

CHAPTER 227

NATURAL RESOURCES

SENATE BILL 97-049

BY SENATORS Wattenberg, Alexander, Ament, Bishop, Chlouber, Dennis, Johnson, Norton, and Powers;
also REPRESENTATIVES George, Schwarz, Entz, Epps, Taylor, and Udall.

AN ACT

CONCERNING ENHANCING THE STABILITY OF LEASES FOR AGRICULTURALLY RELATED USES ON STATE TRUST LAND, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 36-1-118 (1), (4), and (5), Colorado Revised Statutes, 1990 Repl. Vol., are amended, and the said 36-1-118 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

36-1-118. Terms of leasing - renewals - sale of leased land. (1) (a) The public lands of the state may be leased by the state board of land commissioners in such manner and to such persons as will ~~produce an optimum long-term revenue~~ BE CONSISTENT WITH ARTICLE IX OF THE CONSTITUTION OF THE STATE OF COLORADO. ~~No~~ A lease of ~~such~~ lands for grazing or agricultural purposes shall be for a ~~longer~~ period ~~than~~ OF ten years UNLESS AN ALTERNATE TERM IS AGREED TO BY THE BOARD AND THE LESSEE.

(b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), in determining ~~the maximum benefit to the state in~~ the renewal of any expiring lease, the board shall consider, among other things, the care and use given the land and the development work done by the lessee in conserving and promoting the productivity thereof and in promoting ~~optimum long-term revenue for school purposes and the classification, location, and contribution to the unit controlled by the lessee~~ BENEFIT FOR THE TRUSTS.

(II) IN DETERMINING THE RENEWAL OR TERMINATION OF AN EXPIRING AGRICULTURAL OR GRAZING LEASE, OR THE SALE OR EXCHANGE OF LAND FOR AGRICULTURAL OR GRAZING PURPOSES, THE BOARD SHALL CONSIDER THE BENEFIT THAT CONTINUED AGRICULTURAL AND GRAZING USE OF THE LAND CONTRIBUTES TO

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THE PURPOSES OF THE RESPECTIVE TRUSTS BY THE PRESERVATION OF THE STABILITY OF THE LOCAL COMMUNITY, THE REVENUE PROVIDED FOR TRUST PURPOSES, AND THE LESSEE'S STEWARDSHIP OF THE LAND.

(c) Before land is leased to anyone other than the present lessee FOR AGRICULTURAL OR GRAZING USES, ~~said~~ THE present lessee shall be given ten days' notice ~~and an opportunity during the ten days to negotiate~~ TO BEGIN NEGOTIATIONS AND NINETY DAYS TO COMPLETE NEGOTIATIONS with the state board of land commissioners concerning a new lease. THE BOARD SHALL NOT LEASE LAND THAT IS BEING LEASED FOR AGRICULTURAL OR GRAZING USES TO ANYONE OTHER THAN THE PRESENT LESSEE FOR AGRICULTURAL OR GRAZING USES UNLESS THE BOARD AND LESSEE FAIL TO AGREE ON LEASE TERMS, THE PRESENT LESSEE DOES NOT WISH TO RENEW HIS OR HER LEASE, OR THE PRESENT LESSEE HAS FAILED TO COMPLY WITH ANY PROVISION OF THE LEASE. IF THE LAND WILL NOT CONTINUE TO BE LEASED FOR AGRICULTURAL OR GRAZING PURPOSES, THE BOARD SHALL FIND THAT THE BENEFIT OF CONTINUED AGRICULTURAL AND GRAZING USE OF THE LAND IS OUTWEIGHED BY THE BENEFIT THAT WILL BE PROVIDED BY THE NEW USE AND THAT CONTINUED AGRICULTURAL OR GRAZING USE IS INCOMPATIBLE WITH OTHER PURPOSES FOR WHICH THE LAND IS TO BE LEASED.

(d) FOR AGRICULTURAL OR GRAZING LEASES EXPIRING ON OR AFTER JULY 1, 1998, THE BOARD SHALL PROVIDE THE LESSEE WITH WRITTEN NOTICE, ONE YEAR PRIOR TO THE EXPIRATION OF SUCH LEASE, OF ITS INTENT NOT TO RENEW THE LEASE FOR AGRICULTURAL OR GRAZING USES.

(4) (a) The board may, in its discretion, offer for sale any land leased at any time during the term of the lease as though said lease had not been executed, or it may withdraw such land from sale during the full term of the lease; EXCEPT THAT THE BOARD MAY NOT SELL OR EXCHANGE LAND SUBJECT TO A LEASE FOR AGRICULTURAL OR GRAZING PURPOSES DURING THE TERM OF THE LEASE UNLESS THE BOARD COMPLIES WITH THE REQUIREMENTS OF PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION AND PARAGRAPH (b) OF THIS SUBSECTION (4). THE BOARD SHALL SUBJECT THE SALE OR EXCHANGE OF LAND CURRENTLY LEASED FOR AGRICULTURAL OR GRAZING PURPOSES TO THE CONTINUATION OF THE TERMS OF THE CURRENT LEASE UNLESS THE LESSEE AGREES OTHERWISE, THE BOARD OR THIRD PARTY BUYS OUT THE LEASE AT A PRICE EQUAL TO THE CURRENT YEAR'S LEASE RATE FOR EACH YEAR, OR FRACTION THEREOF, REMAINING IN THE LEASE, OR UNLESS SUBJECTING THE SALE OR EXCHANGE OF SUCH LAND TO THE CURRENT LEASE TERMS WOULD VIOLATE ARTICLE IX OF THE CONSTITUTION OF THE STATE OF COLORADO. IN ANY EVENT, THE BOARD MAY CANCEL OR TERMINATE THE LEASE ON LAND SUBJECT TO THE LEASE UP TO A TOTAL OF EIGHTY ACRES DURING THE TERM OF THE LEASE WITHOUT PAYMENT AS LONG AS SUCH CANCELLATION OR TERMINATION IS DONE IN COMPLIANCE WITH PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION.

(b) IF THE BOARD DETERMINES THAT ALL OR A PORTION OF LAND BEING LEASED FOR AGRICULTURAL OR GRAZING PURPOSES MAY BE OFFERED FOR SALE OR NON-SIMULTANEOUS EXCHANGE, AND IF THE AGRICULTURAL OR GRAZING LESSEE IS IN COMPLIANCE WITH THE PROVISIONS OF THE LEASE, AND IF THE LESSEE IS IN ATTENDANCE OR REPRESENTED ON THE DAY OF SALE OR AT THE BID OPENING FOR NON-SIMULTANEOUS EXCHANGE OF THE LAND, THE LESSEE MAY EXERCISE HIS OR HER RIGHTS PURSUANT TO THIS PARAGRAPH (b) TO MATCH THE HIGHEST BID RECEIVED.

THE LESSEE SHALL HAVE THE RIGHT TO OFFER MATCHING BIDS UNTIL SUCH TIME AS THE HIGH BIDDER REFUSES TO RAISE THE BID OR UNTIL THE LESSEE DECIDES NOT TO MATCH THE BID, WHICHEVER FIRST OCCURS. IF THE SUCCESSFUL BIDDER FAILS TO COMPLY WITH THE TERMS OF THE SALE OR NON-SIMULTANEOUS EXCHANGE, THE NEXT-HIGHEST BIDDER SHALL BE OFFERED THE LAND WITHOUT FURTHER AUCTION PROCESS.

(5) The board ~~has power to~~ MAY cancel and terminate any lease at any time if it finds that a lessee has violated any of the provisions of the lease or made any false statement in ~~his~~ THE application therefor.

(7) THE BOARD MAY CANCEL AND TERMINATE ANY LEASE OR OTHER USE OF STATE LANDS PROCURED THROUGH FRAUD, DECEIT, OR MISREPRESENTATION.

SECTION 2. Article 1 of title 36, Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

36-1-118.3. Immunity from civil liability. A LESSEE OF PUBLIC TRUST LANDS AND THE LESSEE'S AGENTS AND EMPLOYEES ARE IMMUNE FROM CIVIL LIABILITY FOR OR ON ACCOUNT OF DAMAGES OR INJURIES TO ANY PERSON RESULTING FROM THE BOARD'S ALLOWING ACCESS TO THE LEASED TRUST LAND BY THE PUBLIC FOR RECREATIONAL OR WILDLIFE PURPOSES WITHOUT THE LESSEE'S APPROVAL SO LONG AS THE DAMAGES OR INJURIES ARE NOT THE RESULT OF LESSEE'S OR LESSEE'S AGENTS OR EMPLOYEES WILLFUL OR WANTON CONDUCT OR GROSS NEGLIGENCE. ASSENT BY THE LESSEE TO ANY PLAN APPROVED BY THE BOARD THAT ALLOWS ACCESS OVER WHICH THE LESSEE HAS NO CONTROL, DOES NOT CONSTITUTE APPROVAL BY THE LESSEE.

SECTION 3. 36-1-119, Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

36-1-119. Purchase of improvements. (1) Should anyone ~~apply to~~ lease, PURCHASE, OR RECEIVE THROUGH AN EXCHANGE any of the lands belonging to the state upon which there are AUTHORIZED improvements belonging to ~~another party~~ THE LESSEE, THE NEW OWNER OR NEW LESSEE SHALL PAY THE FORMER LESSEE FOR SUCH AUTHORIZED IMPROVEMENTS. Before a lease shall issue OR BEFORE TITLE TO THE LAND IS CONVEYED OR EXCHANGED, ~~he~~ THE NEW OWNER OR NEW LESSEE shall file in the office of the state board of land commissioners a receipt showing that the ~~price~~ VALUE of the improvements, as agreed upon by the parties or ~~fixed~~ ESTABLISHED by the state board, has been paid to the owner thereof in full or shall make satisfactory proof that he OR SHE has tendered to such owner the ~~price~~ VALUE of the improvements so agreed upon or ~~fixed~~ ESTABLISHED by the board. ~~If, by any mistake or error, any money has been paid on account of any sale or lease of state lands, it is the duty of the board to draw a voucher in favor of the party paying said money. On presentation of the voucher, the controller shall draw his warrant upon the state treasurer for the amount, and the state treasurer shall pay the same out of the fund into which such money was deposited or placed. If, through any fraud, deceit, or misrepresentation, any party procures the issuing of any lease for state lands, the board has the authority to cancel any such lease.~~

(2) SHOULD THE STATE BOARD TERMINATE OR CANCEL A LEASE OF STATE LANDS

UPON WHICH THERE ARE AUTHORIZED IMPROVEMENTS BELONGING TO THE LESSEE, THE BOARD SHALL PAY THE VALUE OF THE AUTHORIZED IMPROVEMENTS ESTABLISHED BY THE BOARD TO THE LESSEE SUBJECT TO AVAILABLE FUNDING FOR SUCH PURPOSE AND SUBJECT TO THE LESSEE HAVING SATISFIED ALL OUTSTANDING OBLIGATIONS TO THE STATE IN RELATION TO THE LEASE, OR UNLESS OTHERWISE AGREED TO BY THE LESSEE, OR UNLESS THE VALUE OF THE AUTHORIZED IMPROVEMENTS IS PAID BY A THIRD PARTY.

SECTION 4. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the land board administration fund not otherwise appropriated, to the department of natural resources, for the fiscal year beginning July 1, 1997, the sum of eight thousand five hundred forty-one dollars (\$8,541), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 1997, the sum of eight thousand five hundred forty-one dollars (\$8,541), or so much thereof as may be necessary, for the provision of legal services to the department of natural resources for the purposes of this act. Such sum shall be from cash funds received from the land board out of the appropriation made in subsection (1) of this section.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 28, 1997