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Alaska State Legislature

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JUNEAU, ALASKA 99811
(907) 465-4907

Senate

Committee on Resources

TO: Senate Resource Committee Members

February 23, 1986

FROM: Senate Resource Committee Staff

MEL

RE: SB 368 "An Act relating to the sale of inherited remote parcels."

This bill would allow persons who inherit remote parcels leased from the state to sell their interest. The original prohibition against sale was designed to prevent real estate speculation. That does not appear to be a problem with this bill.

Attached are copies of a letter from Doris Loennig to Senator Bennett explaining the need for the legislation, a zero fiscal note from the Department of Natural Resources and a letter from DNR suggesting an amendment.

*see
Comm. comment*

DORIS LOENNIG

A PROFESSIONAL CORPORATION
ATTORNEY AT LAW

SUITE 120, 515 SEVENTH AVENUE - FAIRBANKS, ALASKA 99701
907 452-2005

December 16, 1985
(Dictated 12-9-85)

Sen. Don Bennett
P.O. Box 2801
Fairbanks, Alaska 99707

Recently I have been probating estates for persons in Manley Hot Springs, Alaska. The man and wife had each applied under the remote parcel provisions for land and had been awarded leases by the State. Tragically they both died in a more or less simultaneous accident leaving the husband's interest to his parents and the wife's interest to her parents. The parents do not reside in the State of Alaska, and have no means of actually proving up on the property. However, each is a valuable asset of the estates since there have been improvements placed on the property by the parties before their death and the remote parcel provisions have been withdrawn by the State so those parcels are no longer available to the public.

I make reference to A.S. 38.05.077(e):

"A remote parcel lease may not be assigned, conveyed, or otherwise transferred, but rights under the lease may devolve by testate or intestate succession. An attempt to assign, convey, or otherwise transfer the lease is void and terminates the lease."

Likewise, under A.S. 38.05.078(d):

"In addition to the terms specified in A.S. 38.05.065(b) a contract of sale for land in a remote parcel shall contain the following conditions: 1) the land may not be sold, leased, or otherwise conveyed before ten years after the date that the contract of sale is signed by the purchaser, but title to the land may devolve by testate or intestate succession."

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Re: Remote Parcel

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My problem is, and one that I have discussed with the Department of Natural Resources, is whether once the property becomes vested in heirs or has devolved by testate or intestate succession, can those heirs then proceed to dispose of their interest? It appears to me that if the answer is otherwise, the State is running into a constitutional problem of depriving persons of property without due process of law; secondly, it is my understanding that this provision was placed in there by those who were afraid that the original bidders would obtain a speculative profit by immediately re-selling the parcel.

My purpose in writing you is since DNR does not agree with me that possibly once property has devolved to an heir that the restriction against sale no longer pertains; would the legislature would consider amending the acts to make it clear that once property has devolved the properties can then be sold since to do otherwise in many cases, and particularly in these cases, would result in the heirs losing the property. In this case the parents are older, they do not reside in the State and they have no way, nor desire really, of trying prove up on the property. On the other hand their children did place improvements on the property which are of some value.

Please review my letter, if you have any questions, do not hesitate to contact me.

Very truly yours,

DORIS LOENNIG, P.C.

By:

DORIS LOENNIG

DL:dcm

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 2/20/86

REQUEST

Bill/Resolution No. : SB 368
 Title : Sale of Inherited Remote
 Parcels
 Sponsor : Senator Bennett
 Requestor : Senate Resources
 Date of Request : 2/20/86

FISCAL DETAIL

Agency Affected : Natural Resources
 BRU : Land & Water Management
 Components : Land Disposals/Fee

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

No Fiscal Impact

Prepared by : Michael E. Vediner *Ray* Phone : 465-2400
 Division : Division of Land & Water Management Date : 2/20/86
 Approved by Commissioner : Mrs D Arnold, Deputy Date : 2/21/86
 Agency : Natural Resources

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

February 21, 1986

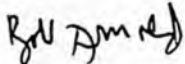
The Honorable Arliss Sturgulewski
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

I am writing to offer a suggested amendment to SB 368, relating to the sale of inherited remote parcels, which is scheduled for hearing in your committee on Monday, February 24, 1986.

The department has no objection to this proposal and no fiscal impact is anticipated. The enclosed amendment provides for our existing assignment mechanism to accomplish the intent of the bill.

Sincerely,



Esther C. Wunnicke
Commissioner

Enclosure

cc: The Honorable Don Bennett
Tom Hawkins

February 21, 1986

SB 368, Relating to the Sale of Inherited Remote Parcels.

Suggested Amendment No. 1:

The substantive effect of this bill would be to allow the heirs of a deceased remote parcel lessee an opportunity to assign the acquired interest in the lease. Under applicable law (AS 38.05.077(e); repealed) such an assignment is prohibited. The department suggests the following amended language to provide for assignment of the lease by the heirs via standard assignment procedure. The department seeks concurrence with the assignment so that it can determine that the lease is in good standing and can conform its records to show the new ownership.

(c) Notwithstanding the provisions of former AS 38.05.077(e), the heirs of a deceased remote parcel lessee may assign their leasehold interest in the remote parcel with the concurrence of the state. [SELL THEIR INTEREST IN THE LEASE OF THE REMOTE PARCEL.-]