INCORPORATED ON OR BEFORE APRIL 1, 1964,] may apply,
6 in the manner prescribed by the director, and in accordance with [SUCH] regulations
7 that [AS] the director may adopt, for a conveyance [TO THEM] of all land seaward
8 of the city that [HOME RULE CITIES AND CITIES OF THE FIRST CLASS
9 WHICH] is between the mean high tide line in, or forming the boundary of, the city
10 [HOME RULE CITIES AND CITIES OF THE FIRST CLASS,] and a line to be
11 shown on a plat made a part of the application that [WHICH] shall be the pierhead
12 line established under the Act of September 7, 1957, or the harbor line established
13 under the Act of March 3, 1899, or if no pierhead line or harbor line is established
14 then a line subject to approval by the director, with the concurrence of the

1 commissioner, that [WHICH] shall be seaward of all tide and submerged land
2 occupied or suitable for occupation and development without unreasonable interference
3 with navigation. The director shall convey that tide and submerged land to the city
4 [HOME RULE CITIES AND CITIES OF THE FIRST CLASS]. Applications by
5 preference right claimants filed with the director before June 30, 1964, shall continue
6 to be processed to a final determination and conveyance, if any, by the director, if the
7 [SUCH] preference right claimants are entitled to a conveyance from the director under
8 the laws existing previous to July 22, 1964.

9 (1) Each home rule, first class, and second class city [AND CITY OF
10 THE FIRST CLASS] granted a conveyance shall prepare an official subdivision plat
11 of the area conveyed showing all structures and improvements and the boundaries of
12 each tract occupied or developed, together with the name of the owner or claimant.
13 The subdivisional plat must [SHALL] include within the boundaries of each tract
14 occupied or developed the [SUCH] surrounding tide and submerged land that [AS]
15 is reasonably necessary in the opinion of the governing body of the city [HOME
16 RULE CITIES AND CITIES OF THE FIRST CLASS] for the use and enjoyment of
17 the structures and improvements by the owner or claimant, but may [SHALL] not
18 include tide or submerged land that [WHICH] if granted to the occupant would
19 unjustly deprive an occupant of adjoining land from reasonable use and enjoyment of
20 it.

21 (2) An occupant of land included in the conveyance to a home rule,
22 [CITIES AND CITIES OF THE] first class, or second class city who occupied or
23 developed the land on and before September 7, 1957, has a class I preference right to
24 the land from the city [HOME RULE CITIES AND CITIES OF THE FIRST CLASS]
25 upon the execution of a waiver to the state and the city [HOME RULE CITIES AND
26 CITIES OF THE FIRST CLASS] of all rights the occupant may have acquired under
27 Public Law 85-303 (71 Stat. 623).

28 (3) An occupant of land included in the conveyance to a home rule,
29 [CITIES AND CITIES OF THE] first class, or second class city who has a class II
30 preference right by reason of the conveyance to the city [HOME RULE CITIES AND
31 CITIES OF THE FIRST CLASS], and is unwilling to waive the right has a preference

1 right to the land that [WHICH] it is mandatory for the city [HOME RULE CITIES
2 AND CITIES OF THE FIRST CLASS] to expeditiously honor upon application from
3 the occupant after the Secretary of Defense [THE ARMY] has submitted to the
4 Secretary of the Interior and the governor of the state maps showing the pierhead line
5 established by the corps of engineers with respect to the tract so granted.

6 (4) An occupant of land included in the conveyance to a home rule,
7 [CITIES AND CITIES OF THE] first class, or second class city who occupied or
8 developed the land after September 7, 1957, and before January 3, 1959, and who
9 continued to occupy it on January 3, 1959, has a class III preference right to the land
10 from the city [HOME RULE CITIES AND CITIES OF THE FIRST CLASS].

11 (5) In making a conveyance to an occupant, the home rule, [CITIES
12 AND CITIES OF THE] first class, or second class city shall include as a part of the
13 tract conveyed and in addition to the occupied or developed land, the [SUCH]
14 additional tide and submerged land that [AS] is reasonably necessary in the opinion
15 of the governing body of the city [HOME RULE CITIES AND CITIES OF THE
16 FIRST CLASS] for the occupant's use and enjoyment of the occupied or developed
17 land, but the conveyance may [SHALL] not include any area that [WHICH] would
18 unjustly deprive an occupant of adjoining land from reasonable use and enjoyment of
19 it or that [WHICH], if developed, will interfere with navigation.

20 (6) Each home rule, [CITY AND CITY OF THE] first class, and
21 second class city receiving conveyances shall by ordinance provide for reasonable
22 regulations governing the filing and processing of applications, publication of notices,
23 and the adjudication of disputes between claimants by the governing body of the city
24 [HOME RULE CITIES AND CITIES OF THE FIRST CLASS]. A party aggrieved
25 by its determination may appeal to the superior court.

26 (7) When no preference right has been granted to purchase or lease
27 tideland, the home rule, [CITIES AND CITIES OF THE] first class, or second class
28 city may sell or lease the tideland conveyed to them, and may impose terms or
29 conditions for the sale or lease. The [SUCH] terms and conditions shall include the
30 [SUCH] reservation of rights-of-way that [AS] are necessary to provide reasonable
31 access to public waters.