



# LAWS OF ALASKA

1990

**Source**

SCS CSHB 128(Fin)

**Chapter No.**

124

**AN ACT**

Relating to state oil and gas and geothermal leasing practices and adjustments of state royalties to encourage commercial production.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 14, 1990  
Actual Effective Date: September 12, 1990

## AN ACT

Relating to state oil and gas and geothermal leasing practices and adjustments of state royalties to encourage commercial production.

\* Section 1. AS 38.05.035(e) is amended to read:

(e) Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property or interests in them, and, in addition to the conditions and limitations imposed by law, may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. A written finding for an oil and gas lease sale under AS 38.05.180 is subject to (g) of this section. A contract for the sale, lease, or other disposal of available land or an interest in land is not legally binding on the state until the commissioner approves the contract but if the appraised value is not greater than \$50,000 in the case of the sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or interest in land, the director may execute the contract without the approval of the commissioner. Before a public hearing, if held, or in any case no less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them, the director shall make available to the public a written finding that sets out the

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1 facts and applicable law upon which the determination that the sale,  
2 lease, or other disposal will best serve the interests of the state  
3 was based. A written finding is not required before the approval of

4 (1) a contract for a negotiated sale authorized under  
5 AS 38.05.115;

6 (2) a lease of land for a shore fishery site under AS 38.-  
7 05.082;

8 (3) a permit or other authorization revocable by the com-  
9 missioner;

10 (4) a mineral claim located under AS 38.05.195;

11 (5) a mineral lease issued under AS 38.05.205; [OR]

12 (6) a production license issued under AS 38.05.207; [OR]

13 (7) an exempt oil and gas sale under AS 38.05.180(d) of  
14 acreage offered in a sale that was held within the previous five years  
15 if the sale was subject to [FOR WHICH] a written best interest find-  
16 ing, [HAS BEEN ISSUED FOR THE AREA OF THE SALE WITHIN THE 36 MONTHS  
17 BEFORE THE DATE OF THE SALE] unless the commissioner determines that  
18 new information has become available that justifies a revision of the  
19 best interest finding; or

20 (8) a lease sale under AS 38.05.180(w) of acreage offered  
21 in a sale that was held within the previous five years if the sale was  
22 subject to a best interest finding, unless the commissioner determines  
23 that new information has become available that justifies a revision of  
24 the best interest finding.

25 \* Sec. 2. AS 38.05.035 is amended by adding a new subsection to read:

26 (g) When the director prepares a written finding required under  
27 (e) of this section for an oil and gas lease sale scheduled under  
28 AS 38.05.180, the director shall consider and discuss in the finding

29 (1) facts that are known to the director at the time of

1 preparation of the finding and that are material to the following  
2 matters or to issues that were raised during the period allowed for  
3 receipt of public comment:

4 (A) property descriptions and locations;

5 (B) the petroleum potential of the sale area, in  
6 general terms;

7 (C) fish and wildlife species and their habitats in  
8 the area;

9 (D) the current and projected uses in the area, in-  
10 cluding uses and value of fish and wildlife;

11 (E) the governmental powers to regulate oil and gas  
12 exploration, development, production, and transportation;

13 (F) the reasonably foreseeable cumulative effects of  
14 oil and gas exploration, development, production, and transporta-  
15 tion on the sale area, including effects on subsistence uses,  
16 fish and wildlife habitat and populations and their uses, and  
17 historic and cultural resources;

18 (G) lease stipulations and mitigation measures, in-  
19 cluding any measures to prevent and mitigate releases of oil and  
20 hazardous substances, to be included in the leases, and a dis-  
21 cussion of the protections offered by these measures;

22 (H) the method or methods most likely to be used to  
23 transport oil or gas from the lease sale area, and the advan-  
24 tages, disadvantages, and relative risks of each;

25 (I) the reasonably foreseeable fiscal effects of the  
26 lease sale and the subsequent activity on the state and affected  
27 municipalities and communities, including the explicit and im-  
28 plicit subsidies associated with the lease sale, if any;

29 (J) the reasonably foreseeable effects of oil and gas

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1 exploration, development, production, and transportation on  
2 municipalities and communities within or adjacent to the lease  
3 sale area; and

4 (K) the bidding method or methods adopted by the  
5 commissioner under AS 38.05.180;

6 (2) a summary of agency and public comments received and  
7 the department's responses to those comments; and

8 (3) the basis for the director's determination that, on  
9 balance, leasing the area would be in the state's best interest.

10 \* Sec. 3. AS 38.05.180(j) is amended to read:

11 (j) To prolong the economic life of an oil and gas field or to  
12 reestablish commercial production of shut-in oil or gas that would not  
13 otherwise be economically feasible, the commissioner shall adopt  
14 regulations [FOR ALL BIDDING METHODS] to allow reduction of royalty on  
15 leases [WITHIN THE FIELD TO COMPENSATE FOR INCREASING COSTS IN THE  
16 LATER STAGES OF PRODUCTION DECLINE]. The commissioner may not grant a  
17 reduction of royalty unless the [UNTIL TWO YEARS' INITIAL PRODUCTION  
18 FROM THE FIELD HAS OCCURRED AND EACH] lessee requesting the reduction  
19 makes [HAS MADE] a clear showing that the revenue from the lessee's  
20 share of all hydrocarbons produced from the field is and is likely to  
21 continue to be insufficient to produce a reasonable rate of return  
22 with respect to the [THAT] lessee's total investment in the field.  
23 The commissioner may condition a royalty reduction granted under this  
24 subsection in any way necessary to protect the state's interest,  
25 including restoration of the state's royalty share in the event of an  
26 increase in the price of oil or gas. Before approving a royalty  
27 reduction, the commissioner shall make a written finding that the  
28 state has obtained the maximum possible economic return that is com-  
29 patible with allowing a reasonable rate of economic return for the

1 lessee, and send copies of the finding to all members of the legisla-  
2 ture.

3 \* Sec. 4. AS 38.05.180(w) is amended to read:

4 (w) Notwithstanding any other provisions of this section, land  
5 which has been offered for lease within the previous five years and  
6 which received no bids at competitive sale or for which no bid was  
7 accepted may be, at the discretion of the commissioner, immediately  
8 offered for lease, under regulations adopted by the commissioner, upon  
9 terms appearing most advantageous to the state; however, noncompeti-  
10 tive leasing is prohibited. The commissioner shall establish a royal-  
11 ty determined to be in the public interest but not less than 12 1/2  
12 percent. A lease must provide for payment to the state or rental but  
13 need not adhere to the rental schedule in (n) of this section nor to  
14 the 5,760-acres-per-lease limitation in (m) of this section. The  
15 lease term may not exceed 10 [FIVE] years, except as provided in (m)  
16 and (o) of this section.

17 \* Sec. 5. AS 38.05.945(c) is amended to read:

18 (c) Notice [EXCEPT FOR OIL AND GAS LEASING UNDER AS 38.05.180  
19 AND GEOTHERMAL LEASING UNDER AS 38.05.181, NOTICE] at least 30 days  
20 before action under (a) of this section shall also be given to the  
21 following:

22 (1) to a municipality if the land is within the boundaries  
23 of the municipality, to a coordinating body established by community  
24 councils in a municipality if the coordinating body or a community  
25 council within the area served by a coordinating body requests notice  
26 in writing; if there is no coordinating body within the municipality,  
27 notice shall be provided to each community council established by the  
28 charter or ordinance of the municipality if the land is located within  
29 the boundaries of the municipality and if the community council

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1 requests notice in writing;

2 (2) to a regional corporation if the boundaries of the  
3 corporation as established by sec. 7(a) of the Alaska Native Claims  
4 Settlement Act encompass the land and the land is outside a municipal-  
5 ity;

6 (3) to a village corporation organized under sec. 8(a) of  
7 the Alaska Native Claims Settlement Act if the land is within 25 miles  
8 of the village for which the corporation was established and the land  
9 is located outside a municipality;

10 (4) to the postmaster of a permanent settlement of more  
11 than 25 persons located within 25 miles of the land if the land is  
12 located outside a municipality, with a request that the notice be  
13 posted in a conspicuous location;

14 (5) to a nonprofit community organization or a governing  
15 body that has requested notification in writing and provided a map of  
16 its boundaries, if the land is within the boundaries.