

SENATE CS FOR CS FOR HOUSE BILL NO. 109(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 5/8/97

Referred: Rules

Sponsor(s): REPRESENTATIVE THERRIAULT

SENATORS Pearce, Mackie, Taylor, Miller

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the management and disposal of state land and resources;
2 relating to certain remote parcel and homestead entry land purchase contracts and
3 patents; and providing for an effective date."

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

5 * **Section 1.** AS 09.10.120 is amended by adding a new subsection to read:

6 (b) Notwithstanding (a) of this section or any other provision of law, the state
7 may bring an action in the name of or for the benefit of the state to (1) quiet or
8 confirm the state's interests in real property, or (2) protect resources held in trust for
9 the public, at any time.

10 * **Sec. 2.** AS 38.04.010(b) is amended to read:

11 (b) State land that is located beyond the range of existing schools and other
12 necessary public services, or that is located where development of sources of
13 employment is improbable, may be made available for seasonal recreational purposes
14 or for low density settlement. The seasonal recreation use or low density settlement

1 shall have sufficient separation between residences so that public services will not be
 2 necessary or expected. The availability of timber, firewood, and water resources shall
 3 be considered in determining separation between residences. By considering the
 4 availability of timber, firewood, and water under this subsection or in making any
 5 disposal decision, the state does not by virtue of that consideration imply any
 6 right of the person receiving the disposal to an exclusive or other right to the
 7 timber, firewood, or water, that the state will not make any other disposals in the
 8 area, or that any disposals made will be limited in type or any other manner.

9 * **Sec. 3.** AS 38.04.020(h) is amended to read:

10 (h) Individual parcels disposed of in subdivisions intended for private
 11 residential or recreational use may not exceed five acres unless the commissioner
 12 determines that a larger size is necessary to comply with municipal ordinances; [,] to
 13 permit the design of a viable subdivision because of topographical features, soil
 14 conditions, on-site sewage disposal requirements, or water drainage or supply
 15 considerations that are unique to the subdivision; to increase the return to the state
 16 from the sale of the parcels; [,] to minimize adverse effect on wildlife, fishery, public
 17 recreation, timber, or other significant resources in the area; [,] or to minimize adverse
 18 effect on other residential uses in the area.

19 * **Sec. 4.** AS 38.04.020(i) is amended to read:

20 (i) Nothing in this section prevents the disposal of other land by the
 21 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of
 22 remote recreational cabin site leases or sales [PERMITS] under AS 38.05.600
 23 [AS 38.05.079], AS 38.08, AS 38.09, or other law.

24 * **Sec. 5.** AS 38.04.022(a) is amended to read:

25 (a) The revenue from the sale of state land shall be deposited in a special state
 26 land disposal income account in the state general fund. The legislature may
 27 appropriate money from the special state land disposal income account for expenditure
 28 by the Department of Natural Resources for necessary costs incurred by the
 29 commissioner in the implementation of state land disposal programs authorized under
 30 this title [AND FOR IMPLEMENTATION OF AS 38.04.021].

31 * **Sec. 6.** AS 38.04.035 is amended to read:

1 Sec. 38.04.035. Criteria for program selection. In determining which land
2 availability program is appropriate for state land in different locations, the director
3 shall be guided by the following criteria:

4 (1) to cover public costs associated with private land use and to provide
5 the public with a fair return for publicly owned property, conveyance of state land to
6 private parties shall [SHOULD] be at fair market value except where otherwise
7 authorized by statute, or by an administrative regulation the adoption of which is
8 specifically permitted by statute;

13 (3) sale programs are preferred but lease programs may [SHOULD] be
14 used

15 (A) where special land use controls are required and there is a
16 high public interest in having certain types of land used for particular purposes;

(B) when the intended use is a temporary one;

18 (C) in commercial or industrial situations when a leasehold can
19 provide cash flow advantages to the lessee;

20 (D) when a unique location with special public values is
21 involved, as in a deep water port, hydroelectric site, or aquaculture facility;

22 (E) where current demand for private use is high, but
23 projections suggest that, in the future, the land may be more valuable for public
24 use, as in accessible waterfront recreation areas:

25 (4) [FOR ENABLING ISOLATED CABIN DEVELOPMENT IN
26 REMOTE LOCATIONS WHERE SURVEY AND CONVEYANCE IS
27 IMPRACTICAL, OR WHERE DISPOSAL OF LAND WOULD CAUSE POTENTIAL
28 CONFLICTS WITH OTHER RESOURCES AND USES, OR WHERE A LONG-
29 RANGE INTEREST IN PUBLIC OWNERSHIP AND USE EXIST, A SYSTEM FOR
30 CABIN PERMITS ON PUBLIC LAND MAY BE USED:

31 (5)] limited or conditional title may be granted when the state's best

1 interest so dictates; among other things, title limitations may include grants of
2 agricultural interest only, retention of development rights, and retention of scenic or
3 other easements; a conditional title may be tied to a development schedule or other
4 standards of performance.

5 * **Sec. 7.** AS 38.04.045(b) is amended to read:

6 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
7 for state land, an official cadastral survey shall be accomplished, unless a comparable,
8 approved survey exists that has been conducted by the federal Bureau of Land
9 Management. Before land may be offered under AS 38.08 or AS 38.09, or before land
10 may be offered under AS 38.05.055 or 38.05.057, except land that is classified for
11 agricultural uses, an official rectangular survey grid shall be established. The
12 rectangular survey section corner positions shall be monumented and shown on a
13 cadastral survey plat approved by the state. For those areas where the state may wish
14 to convey surface estate outside of an official rectangular survey grid, the
15 commissioner may waive monumentation of individual section corner positions and
16 substitute an official control survey with control points being monumented and shown
17 on control survey plats approved by the state. The commissioner may not issue more
18 than one conveyance for each section within a township outside of an official
19 rectangular survey grid. Land to be conveyed may not be located more than two miles
20 from an official survey control monument except that the commissioner may waive this
21 requirement on a determination that a single purpose use does not justify the
22 requirement if the existing status of the land is known with reasonable certainty. The
23 lots and tracts in state subdivisions shall be monumented and the cadastral survey and
24 plats for the subdivision shall be approved by the state. Where land is located within
25 a municipality with planning, platting, and zoning powers, plats for state subdivisions
26 shall comply with local ordinances and regulations in the same manner and to the same
27 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
28 and recorded in the district recorder's office. The requirements of this section do not
29 apply to land made available [THROUGH A CABIN PERMIT SYSTEM,] for material
30 sales, for short-term leases, for parcels adjoining a surveyed right-of-way, or for land
31 that has been open to random staking under the [REMOTE PARCEL PROGRAM OR]

1 homestead program in the past; however, for short-term leases, the lessee shall comply
 2 with local subdivision ordinances unless waived by the municipality under procedures
 3 specified by ordinance. In this subsection, "a single purpose use" includes a
 4 communication site, an aid to navigation, and a park site.

5 * **Sec. 8.** AS 38.04.065(h) is amended to read:

6 (h) Before the commissioner adopts a regional land use plan, a land
 7 classification may be made on the basis of a site-specific land use plan [, EXCEPT A
 8 CLASSIFICATION FOR A LAND DISPOSAL UNDER AS 38.05.057, AS 38.08, OR
 9 AS 38.09]. After adoption of a regional land use plan, land classifications shall be
 10 made under the plan.

11 * **Sec. 9.** AS 38.05.050 is amended to read:

12 **Sec. 38.05.050. Disposal of land for private ownership.** The commissioner
 13 shall determine the land to be disposed of for private use. The commissioner shall
 14 determine the time and place of disposal. An auction sale, a lottery sale, or a disposal
 15 of land for homesites may [SHALL] be held in a community that is near the land to
 16 be sold or disposed of.

17 * **Sec. 10.** AS 38.05.055 is amended to read:

18 **Sec. 38.05.055. Auction sale procedures.** Unless another method of sale is
 19 required under this chapter, [AS 38.07, OR] AS 38.08, or AS 38.09, the sale of state
 20 land shall be made at public auction to the highest qualified bidder as determined by
 21 the director. The director may accept bids and sell state land under this section at no
 22 less than 70 percent of the appraised fair market value of the land. To qualify to
 23 participate under this section in a public auction of state land that is other than
 24 commercial, industrial, or agricultural land, a bidder shall have been a resident of the
 25 state for at least one year immediately preceding the date of the auction and submit
 26 proof of that fact, as the commissioner requires by regulation. [A BIDDER MUST
 27 APPEAR IN PERSON AT THE AUCTION UNLESS MEDICAL REASONS,
 28 ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE THE STATE
 29 PREVENT ATTENDANCE.] A bidder may be represented by an attorney or agent
 30 at the auction [IF THE LAND OFFERED FOR DISPOSAL IS COMMERCIAL,
 31 INDUSTRIAL, OR AGRICULTURAL LAND]. An aggrieved bidder may appeal to

1 the commissioner within five days after the sale for a review of the director's
2 determination. The sale shall be conducted by the director, and, at the time of sale,
3 the successful bidder shall deposit an amount equal to five percent of the purchase
4 price. The director shall immediately issue a receipt containing a description of the
5 land or property purchased, the price bid, and the amount deposited. The receipt shall
6 be acknowledged in writing by the bidder.

7 * Sec. 11. AS 38.05.057(a) is amended to read:

(a) The commissioner may dispose of land, including land limited to use for agricultural purposes, by lottery. The purchase price of land sold by lottery shall be the fair market value of the land as determined by the commissioner. The commissioner may sell land by lottery for less than the fair market value of the land on a determination that scarcity of land for private use in the area of the land to be sold has resulted in unrealistic land values. [THE COMMISSIONER SHALL CONSULT WITH THE ASSESSOR OF A MUNICIPALITY BEFORE DETERMINING THE PURCHASE PRICE FOR LAND THAT IS LOCATED IN THE MUNICIPALITY AND THAT IS TO BE SOLD UNDER THIS SECTION.] The lottery shall be conducted in public by the commissioner. A [AN APPLICANT MAY NOT BE SELECTED TO PURCHASE LAND UNLESS THE APPLICANT IS PRESENT ON THE DATE AND AT THE PLACE THAT THE LOTTERY IS CONDUCTED UNLESS MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE THE STATE PREVENT ATTENDANCE. AN APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL LAND. ON THE DAY OF THE LOTTERY A] purchaser selected by lot shall deposit an amount equal to five percent of the purchase price **within 30 days after receiving notification of the selection.**

27 * Sec. 12. AS 38.05.065(a) is amended to read:

(a) The contract of sale for land sold at public auction under AS 38.05.055 shall require the remainder of the purchase price to be paid in monthly, quarterly, or annual installments over a period of not more than 20 years, with interest at the [PREVAILING] rate **provided in (i) of this section** [FOR REAL ESTATE]

1 MORTGAGE LOANS MADE BY THE FEDERAL LAND BANK FOR THE FARM
 2 CREDIT DISTRICT FOR ALASKA AT THE TIME THE CONTRACT IS SIGNED].
 3 Installment payments plus interest shall be set on the level-payment basis.

4 * **Sec. 13.** AS 38.05.065(b) is amended to read:

5 (b) The contract of sale for land sold under AS 38.05.057 or under former
 6 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
 7 quarterly, or annual installments over a period of not more than 20 years. Installment
 8 payments plus interest shall be set on the level-payment basis. The interest rate to be
 9 charged on installment payments is the [PREVAILING] rate **provided in (i) of this**
 10 **section** [FOR REAL ESTATE MORTGAGE LOANS MADE BY THE FEDERAL
 11 LAND BANK FOR THE FARM CREDIT DISTRICT FOR ALASKA AT THE TIME
 12 THE CONTRACT IS SIGNED].

13 * **Sec. 14.** AS 38.05.065 is amended by adding a new subsection to read:

14 (i) The interest rate for contracts under this section is the prime rate as
 15 reported in the Wall Street Journal on the first business day of the month in which the
 16 contract is sent to the purchaser for signature, plus three percent; however, the total
 17 rate of interest may not exceed

18 (1) 9.5 percent, in contracts for the sale of land classified under
 19 AS 38.05.020(b)(6) for agricultural uses; or

20 (2) 13.5 percent, in other contracts for the sale of land.

21 * **Sec. 15.** AS 38.05.067(d) is amended to read:

22 (d) This section does not apply to the sale of state land under **AS 38.05.057,**
 23 **AS 38.08, or** [AS 38.04.020(g)(2) AND] AS 38.09.

24 * **Sec. 16.** AS 38.05.069(e)(2) is repealed and reenacted to read:

25 (2) "adjacent" means that a tract of land has one common boundary
 26 point with presently held land or is separated from the presently held land only by a
 27 physical barrier such as a road or stream.

28 * **Sec. 17.** AS 38.05.075(a) is amended to read:

29 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, [38.05.079,]
 30 38.05.082, 38.05.083, 38.05.087, 38.05.102, **38.05.600,** 38.05.810, and this section,
 31 leasing shall be made at public auction to the highest qualified bidder as determined

1 by the commissioner. In the public notice of a lease to be offered at public auction,
 2 the commissioner shall specify a minimum acceptable bid and the lease compensation
 3 method. The lease compensation method shall be designed to maximize the return on
 4 the lease to the state and shall be a form of compensation set out in AS 38.05.073(m).
 5 An aggrieved bidder may appeal to the commissioner within five days for a review of
 6 the determination. The leasing shall be conducted by the commissioner and the
 7 successful bidder shall deposit at the auction the first year's rental or other lease
 8 compensation as specified by the commissioner, or that portion of it that the
 9 commissioner requires in accordance with the bid. The commissioner shall require,
 10 under AS 38.05.860, qualified bidders to deposit a sum equal to any survey or
 11 appraisal costs reasonably incurred by another qualified bidder acting in accordance
 12 with the regulations of the commissioner or incurred by the department under
 13 AS 38.04.045 and AS 38.05.840. If a bidder making a deposit of survey or appraisal
 14 costs is determined by the commissioner to be the highest qualified bidder under this
 15 subsection, the deposit shall be paid to the unsuccessful bidder who incurred those
 16 costs or to the department if the department incurred the costs. All costs for survey
 17 and appraisal shall be approved in advance in writing by the commissioner. The
 18 commissioner shall immediately issue a receipt containing a description of the land or
 19 interest leased, the price bid, and the terms of the lease to the successful qualified
 20 bidder. If the receipt is not accepted in writing by the bidder under this subsection,
 21 the commissioner may offer the land for lease again under this subsection. A lease,
 22 on a form approved by the attorney general, shall be signed by the successful bidder
 23 and by the commissioner within the period specified in the auction notice.

24 * **Sec. 18.** AS 38.05.075(c) is amended to read:

25 (c) The owner or lessee of land that fronts on shoreland, tideland, [TIDE] or
 26 submerged land of the state may be granted a preference right to [IS ENTITLED
 27 TO ACQUIRE] a lease for the shoreland, tideland, or [TIDE AND] submerged land
 28 without competitive bidding if the director determines that

29 (1) the lease of the shoreland, tideland, [TIDE] or submerged land is
 30 necessary to facilitate water transportation of goods, services, or resources to or from
 31 the owned or leased upland or for another water-dependent purpose;

(2) the proposed use of the **shoreland, tideland**, [TIDE] or submerged land is compatible with the classification of the land and with any applicable land use plan adopted under AS 38.04.065; and

(3) issuance of the lease to the shoreland, tideland, [TIDE] or submerged land will not interfere with prior existing rights to the leased land.

* **Sec. 19.** AS 38.05.075(d) is amended to read:

(d) If the commissioner issues a lease under (c) of this section, the right of access to the **shoreland, tideland, or** [TIDE AND] submerged land shall be nonexclusive in the lessee unless the commissioner grants the lessee the exclusive right to use the **shoreland, tideland, or** [TIDE AND] submerged land.

* **Sec. 20.** AS 38.05.083 is repealed and reenacted to read:

Sec. 38.05.083. Aquatic farming and hatchery site leases. (a) The commissioner may offer to the public for lease at public auction under AS 38.05.075 or by negotiation under AS 38.05.070 a site for aquatic farming or related hatchery operations. Before a final decision to issue or renew a lease under this section, the commissioner shall give notice and allow opportunity for comment in accordance with AS 38.05.945 and may hold a hearing to take testimony. Before a final decision to issue or renew a lease under this section, the commissioner shall consider all relevant comment or testimony submitted under this section, AS 38.05.945, or 38.05.946.

(b) The commissioner, for good cause, may deny an application for issuance or renewal of a lease under this section but shall provide the applicant with written findings that explain the reasons for the denial.

(c) A site may be leased under this section for not less than the appraised fair market value of the lease. The value of the lease shall be reappraised every five years.

(d) A lease under this section may be assigned, but, if the assignee changes the use of the site, the lease reverts to the state.

(e) Before entering into a lease under this section, the commissioner shall require the lessee to post a performance bond or provide other security to cover the costs to the department of restoring the leased site in the event the lessee abandons the site.

(f) The commissioner shall adopt regulations establishing criteria for the

1 approval or denial of leases under this section and for limiting the number of sites for
 2 which leases may be issued in an area in order to protect the environment and natural
 3 resources of the area. The regulations must provide for the consideration of upland
 4 management policies and whether the proposed use of a site is compatible with the
 5 traditional and existing uses of the area in which the site is located.

6 * **Sec. 21.** AS 38.05.090 is repealed and reenacted to read:

7 **Sec. 38.05.090. Removal or reversion of improvements upon termination**
 8 **of leases.** (a) Unless otherwise agreed to in writing by the commissioner, a lessee
 9 shall remove from a former leasehold

10 (1) all personal property, including above-ground tanks, transportable
 11 buildings, equipment, machinery, tools, and other goods, not belonging to the state,
 12 within 30 days after termination of the lease; and

13 (2) all buildings and fixtures, including gravel pads, and below-ground
 14 tanks, foundations, and slabs, not belonging to the state, within 60 days after
 15 termination of the lease.

16 (b) Unless otherwise agreed to in writing by the commissioner, the lessee shall
 17 restore the leasehold to a good and marketable condition, acceptable to the
 18 commissioner, within 120 days after termination of the lease.

19 (c) If the lessee does not remove personal property, buildings, and fixtures as
 20 required within the time specified under (a) of this section, title to the personal
 21 property, buildings, and fixtures that remain automatically vests in the state unless the
 22 commissioner elects to remove and dispose of the remaining personal property,
 23 buildings, and fixtures of the lessee. The commissioner may assess upon the lessee
 24 the cost of removing and disposing of personal property, buildings, and fixtures
 25 remaining upon the land.

26 (d) If the lessee does not restore the land within the time period specified
 27 under (b) of this section, the commissioner may have the land restored and assess the
 28 costs upon the lessee.

29 (e) As part of a lease agreement, and in order to protect the public interest, the
 30 commissioner may require terms for removal or reversion of improvements additional
 31 to those specified in (a) - (d) of this section.

19 (g) Personal property described in (c) of this section is not subject to AS 34.45
20 (Uniform Unclaimed Property Act).

21 * Sec. 22. AS 38.05.131(a) is amended to read:

22 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
23 provisions of AS 38.05.005 - 38.05.037 [AS 38.05.005 - 38.05.040], 38.05.140(f),
24 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of
25 oil and gas exploration licenses and leases under AS 38.05.132 - 38.05.134.

26 * Sec. 23. AS 38.05 is amended by adding a new section to read:

Article 12A. Remote Recreational Cabin Site Sales and Leases.

1 the recreational cabin site.

2 (b) The annual fee for a remote recreational cabin site lease shall be set by the
 3 commissioner so as to ensure that the state receives a fair return for the use granted
 4 by the lease for the term of the lease. The commissioner shall establish regulations
 5 that specify the application procedures for and the terms and conditions of a remote
 6 recreational cabin site lease. A lease must be for a term of not more than five years,
 7 and may be renewed for one additional five-year period. At any time during the lease,
 8 the lessee may purchase the remote recreational cabin site by having the site appraised
 9 and surveyed in a manner acceptable to the department and by paying to the state the
 10 fair market value for the site determined as of the time of entry. The lease may not
 11 be assigned by the original lessee during the term of the lease.

12 (c) A remote recreational cabin site lease may be terminated by the
 13 commissioner before the expiration of the term of the lease if a lessee fails to use the
 14 land under lease in the manner required by the terms of the lease. After termination
 15 of a remote recreational cabin site lease, improvements or personal property on the
 16 land subject to the lease shall be managed in the same manner as required by
 17 AS 38.05.090.

18 * **Sec. 24.** AS 38.05.810(a) is amended to read:

19 (a) Except as otherwise provided in AS 38.05.183(h), the (1) lease, sale, or
 20 other disposal of state land or resources may be made to a state or federal agency or
 21 political subdivision, (2) [THE] lease, sale, or disposal of coal deposits suitable for
 22 mining may be made to a utility owned and operated by a government agency or
 23 nonprofit cooperative association organized to participate under the Federal Rural
 24 Electrification Act for the purpose of generating electric power and energy or the
 25 production of process steam, or both, (3) [OR THE] sale or other disposal of state land
 26 may be made to a tax-exempt, nonprofit corporation, association, club, or society
 27 organized and operated [EXCLUSIVELY] for the management of a cemetery or a solid
 28 waste or other public facility, or (4) sale or other disposal of land within a state
 29 subdivision may be made to that subdivision's nonprofit, tax-exempt homeowners'
 30 association, for less than the appraised value as determined by the director and
 31 approved by the commissioner to be fair and proper and in the best interests of the

1 public, with due consideration given to the nature of the public services or function
 2 rendered by the applicant [AGENCY, SUBDIVISION, TAX-EXEMPT, NONPROFIT
 3 CORPORATION, ASSOCIATION, CLUB, OR SOCIETY, OR UTILITY MAKING
 4 APPLICATION], and of the terms of the grant under which the land was acquired by
 5 the state. The commissioner shall ensure, by regulation, deed restriction, covenant,
 6 or otherwise, that disposals of land under this subsection serve a public purpose
 7 and are in the public interest.

8 * **Sec. 25.** AS 38.05.840(a) is amended to read:

9 (a) Land may not be sold or leased, or a renewal lease issued, except in the
 10 case of an oil or gas or mineral lease, unless it has been appraised within two years
 11 [ONE YEAR] before the date fixed for the sale or lease. When land is offered at
 12 public sale but is not sold and is available at private sale, a reappraisal is not required
 13 unless the director considers that a change in value of the land may have occurred.
 14 A grazing lease may be granted to a lessee of federal grazing land without prior
 15 appraisal [,] if the federal lease was cancelled to allow the state to select the land
 16 under lease. Land may not be sold or leased for less than the approved, appraised
 17 market value, except as provided in AS 38.05.055, 38.05.057, 38.05.075 - 38.05.085,
 18 38.05.097, 38.05.810, and 38.05.820.

19 * **Sec. 26.** AS 38.05.850(a) is amended to read:

20 (a) The director, without the prior approval of the commissioner, may issue
 21 permits, rights-of-way, or easements on state land for roads, trails, ditches, field
 22 gathering lines or transmission and distribution pipelines not subject to AS 38.35,
 23 telephone or electric transmission and distribution lines, log storage, oil well drilling
 24 sites and production facilities for the purposes of recovering minerals from adjacent
 25 land under valid lease, and other similar uses or improvements, or revocable,
 26 nonexclusive permits for the [LIMITED] personal or commercial use or removal of
 27 resources that the director has determined to be of limited value [OF TIMBER OR
 28 MATERIALS]. The commissioner, upon recommendation of the director, shall
 29 establish a reasonable rate or fee schedule to be charged for these uses, subject to the
 30 exception for nonprofit cooperative associations specified in (b) of this section. In the
 31 granting, suspension, or revocation of a permit or easement of land, the director shall

1 give preference to that use of the land that [WHICH] will be of greatest economic
2 benefit to the state and the development of its resources. However, first preference
3 shall be granted to the upland owner for the use of a tract of tideland, or tideland and
4 contiguous submerged land, that [WHICH] is seaward of the upland property of the
5 upland owner and that [WHICH] is needed by the upland owner for any of the
6 purposes for which the use may be granted.

7 * Sec. 27. AS 38.05.945(a) is amended to read:

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

12 (2) zoning of land under applicable law;

13 (3) issuance of a

14 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
15 regarding the sale, lease, or disposal of an interest in state land or resources for
16 oil and gas subject to AS 38.05.180(b);

17 (B) final written finding under AS 38.05.035(e)(5)(B) regarding
18 the sale, lease, or disposal of an interest in state land or resources for oil and
19 gas subject to AS 38.05.180(b);

20 (C) written finding for the sale, lease, or disposal of an interest
21 in state land or resources under AS 38.05.035(e)(6), except an oil or gas lease
22 sale described in AS 38.05.035(e)(6)(G) for which the director must provide
23 opportunity for public comment under the provisions of that subparagraph;

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

26 (5) [A PUBLIC HEARING UNDER AS 38.05.856(b);

(6)] a preliminary finding under AS 38.05.035(e) [AND 38.05.855(c)]
concerning sites for aquatic farms and related hatcheries;

31 * Sec. 28. AS 38.05.945(d) is amended to read:

3 (1) regional fish and game councils established under AS 16.05.260;
4 and

5 (2) coastal resource service areas organized under AS 46.40.110 -
6 46.40.210.

7 * Sec. 29. AS 38.08.030(b) is amended to read:

8 (b) Fees for filing an application may not exceed **\$25** [\$10].

9 * Sec. 30. AS 38.08.040(a) is amended to read:

16 * **Sec. 31.** AS 38.08.040 is amended by adding a new subsection to read:

24 * Sec. 32. AS 38.09.010(g) is amended to read:

1 PREVENTED BY

2 (1) MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
 3 MILITARY SERVICE OUTSIDE THE STATE; OR
 4 (2) A MANDATORY, UNAVOIDABLE EMPLOYMENT
 5 COMMITMENT DETERMINED VALID BY THE COMMISSIONER BEFORE THE
 6 SALE.]

7 * **Sec. 33.** AS 38.09.030(a) is amended to read:

8 (a) An applicant for a homestead entry permit shall
 9 (1) submit proof acceptable to the commissioner that the applicant is
 10 at least 18 years of age and has been a resident of the state for not less than one year
 11 immediately before the date of application;
 12 (2) pay a fee of \$5 per acre according to the description provided by
 13 the applicant if the entry is on land classified agricultural, or \$10 per acre if the
 14 entry is on land not classified agricultural;
 15 (3) agree to comply with the requirements of AS 38.09.050;
 16 (4) certify that the corners of the land entered have been staked and the
 17 boundaries have been flagged; or
 18 (5) assume full responsibility for the accuracy of the description of the
 19 land filed with the commissioner under AS 38.09.020(b).

20 * **Sec. 34.** AS 38.09.050(b) is amended to read:

21 (b) Nothing in this chapter prohibits a homestead entry permit holder from
 22 residing in a temporary dwelling on the homestead [BEFORE ERECTION OF THE
 23 PERMANENT DWELLING].

24 * **Sec. 35.** AS 38.09.090(b) is amended to read:

25 (b) An applicant who complies with AS 38.09.050(a)(2), (4), and (5),
 26 [AS 38.09.050(a)(2) - (5)] and who tenders the commissioner an amount equal to five
 27 percent of the present fair market value of the land within five years of the issuance
 28 of the permit may purchase the land under AS 38.05.065. The purchase price is the
 29 fair market value of the land at the time of the purchase.

30 * **Sec. 36.** AS 38.09 is amended by adding a new section to read:

31 **Sec. 38.09.105. Removal of conditions on remote parcel and homestead**

1 **entry land.** (a) The commissioner may not include the conditions of former
2 AS 38.05.078(d) in a remote parcel purchase contract issued on or after the effective
3 date of this section.

8 (1) requests the amendment;

9 (2) pays the reasonable administrative costs of the amendment as
10 determined by the commissioner; and

(3) pays the difference, as established by the commissioner, between the land's fair market value before the amendment and the estimated fair market value after the amendment.

14 * **Sec. 37.** AS 38.95 is amended by adding a new section to read:

Article 7. No Obligation to Provide Services to Disposals of State Land; No Limitation on Further Disposals.

17 Sec. 38.95.300. Disclaimer applicable to state disposals. Except as otherwise

18 specifically provided, nothing in this title

19 (1) obligates the state to provide services to land that is disposed of by
20 the state, or any grantee of the state, or is the subject of any disposal program;

25 * **Sec. 38.** AS 38.04.021; AS 38.05.040, 38.05.057(g), 38.05.079, 38.05.855, 38.05.856,
26 38.05.946(b); AS 38.08.090; AS 38.09.040(a)(3), 38.09.050(a)(3), 38.09.050(d), 38.09.050(e),
27 38.09.900(3), and 38.09.900(4) are repealed.

* **Sec. 39.** Notwithstanding AS 41.21.120 - 41.21.125, within Township 10 North, Range 1 East, Seward Meridian, the commissioner of natural resources may

30 (1) convey a property interest in land to the Alaska Railroad Corporation for
31 the purpose of realigning the railroad in conjunction with the relocation of the Seward

1 Highway, provided that the property interest conveyed must be equivalent to that conveyed
 2 to the state-owned railroad under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
 3 1982) and shall be held and managed by the Alaska Railroad Corporation under AS 42.40;

4 (2) grant a 300 foot wide highway easement to the Department of
 5 Transportation and Public Facilities for the relocated Seward Highway;

6 (3) grant a 100 foot wide utility easement to Chugach Electric Association,
 7 Inc., for the relocation of the 115 kilovolt electric transmission line (Federal Power
 8 Commission project no. 2170, AA-39417, and ADL 32417) and the electric distribution line
 9 (A-029885) located within the Chugach State Park.

10 * **Sec. 40.** (a) Notwithstanding the decision of the Alaska Supreme Court in Kachemak
 11 Bay Watch v. Noah, ____ P.2d ____ (Sup. Ct. No. S-7326; April 11, 1997), the Department
 12 of Natural Resources shall issue a lease under AS 38.05.083, as amended by sec. 20 of this
 13 Act, to a person who, on April 10, 1997, held a lease issued under AS 38.05.083 as it read
 14 on the day before the effective date of this section. Notwithstanding AS 38.05.083, as
 15 amended by sec. 20 of this Act, the terms and conditions of a lease issued under this
 16 subsection shall be substantially similar to the terms of the lease as it read on the day before
 17 the effective date of this section. Notice under AS 38.05.945 and a best interest determination
 18 under AS 38.05.035 are not required for the issuance of a lease under this subsection.

19 (b) Notwithstanding the repeal of AS 38.05.856 by sec. 38 of this Act and the decision
 20 of the Alaska Supreme Court in Kachemak Bay Watch v. Noah, ____ P.2d ____ (Sup. Ct.
 21 No. S-7326; April 11, 1997), the Department of Natural Resources shall allow a person who,
 22 (1) on April 10, 1997, held a permit issued under former AS 38.05.856, or (2) on or before
 23 April 10, 1997, had timely applied for a renewal of a permit under former AS 38.05.856, that
 24 had not been revoked or for which renewal had not been denied, to continue to operate under
 25 the terms and conditions of the permit as it read, or would have read, on the day before the
 26 effective date of this section if the person applies within 120 days of the effective date of this
 27 section for a lease under AS 38.05.083, as amended by sec. 20 of this Act. The department
 28 shall provide a preference right to a person applying for a lease under this subsection who has
 29 developed an aquatic farm site under former AS 38.05.855 by October 1, 1998. The right of
 30 a person to continue to operate under the terms and conditions of a permit continues until the
 31 earlier of the date the person's lease application is denied by the department, the date the

1 person is issued a lease by the department, or July 1, 1999. The right of a person to continue
2 to operate under the terms and conditions of a permit as allowed by this subsection is proper
3 notwithstanding a failure of the department to properly identify districts under former
4 AS 38.05.855 before the issuance of the permit.

5 (c) Notwithstanding the repeal of AS 38.05.856 by sec. 38 of this Act and the decision
6 of the Alaska Supreme Court in Kachemak Bay Watch v. Noah, ____ P.2d ____ (Sup. Ct.
7 No. S-7326; April 11, 1997), the Department of Natural Resources shall allow a person who,
8 on or before April 10, 1997, received a final decision from the department to issue to the
9 person a permit under former AS 38.05.856, to operate under the terms and conditions of the
10 permit as it would have read if it had been issued on the day before the effective date of this
11 section if the person applies within 120 days of the effective date of this section for a lease
12 under AS 38.05.083, as amended by sec. 20 of this Act. The department shall provide a
13 preference right to a person applying for a lease under this subsection who has developed an
14 aquatic farm site under former AS 38.05.855 by October 1, 1998. The right of a person to
15 continue to operate under this subsection continues until the earlier of the date the person's
16 lease application is denied by the department, the date the person is issued a lease by the
17 department, or July 1, 1999. The right of a person to continue to operate under this
18 subsection is proper notwithstanding a failure of the department to properly identify districts
19 under former AS 38.05.855 before the issuance of the final decision.

20 * **Sec. 41.** A disposal by the Department of Natural Resources of a homesite under
21 AS 38.08 by lottery, on or after July 6, 1984, and before the effective date of this section, is
22 valid and effective, notwithstanding the fact that the disposal was by lottery, if the disposal
23 otherwise complied with the requirements of AS 38.08.

24 * **Sec. 42.** **APPLICABILITY.** The change to the interest rate to be charged on contracts
25 for the sale of land under AS 38.05.065, made by secs. 12 - 14 of this Act, applies to all
26 contracts under AS 38.05.065 sent by the Department of Natural Resources to purchasers for
27 signature on or after the effective date of secs. 12 - 14 of this Act.

28 * **Sec. 43.** **TRANSITIONAL PROVISIONS: REGULATIONS.** (a) Notwithstanding
29 sec. 45 of this Act, the Department of Natural Resources may proceed to adopt regulations
30 necessary to implement the changes made by this Act. The regulations take effect under
31 AS 44.62 (Administrative Procedure Act), but not before July 1, 1997.

6 * **Sec. 44. RETROACTIVE EFFECT.** To the maximum extent constitutionally permissible,
7 sec. 1 of this Act is retroactive to January 3, 1959.

8 * **Sec. 45.** Except for secs. 40 and 43 of this Act, this Act takes effect July 1, 1997.

9 * **Sec. 46.** Sections 40 and 43 of this Act take effect immediately under AS 01.10.070(c).