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16

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Arliss Sturgulewski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Eliason

Box V
Juneau, Alaska 99811
(907) 465-1907

MEMORANDUM

TO: Senate Resources Committee Members
FROM: Resource Staff
RE: CSSB 16 Technical Amendments
DATE: March 4, 1987

This measure was acted on by the committee February 23, 1987, with individual recommendations.

In drafting the committee's amending language, legal services identified a few problems the language would create. A memo from Teresa Bannister the drafter accompanies this memo.

The intent of the committee's amendment is clarified with out further broadening of DNR's discretion regarding escheated property.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3810

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 2, 1987

SUBJECT: Proposed CSSB 16(Res)
TO: Senator Jack Coghill
Chairman, Senate Resources Committee
FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have requested a committee substitute for SB 16. Accompanying this memo are (1) a draft of the CS with your requested language (5-0098L) and (2) a second CS version that incorporates the changes that I recommend in this memo in order to carry out what I understand the committee's intent to be (5-0098X).

I recommend that the following changes to CS (5-0098L) be considered by the committee:

A. After discussing the committee's intent with your staff, it is my conclusion that Sec. 38.95.230 as changed by the requested CS would not completely fulfill that intent. In addition, the requested CS needs to be rewritten to reflect that the governor, not the Historical Sites Advisory Committee, designates the property as an historical site, since it is the governor who has that authority (AS 41.35.030). In light of the above, I suggest that sec. 5 of CSSB 16(Res) (5-0098L) be rewritten to read as follows:

Sec. 38.95.230. DISPOSAL OF ESCHEATED REAL PROPERTY BY DEPARTMENT. Within 90 days after a judgment of escheat under AS 38.95.220 and after notice has been given as required under AS 38.05.945, the department shall sell the escheated real property unless the department (1) issues a written finding that the designation of the property as an historic site under AS 41.35 would be in the best interest of the state and (2) requests the Historic Sites Advisory Committee to determine if the property should be designated an historic site. If the

Senator Coghill
Page 2
March 2, 1987

committee decides not to recommend the designation or if the governor decides not to make the designation, the department shall make arrangements to sell the property as soon as possible after receiving notice of the decision.

B. I also recommend that the language of Sec. 38.95.240(a)(2)(B) (beginning at p. 2, l. 29 of CSSB 16(Res) (5-0098L)) be deleted since it is no longer necessary.

C. Since the term "transfer" has been deleted from the catchline of Sec. 38.95.230, I suggest that the term "transfer" be deleted from Sec. 38.05.945(a)(5) beginning on p. 1, l. 29 of CSSB 16(Res) (5-0098L) and that "sale" be put in its place.

If I may be of further assistance, please advise.

TLB:mi
050/wkmil

Enclosures

5-0098X
Bannister
3/2/87

Original sponsor: Faiks

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 16 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the disposition of unclaimed real
7 property interests."

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

9 * Section 1. AS 13.16.381 is amended to read:

10 Sec. 13.16.381. DISPOSITION OF UNCLAIMED ESTATE BY PERSONAL
11 REPRESENTATIVE. When there is no taker of an intestate estate, or if
12 an heir, devisee, or claimant cannot be found and the missing person
13 has no conservator, the personal representative shall handle the

14 (1) unclaimed personal property of the estate in accordance
15 with AS 34.45.280 - 34.45.780; and

16 (2) unclaimed real property of the estate in accordance
17 with AS 38.95 [AS 38.05].

18 * Sec. 2. AS 38.05.945(a) is amended to read:

19 (a) This section establishes the requirements for notice given
20 by the department for the following actions:

21 (1) classification or reclassification of state land under
22 AS 38.05.300 and the closing of land to mineral leasing or entry under
23 AS 38.05.185;

24 (2) zoning of land under applicable law;

25 (3) a decision under AS 38.05.035(e) regarding the sale,
26 lease, or disposal of an interest in state land or resources; [AND]

27 (4) a competitive disposal of an interest in state land or
28 resources after final decision under AS 38.05.035(e); and

29 (5) proposed sale of escheated real property by the

1 department under AS 38.95.230.

2 * Sec. 3. AS 38.05.945 (e) is amended to read:

3 (e) Except for (a)(5) of this section, the [THE] provisions of
4 this section do not apply to a lease issued under AS 38.05.205.

5 * Sec. 4. AS 38.05.945(f) is amended to read:

6 (f) Except for (a)(5) of this section, the [THE] provisions of
7 this section do not apply to a production license issued under AS
8 38.05.207.

9 * Sec. 5. AS 38.95.230 is repealed and reenacted to read:

10 Sec. 38.95.230. DISPOSAL OF ESCHEATED REAL PROPERTY BY DEPART-
11 MENT. Within 90 days after a judgment of escheat under AS 38.95.220
12 and after notice has been given as required under AS 38.05.945, the
13 department shall sell the escheated real property unless the depart-
14 ment (1) issues a written finding that the designation of the property
15 as an historic site under AS 41.35 would be in the best interest of
16 the state; and (2) requests the Historic Sites Advisory Committee to
17 determine if the property should be designated an historic site. If
18 the committee decides not to recommend the designation or if the
19 governor decides not to make the designation, the department shall
20 make arrangements to sell the property as soon as possible after
21 receiving notice of the decision.

22 * Sec. 6. AS 38.95.240 is repealed and reenacted to read:

23 Sec. 38.95.240. CLAIMS TO ESCHEATED REAL PROPERTY. (a) Within
24 seven years after a judgment of escheat under AS 38.95.220, a person
25 who is not a party to the escheat proceeding may bring an action in
26 the superior court to prove the person's claim to the real property.
27 If the plaintiff establishes the claim and that the plaintiff had no
28 knowledge of the prior escheat proceeding, the court shall award the
29 plaintiff

1 (1) the property if the state still owns the property; or
2 (2) an amount equal to the net proceeds from the sale of
3 the real property under AS 38.95.230.

4 (b) A person who is awarded property under (a) of this section
5 is not entitled to the rents, profits, interest, or dividends that
6 accrue to the state during the state's possession of the property.

7 (c) The time limitation of seven years does not apply to a minor
8 or an incapacitated person, but the person must bring an action to
9 prove the person's claim to the real property within one year after
10 the person reaches the age of eighteen years or the incapacity ceases.
11 In this subsection, "incapacitated person" has the meaning given in
12 AS 13.26.005.

13 (d) This section does not prevent the state from transferring
14 escheated real property to a person who provides proof satisfactory to
15 the department that the person is the owner of the real property, if

16 (1) the department determines the transfer to be appropri-
17 ate; and

18 (2) the transfer occurs within seven years after the judg-
19 ment of escheat under AS 38.95.220.

20 * Sec. 7. AS 38.95.250 is repealed and reenacted to read:

21 Sec. 38.95.250. PROCEEDS OF SALE. The department shall deposit
22 the net proceeds from the sale of real property in an escheated real
23 property trust account. The department shall maintain the proceeds in
24 the account for a period of at least seven years after the date of the
25 judgment of escheat. The department may use money in the trust ac-
26 count to pay claims made under AS 38.95.240.

27 * Sec. 8. AS 38.95.270 is amended to read:

28 Sec. 38.95.270. DEFINITIONS. In AS 38.95.200 - 38.95.270(,) 1

29 (1) "department" means the Department of Natural Resources, 1

1 (2) "net proceeds" means the proceeds from a sale under
2 AS 38.95.230 after deduction of the costs of the sale, including
3 attorney fees and publication costs;

4 (3) "real property" includes an interest in real property.

5 * Sec. 9. This Act applies to real property that is the subject of an
6 escheat proceeding begun on or after the effective date of this Act.
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As Passed by Committee

5-0098L ✓
Bannister
3/2/87

Original sponsor: Faiks

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BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 16 (Resources)

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4 FIFTEENTH LEGISLATURE - FIRST SESSION

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15 an historic site would be in the best interests of the state. The
16 Historic Sites Advisory Committee shall so designate the property
17 under AS 41.35.

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19 Sec. 38.95.240. CLAIMS TO ESCHEATED REAL PROPERTY. (a) Within
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21 who is not a party to the escheat proceeding may bring an action in
22 the superior court to prove the person's claim to the real property.
23 If the plaintiff establishes the claim and that the plaintiff had no
24 knowledge of the prior escheat proceeding, the court shall award the
25 plaintiff

26 (1) the property if the state still owns the property; or

27 (2) an amount equal to the

28 (A) net proceeds from the sale of the real property

29 under AS 38.95.230;

1 (B) the appraised fair market value of the property
 2 less the expenses of appraisal, if the property has been trans-
 3 ferred other than by sale or lease.

4 (b) A person who is awarded property under (a) of this section
 5 is not entitled to the rents, profits, interest, or dividends that
 6 accrue to the state during the state's possession of the property.

7 (c) The time limitation of seven years does not apply to a minor
 8 or an incapacitated person, but the person must bring an action to
 9 prove the person's claim to the real property within one year after
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(3) "real property" includes an interest in real property.

* Sec. 9. This Act applies to real property that is the subject of an escheat proceeding begun on or after the effective date of this Act.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: CSSB 16 Res
Publish Date: 3-5-87

Revision Date: _____

Agency Affected: Natural Resources
BRU: Land & Water Public Use

Title: Unclaimed real property
managements

Sponsor: Faiks

Components: _____

Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		50.0 (?)	50.0 (?)	50.0 (?)	50.0 (?)	50.0 (?)
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Improves existing management of unclaimed real property.
Under aggressive management the program could yield annual revenues in the neighborhood of \$50,000 and the existing inventory has value of approximately \$215,000. Current level of effort is low.

Prepared by: Tom Hawkins Phone: 762-4355
Division: Land and Water Management Date: 1/22/87

Approved by Commissioner: *William Brady* Date: _____
Agency: Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

SENATE COMMITTEE REPORT

FURTHER:

FINANCE

2/4/87

DATE TURNED INTO OFFICE _____

Mr. President:

RESOURCES

Committee considered SB 16

disposition of unclaimed real property.

and recommended:

replace with CS FOR SB 16 (Res)) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO PASS

[Signature]

[Signature]

Paula Finkle

OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature] (No Rec)

[Signature]

Signature and recommendation

SENATE AMENDMENT

BY: FAIKS

TO: CS FOR SENATE BILL NO. 16 (Judiciary) ~~SENATE BILL NO.~~ 16

TO: _____ HOUSE BILL NO. _____

Page 2, lines 10 - 16:

Delete all material and insert:

Sec. 38.95.230. DISPOSAL OF ESCHEATED REAL PROPERTY BY DEPARTMENT. Within 90 days after a judgment of escheat under AS 38.95.220 and after notice has been given as required under AS 38.05.945, the department shall sell the escheated real property unless the department issues a written finding that the designation of the property as a historic site would be in the best interest of the state. The Historic Sites Advisory Committee shall so designate the property under AS 41.35.

(TURN IN ORIGINAL AMENDMENT TO SENATE SECRETARY'S OFFICE. THE AMENDMENT WILL BE NUMBERED, COPIED AND DISTRIBUTED.)

Alaska State Legislature

Senate Resources Committee



Box V
Juneau, Alaska 99811
(907) 465-1007

Sen. John B. (Jack) Coghlin, Chairman
Paul Fischer, Vice-Chairman
Lloyd Jones
Sen. Arliss Sturqulewski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Eliason

MEMORANDUM

TO: Senate Resource Committee Members

FROM: Senate Resource Committee Staff

RE: CSSB 16; An act relating to the disposition of unclaimed real property interests.

DATE: February 19, 1987

Staffs understanding of the sponsors intent with this legislation is to return escheated real property to private ownership, and to simplify and speed the disposal process.

The committee substitute from Senate Judiciary returns discretion regarding the disposition of escheated properties to the Department of Natural Resources.

The sponsor would like to see the original intent of the legislation re-established. This would significantly change AS 38.95.230. (item 12 on packet information list)

Included in your packet are:

- 1) Memorandum to Senate Judiciary Committee, from Senator Jan Faiks, January 22, 1987
- 2) DNR's position paper, including a list of escheated real property, 1937 to 1986, and a zero fiscal note
- 3) Legislative Counsels Sectional Analysis, January 21, 1987
- 4) Memorandum to Senator Faiks, from Alexis (Jan Faiks Senate office) January 27, 1987, regarding CSSB 16: sectional analysis

- 5) Memorandum to Bruce (Senate Resource Committee Staff), from Alexis Gabay, regarding CSSB 16, draft language for Sec. 5
- 6) Memorandum to Bruce Geraghty (Senate Resource Committee Staff), from Frank Mielke, DNR, regarding CSSB 16, Proposed language for Sec. 5
- 7) Senate Judiciary Committee Memorandum and Working Draft #1, 1/27/87
- 8) Senate Judiciary Committee Memorandum, with attachments, including pertinent statutes and Article VIII of Alaska's Constitution, and Working Draft #2, 2/3/87
- 9) the definition of escheat from Websters New World Dictionary
- 10) AS 13.16.381. Disposition of unclaimed estate by personal representative.
- 11) Article 4. Reporting and Disposition of Personal Property
AS 34.45.280 through AS 34.45.780
- 12) Article 5. Real Property Escheated to State.
AS 38.95.200 through AS 38.95.270
- 13) AS 38.05.050. Disposal of land for private ownership; and
AS 38.05.055. Auction sale procedures; and
AS 38.05.057. Disposal of land by lottery.

Alaska State Legislature



PRESIDENT
907-465-3755

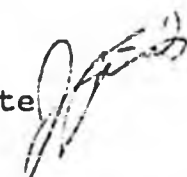
JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

January 22, 1987

MEMORANDUM

TO: Senator Jay Kerttula, Chairman
Senate Judiciary Committee

FROM: Jan Faiks, President of the Senate 

SUBJECT: Background on Senate Bill 16
An Act relating to the disposition of unclaimed
real property

Senate Bill 16 has been referred to your committee for consideration. This bill seeks to simplify the procedures for the disposition of escheated real property by requiring the State to sell such property, thereby creating revenue for the State and returning property to the private sector.

The Fourteenth Legislature adopted House Bill 182 relating to a Uniform Unclaimed Property Act. The Governor subsequently signed the bill and it became Chapter 133 of the Session Laws of 1986. This legislation is now codified in AS 13.16.381, and AS 38.95.200-270.

This bill, and the statutes it seeks to replace, concern escheated real property. "Escheat" refers to property which reverts to the State in situations where there is no one to inherit it.

AS 13.16.381 concerns the disposition of unclaimed estates by personal representatives. That statute currently specifies that where there is no taker of an intestate estate, or if an heir, devisee, or claimant cannot be found and the missing person has no conservator, the personal representative shall handle the ...unclaimed real property of the estate in

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611

accordance with AS 38.05. [Note: This statute contains a typographical error. The statute should properly refer to AS 38.95.]

AS 38.95.200-270 concern real property escheated to the State, and enumerate the steps which must be followed by the Department of Natural Resources (herein after referred to as the Department). My concern is that these steps are inefficient and costly. The steps are as follows:

1. The Department must first be informed or have reason to believe that real property has escheated to the State. (AS 38.95 210)
2. The Department must then bring an action in Superior Court to establish whether the property has escheated to the State, or it may maintain an action to recover the possession of escheated property, or the enforcement of the State's right to the property. (AS 38.95.210)
3. The Department must then get a court judgment of escheat. (AS 38.95.220)
4. The Department has two years from the judgment of escheat to determine the proper disposition of the property by making a "best interest finding". The Department may, at its option, sell, lease, exchange, assign, or otherwise manage the property. (AS 38.95.230) The method of disposition selected determines the procedures to be followed by the Department.
5. A series of procedural and valuation steps must then be consulted in the event that a claim to the property is filed within seven years from the judgment of escheat. (AS 38.95.240)

Senate Bill 16 has two significant effects on these statutes. First, it facilitates the disposition of escheated real property by requiring the Department to sell it. By eliminating the disposition options currently available, several procedural and valuation steps are also eliminated. Specifically, the two-year lag period for disposition, need for a written "best interest" finding, and the property appraisal requirements of AS 38.95.230 would be eliminated. Awards to plaintiffs would also be simplified by eliminating the present variables of AS 38.95.240, since the courts could award the property or an amount equal to the net proceeds of the sale.

Additionally, since the Department must then sell the escheated property by public auction, the property is returned to the private sector and revenue is created for the State. The current system allows the State, at its option, to sell, lease, exchange, assign, or otherwise manage the property, thus taking more time for disposition, costing more money to maintain, and not effectively utilizing the property.

Since this bill was pre-filed, further research was conducted by my staff. I ask that the committee consider these additional changes to the current statute which are of concern.

AS 38.95.240 (d) needs to either be amended or eliminated altogether. This section allows the State to transfer escheated real property to a person who provides proof satisfactory to the Department that the person is the owner of the real property. This gives the Department the opportunity and responsibility to determine the rightful ownership of real property, a function which I feel would be better served by an action in Superior Court.

In the alternative, this statute should be amended to place a limit on the time period in which an individual could present a claim to the Department. The current statute provides that claims brought in Superior Court must be within seven years from judgment of escheat, yet no time restraint is placed on those claims which are brought before the Department.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801
PHONE: (907) 465-2400

January 22, 1987

The Honorable Jalmar Kerttula
Chair, Senate Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Kerttula:

Subject: SB 16 relating to the management of unclaimed real property or escheat land.

Response: Generally okay with me. I would appreciate an inch of leeway to make some exceptions for historic sites or other extraordinary reasons.

Background: During the 13th Session of the Legislature the state's escheat real property statutes were amended to accomplish two primary objectives: (1) management authority was transferred from the Department of Revenue to the Department of Natural Resources. This transfer consolidated land management functions with resultant cost savings. (2) the legislation subjected management proposals for escheated land to a written best interest finding to establish highest and best use.

A telling point in the testimony received during consideration of the legislation was recognition that the Legislature was appropriating funds to purchase land from itself.

On December 31, 1986 the department listed nine escheat properties in its inventory with an approximate value of \$215,000 (see Appendix). Eventual sale of some or all of these parcels may be appropriate. However, as the Legislature recognized last year, the escheat process does turn up parcels that may be more appropriately kept in public ownership. For instance, the Harry C. Robb tract is a 8,000 square foot acre parcel in Talkeetna containing an historic log cabin that has been nominated to the Historic Register by the local community. Sale of this parcel may well not be in the public interest.

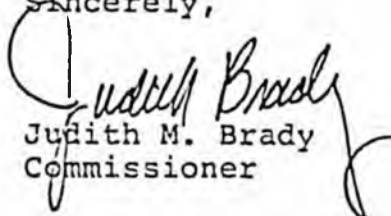
The Honorable Jalmar Kerttula -2-

January 22, 1987

Recommendation: Specifically, the department endorses Sections 1, 4, 5 and 6 of SB 16. We would request that Section 2 be redrafted to state that the legislative intent would be to return these once privately owned parcels to private ownership, but that the Commissioner would retain the discretion to determine when such an action would not be in the public interest. The department supports Section 3 in the main, but again requests that the Commissioner be allowed the discretion to offer substitute parcels of comparable value when appropriate.

Please let me know if I can provide further information or assistance.

Sincerely,


Judith M. Brady
Commissioner

cc: Senator Jan Faiks

DIVISION OF LAND AND NATURAL RESOURCE MANAGEMENT
 ESCHEAT REAL PROPERTY QUARTERLY REPORT
 AS OF DECEMBER 31, 1988

INVENTORY REPORT

<u>ESC #</u>	<u>JUDGEMENT DATE</u>	<u>REGION</u>	<u>FUND CATEGORY</u>	<u>BEST INTEREST REFERRAL DATE</u>	<u>BEST INTEREST FINDING DATE¹</u>	<u>APPRAISAL</u>	<u>COMMENTS</u>
018	8-11-37	NRO	GENERAL ²	NONE ³	NONE	NONE	16 Ac. patented M/C Nome area.
034	5-23-58	SERO	GENERAL ²	NONE ³	NONE	NONE	1/3 interest unpatented Federal M/C
036	9-16-64	NRO	GENERAL ²	NONE ³	NONE	NONE	15 Ac. patented M/C Fairbanks area.
038	6-30-65	SCRO	GENERAL ²	NONE ³	NONE	NONE	City of Seldovia substandard lot.
043	2- 6-78	SCRO	GENERAL ²	NONE ³	NONE	NONE	Talkeetna Townsite lot.
046	1- 3-80	SCRO	TRUST	12- 1-86			Powder Island.
051	3- 6-85	NRO	TRUST	11- 7-86			80 acres Fairbanks area
052	8- 4-86	SERO	TRUST	NONE ⁴	NONE	NONE	House and lot in Sitka.
053	12-11-86	SCRO	TRUST				8 Ac. patented M/C Kenai Peninsula.

¹ AS 38.95.230(a) requires a written best interest finding within two years after judgment of escheat obtained under AS 38.95.220.

² AS 38.95.230(c) identifies escheated real property not otherwise disposed of after seven years of the judgment of escheat as general State land for classification, disposal, and use.

³ None of these properties were obtained under AS 38.95.220 and all had exceeded the seven year limit before DNR given management responsibility.

⁴ An Agreement of Sale was signed for this property on 8-27-75. State succeeded deceased as seller. Purchasers pay \$300/month to Department of Revenue through NBA escrow account.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 16
Publish Date: _____

Revision Date: _____
Title: Unclaimed real property
managements

Agency Affected: Natural Resources
BRU: Land & Water Public Use

Sponsor: Faiks
Requestor: Senate Judiciary

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE		50.0 (?)	50.0 (?)	50.0 (?)	50.0 (?)	50.0 (?)

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Improves existing management of unclaimed real property.
Under aggressive management the program could yield annual revenues in the neighborhood of \$50,000 and the existing inventory has value of approximately \$215,000. Current level of effort is low.

Prepared by: Tom Hawkins
Division: Land and Water Management

Phone: 762-4355
Date: 1/22/87

Approved by Commissioner: *William Brady*
Agency: Natural Resources

Date: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 21, 1987

SUBJECT: Sectional analysis of SB 16
TO: Senator Jay Kerttula, Chair
Senate Judiciary Committee
FROM: Theresa L. Bannister ^{SB}
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, please note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill, and the bill itself is the best statement of its contents.

Section 1 requires the personal representative of an intestate estate to report the unclaimed real property of the estate to the Department of Natural Resources.

Section 2 requires the Department of Natural Resources to sell escheated real property by public auction in the manner provided by the auction sale procedures in AS 38.05.055.

Section 3. Sec. 38.95.240(a) establishes certain procedures and criteria for bringing and maintaining a claim to real property that has escheated to the state, and indicates the types of awards that the court may make.

Sec. 38.95.240(b) states that a successful claimant under Sec. 38.95.240(a) is not entitled to certain benefits that accrue to the state from the real property during the state's possession of the property.

Sec. 38.95.240(c) establishes a special time frame within which minors and incapacitated persons may assert a claim to escheated real property, and defines "incapacitated person".

Sec. 38.95.240(d) states that the other provisions of sec. 3 don't prevent the state from transferring escheated real property when appropriate to a person who proves to be the owner.

Section 4 requires the Department of Natural Resources to deposit and maintain the net proceeds from the sale of escheated real property in a trust account for seven years after the judgment of escheat, and allows the department to use the money in the trust account to pay escheated real property claims.

Section 5 defines "net proceeds".

Section 6 states the real property to which the bill applies.

If I can be of further assistance, please advise.

TLB:mkr
m8/032

January 27, 1987

MEMORANDUM

TO: JAN

FROM: ALEXIS

SUBJECT: PROPOSED COMMITTEE SUBSTITUTES TO SB 16 RE
DISPOSITION OF UNCLAIMED PROPERTY

The attached Committee Substitute addresses four changes to SB 16 which were suggested by committee members at last week's meeting. This CS was not discussed at today's meeting of the Judiciary Committee, but will be scheduled for this Thursday, January 29, 1987.

I am prepared to testify for the bill as follows:

1. The first change to the bill requires that the personal representative of an unclaimed estate notify not only DNR, but BIA, the municipality where the property is located, and, if applicable, the CR&A office that handles municipal trust land.

I have no qualms regarding notice to those, or any other agencies; however, not on those terms. Rather, the property should be reported directly to DNR. Then it should go through an escheat proceeding. Notice could then be given, via standard publication methods (newspaper of general circulation and bulletin board of court building). This would eliminate the need to notify several different agencies, and would provide notice to the public as well. It would also avoid any lag time prior to judgment of escheat, which is a concern I have with the proposed amendment. I have already discussed this with Michael Deman, Principal Planner of SEACAP, and he is in agreement with me, so this should be able to get through the Committee.

*Good
edit
+ complete!*

2. The second proposed amendment allows DNR a 180-day time limit in which to act and allow a historic exception along with a "best interest" exception.

No No!

This proposed amendment, as drafted, does very little to change the current statute, other than to reduce the time period from two years to six months, and is unacceptable. Our intent is that DNR sell the land, and this amendment allows it to do whatever it wants. This may be an error in the CS, as its accompanying memo indicates that the intent of the section is that DNR must sell the land. *yes.*

You responded to questions regarding historical exceptions at last weeks meeting, and were in agreement that DNR must be allowed to make such exceptions. If this is what was meant by the proposed amendment, it should say so! I do not feel that it is adequately reflected in the proposed language, and does not appear to do anymore than shorten the period of time that the Department has to do whatever they want.

Correct analysis

3. The third proposed amendment reflects the possible situation in which an heir appears for property which has been declared an historic exception. In such event, the bill must require that a fair market appraisal of the property be obtained, for purposes of valuation of a claim. I have no problem with that concept, but, again, the language could be more direct.

4. The fourth proposed amendment adopts our own suggestion that there be a time limit on claims brought directly to DNR instead of the court. No problems!

inholdings!

good

yes

February 16, 1987

MEMORANDUM

TO: Bruce
Jack Coghill's Senate Office

FROM: Alexis Gabay
Jan Faiks' Senate Office

SUBJECT: CS to SB 16, An act relating to the disposition
of unclaimed real property

Per our discussion this afternoon, I have drafted language which will amend Section 5 of the CS from the Senate Judiciary Committee and maintain the intent of the bill as follows:

Sec. 5. AS 38.95.230 is repealed and reenacted to read:

Sec. 38.95.230. DISPOSAL OF ESCHEATED REAL PROPERTY BY DEPARTMENT. Within 90 days after a judgment of escheat under AS 38.95.220 and after notice has been given as required under AS 38.05.945, the department shall sell the escheated real property unless the department issues a written finding that the designation of the property as a historic site would be in the best interest of the state. The Historic Sites Advisory Committee shall so designate the property under AS 41.35.

NOTE: The Historic Sites Advisory Committee is a part of the Department of Natural Resources, so there should be no problem with this language.

February 19, 1987

From: Frank Mielke, DNR

To: Bruce Geraghty
Senate Resource Committee Staff

Re: Proposed language change to SB 16

Pursuant to our discussion of yesterday, the following language is suggested regarding section 5 of SB:

Within 90 days after a judgment of escheat under AS 38.95.220 and after notice has been given as required under AS 38.05.945, the department shall sell, lease, exchange, or otherwise transfer the escheated property unless:

- (1) the property is nominated or designated as a historic or archaeological site;
- (2) the land is necessary to provide public access to public land or resources;
- (3) the land is within a legislatively designated area; or
- (4) or if the land would otherwise be acquired for a public purpose, by the state or a political subdivision.

There is no pride in authorship as to the drafting of this proposal, but the intent should be fairly clear.

STATE OF ALASKA



SENATE JUDICIARY COMMITTEE

SEN. JAY KERTTULA
SEN. ARLISS STURGULEWSKI
SEN. RICK HALFORD
SEN. JOE JOSEPHSON
SEN. PAT RODEY

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Sen. 21, 1987

To: Senate Judiciary Members

From: Senate Judiciary Counsel

Re: CS for SB-16 "An Act Relating to the disposition of unclaimed real property interests"

During the first hearing on SB-16 a number of concerns were raised by Committee members and witnesses. We have sought to address these concerns in a proposed Committee Substitute, which is attached for your perusal and comment.

There are four changes in the CS.

First (Page 1, Lines 16-21): This section adds a requirement that the personal representative of an unclaimed estate notify not only DNR, but also notify the BIA, the municipality where the property is located, and, if applicable, the CR&A office that handles municipal trust land. This change was made to cover the concerns expressed by Mr. Michael DeMan, Principal Planner of SEACAP.

Second (Page 1, Lines 22-28): This section manifests an intent that DNR sell the land as proposed by the original bill, but also sets a 180-day time limit in which DNR must act (proposed by Senator Halford) and allows an historic exception along with a "best interest" exception as requested by the Commissioner of DNR.

Third (Page 2, Lines 12-14): This section was added to deal with the situation that could arise if an "unknown heiress" shows up and her property has been disposed of other than by sale or lease. It requires an appraisal so the heiress can get her fair market value out of the state. This was a drafting change-not a committee suggestion.

Fourth (Page 2, Line 29-Page 3, Line 1): This section incorporates Senator Faiks' suggestion that there be a time limit on how long DNR has in which to transfer escheated real property to an unknown heiress. (Note-under the current law there is no time limit on this with DNR while there is a seven-year limit on the courts-therefore the law actually gives DNR significantly more lee-way than the courts in transferring land to an unknown heiress.)

STATE OF ALASKA



W. H. K.

SENATE JUDICIARY COMMITTEE

SEN. JAY KERTTULA
SEN. ARLISS STURGULEWSKI
SEN. RICK HALFORD
SEN. JOE JOSEPHSON
SEN. PAT RODEY

#2

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2-3-87

MEMO: TO SENATE JUDICIARY COMMITTEE MEMBERS

FROM: SENATE JUDICIARY COUNSEL

RE: CSSB-16 AS RE-DRAFTED 2-3-87

There are four changes to CSSB-16 as drafted 1-27-87.

1. Section 1 is changed back to original statute form except for a drafting error. This is simply a section to tell people where to look in the statutes to find information and the statute will be clearer if substantive information is put in one place. There is a drafting error in the statute and that has been changed in the CS.

2. The time in which DNR has to act on escheated property has been cut down from 180 days to 90. DNR Director Tom Hawkins says that this is the minimum time in which DNR can act given notice requirements.

3. Instead of writing a new notice requirement as the original CS did this CS will require notice as given in AS 38.05 245. It should be noted that notice is required under the State Constitution, Article 8, Sec. 10.

4. A section has been added to change AS 38.05.945 to note that it now applies to escheated property and to note that when notice under it is given concerning escheated property the exceptions to the notice requirement (sections e and f, covering mining) do not apply.