

SB

179

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

March 24, 1987

The Honorable Jack Coghill
Chairman, Senator Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

Subject: SB 179, an act relating to the sale of inherited remote parcels.

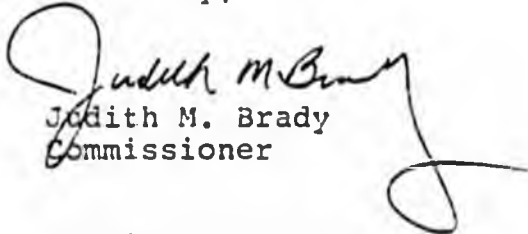
Position: The Department of Natural Resources supports the proposed changes in AS 38.09.100, lessees of remote parcels.

Background: The original drafters of AS 38.09.100, the statute that sets up leasing of remote parcels, did not allow remote parcel leases to be assigned in order to reduce the possibilities for speculation. SB 179 would allow the assignment of a remote parcel lease only in the event of the death of the lessee. The incidents to which this change would apply are few, because the remote parcel program was discontinued in 1983.

Recommendation: The Department of Natural Resources supports the proposed changes in AS 38.09.100.

If you would like additional information or have any questions, please contact my office.

Sincerely,



Judith M. Brady
Commissioner

Committee Members
Bill Sponsors
George Sullivan
Rod Swope

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coqhill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Alistair Sturqulewski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Eason

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

March 30, 1987

To: All Members of the
Senate Resources Committee

From: Committee Staff

Re: SB 179, An act relating to the sale of inherited remote parcels

SB 179 was introduced to correct a problem which currently exists with reference to remote parcel leases. The remote parcel lease program, which has since been repealed, allowed Alaskans to lease state land in a designated remote area. The statutes provided that a remote parcel lease could not be assigned, conveyed or otherwise transferred by the lessee, but that rights to the lease could be transferred by testate or intestate succession.

These restraints on assignment were designed to prevent speculation,

Presently the heirs of a deceased leaseholder can not assign or transfer a remote parcel lease, sometimes a valuable portion of an estate. If the heirs can not use the property and have no ability or desire to prove it up the lease is worthless.

This bill would allow an assignment of a remote parcel lease only in the event of the death of the lessee and would not promote speculation.

DORIS LOENNIG
A PROFESSIONAL CORPORATION
ATTORNEY AT LAW

SUITE 120, 515 SEVENTH AVENUE - FAIRBANKS, ALASKA 99701
907 452-2006

January 14, 1987
(Dictated 1-13-87)

Sen. John B. Coghill, Chairman
Senate Resource Committee
Pouch V (Mail Stop 3100)
Juneau, Alaska 99811

Re: Our file # 13-87-01

Dear Jack:

I am renewing a request which I made in December of 1985, addressed at that time to all of the interior legislators. Copies of this letter to you will likewise be mailed to each of the interior legislators.

For you and the benefit of the other legislators I will review the statements in my letter of December, 1985. I have closed the probate of two persons who were killed tragically at Manley Hot Springs, Alaska. Each had applied for a remote parcel under A.S. 38.05.077, -.078. These two provisions of the statutes, subsequent to their applications, were repealed effective July 1, 1984. However, the proving up and subsequent conveyance of these parcels are still governed by those provisions.

The sole heirs of each of these persons were their respective parents. These parents are of retirement age, and live in the mid-west. At the time of closing the probates, the leasehold interests were assigned to the respective surviving parents.

However, the parents of at least one of the decedents have no means of actually proving up on the property. On the other hand the leasehold is a valuable asset of the estate since there have been improvements placed on the property by the parties before their death. The areas of these remote parcels have now been withdrawn by the State so these parcels are no longer available for re-entry by the public for settlement.

I make reference to A.S. 38.05.077(e) [repealed effective July 1, 1984]:

"A remote parcel lease may not be assigned, conveyed, or otherwise transferred, but rights under the lease may

Senator John Coghill
Re: Our file # 13-87-01

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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) [repealed effective July 1, 1984]:
"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."

My problem, and one that I have discussed with both the Department of Natural Resources and the attorney generals office, is whether once the property becomes vested by testate or intestate succession, can those distributees then proceed to dispose of their interest. The State's answer is "no". It is my understanding that this provision was placed in the statutes by those who were afraid the original bidders would obtain a speculative profit by immediately re-selling the parcel. Re-sale by the parents is for the purpose of preserving their inheritance.

Last year a bill was introduced to modify this provision as Senate Bill Number 368 by Senator Bennett, and was passed by the Senate, but died in the house. The bill provided as follows:

§1. A.S. 38.09.100 is amended by adding a new subsection to read:

(c) Notwithstanding the provisions of former A.S. 38.05.078, the heirs* of a deceased lessee of a remote parcel may sell their interest in the lease of the remote parcel. (* the amendment should read "heirs or devisees")

The original lessee was in position to prove up on the property and had accepted restraint on alienation. The heirs of the original lessee are not necessarily in that same position. There is a changed position; they do not reside in the State; physically they are unable to comply with the requirements of the statute. And it is my position that the State should not have such a strong interest in frustrating

Senator John Coghill
Re: Our file # 13-87-01

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the legislative intent to dispose of State land as to deny the parents their inheritance, due to the changed circumstances with respect to the parents ability to prove up on the property.

Please review my request for the reintroduction of Senate Bill Number 368 in this legislature. It is my understanding that the Department of Natural Resources, at least under the Sheffield administration, was not opposed to the amendment.

Thank you for your attention.

Very truly yours,

DORIS LOENNIG, P.C.

By: 

DORIS LOENNIG

DL:dcn

cc: Mr. and Mrs. Art Mortvedt
General Delivery
Manley Hot Springs, Alaska 99756

Representative Steve Frank
Representative Mike Davis
Representative Nilo Koponen
Senator Bettye Fahrenkamp
Representative Richard Shultz
Senator Don Bennett
Representative Kay Wallis
Pouch V
Juneau, Alaska 99811

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 179

Publish Date: _____

Revision Date: _____

Agency Affected: Natural Resources

Title: An act relating to the sale of
inherited remote parcels

BRU: Land and Water Management

Sponsor: Codhill

Components: _____

Requestor: Senate Resources

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						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

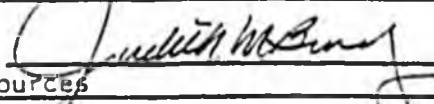
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The Department of Natural Resources anticipates no additional staff time or expenditures associated with this legislation.

Prepared by: Paula Burgess
Division: Land and Water Management

Phone: 465-3400
Date: 3/24/87

Approved by Commissioner: 
Agency: Natural Resources

Date: 3/24/87

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