



LAWS OF ALASKA

2016

Source
CSHB 274(RES)

Chapter No.

AN ACT

Relating to extensions of certain state land leases; relating to the exchange of state land; and relating to the definition of "state land."

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to extensions of certain state land leases; relating to the exchange of state land; and
2 relating to the definition of "state land."

3 _____
4 * **Section 1.** AS 38.05.030(c) is amended to read:

5 (c) **The** [IN ADDITION TO THE REQUIREMENTS SPECIFIED IN
6 AS 38.50.090, THE] agencies referred to in (b) of this section and other state agencies
7 with authority to acquire or dispose of land shall give written notification of the fact of
8 acquisition, lease, disposal, or exchange to the commissioner within three months after
9 the date that they make the acquisition, lease, disposal, or exchange.

10 * **Sec. 2.** AS 38.05.070 is amended by adding new subsections to read:

11 (f) A lease may be extended once for a period up to two years, if the director
12 determines the extension to be in the best interests of the state and the extension is
13 necessary to prolong the lease while the department considers

14 (1) a lessee preference application under AS 38.05.102;

1 (2) an application to renew the lease under (e) of this section; or
2 (3) an application to issue a new lease on the same site that, because
3 the new lease substantially changes the purpose or operation of an existing lease,
4 requires a new finding and determination under AS 38.05.035(e) before the purpose or
5 operation of a lease is changed.

6 (g) An extension issued under (f) of this section is not subject to
7 AS 38.05.035(e). The director shall provide public notice of the decision to extend the
8 lease.

9 * **Sec. 3.** AS 38.05.945(a) is amended to read:

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

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

14 (2) zoning of land under applicable law;

15 (3) issuance of a

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

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

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

25 (5) a preliminary finding under AS 38.05.035(e) concerning sites for
26 aquatic farms and related hatcheries;

27 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,
28 lease, or disposal of an interest in state land or resources;

29 **(7) an exchange of state land under AS 38.50.**

30 * **Sec. 4.** AS 38.05.965(24) is amended to read:

31 (24) "state land" or "land" means all land, including **shoreland,**

1 **tideland** [SHORE, TIDE], and submerged land, or resources belonging to or acquired
2 by the state;

3 * **Sec. 5.** AS 38.50.010 is amended to read:

4 **Sec. 38.50.010. Authorization and procedure for exchange of state land.**
5 **When it is in the best interest of the state, and subject** [SUBJECT] to the
6 requirements of this chapter **and the notice provisions of AS 38.05.945,** the director
7 **may,** with the **consent** [CONCURRENCE] of the commissioner, [IS AUTHORIZED
8 TO] dispose of state land or interest in land, **including the land estate, the mineral**
9 **estate, or both,** by exchanging it for land, interest in land, or other consideration.
10 [EXCHANGES SHALL BE FOR THE PURPOSE OF CONSOLIDATING STATE
11 LAND HOLDINGS, CREATING LAND OWNERSHIP AND USE PATTERNS
12 WHICH WILL PERMIT MORE EFFECTIVE ADMINISTRATION OF THE STATE
13 PUBLIC DOMAIN, FACILITATING THE OBJECTIVES OF STATE PROGRAMS,
14 OR OTHER PUBLIC PURPOSES.]

15 * **Sec. 6.** AS 38.50.010 is amended by adding new subsections to read:

16 (b) Land or an interest in land exchanged must be of approximately equal
17 value; however, the director may accept from or pay to a party to an exchange cash or
18 other consideration to equalize the value of the property conveyed and received by the
19 state. If the director determines that the property to be exchanged is not of
20 approximately equal value or if the value of the property cannot be ascertained with
21 reasonable certainty, the director may enter into an exchange with a finding that the
22 value of the property received, together with the value of other public benefits, equals
23 or exceeds the value of the property relinquished by the state.

24 (c) Exchange procedures must comply with applicable statutes and regulations
25 and follow the determination and review procedures provided under AS 38.05.035(e).
26 The director may include in a patent or the written finding stipulations necessary to
27 promote or protect the public interest.

28 (d) If the value of the state land exchanged exceeds \$5,000,000, or if the
29 exchange is not of an approximately equal value, the director shall forward the
30 proposed exchange to the legislature for review under AS 38.50.140 not later than 10
31 days after the convening of the next legislative session.

1 * **Sec. 7.** AS 38.50.030(b) is amended to read:

2 (b) The director may negotiate an exchange involving more than one party [;
3 HOWEVER, IN ORDER TO ASCERTAIN WHETHER THE EQUAL VALUE
4 REQUIREMENTS OF THIS CHAPTER HAVE BEEN MET, THE DIRECTOR
5 SHALL CONSIDER ONLY THE LAND AND OTHER CONSIDERATION WHICH
6 THE STATE WOULD CONVEY AND RECEIVE IF THE EXCHANGE WERE
7 EXECUTED].

8 * **Sec. 8.** AS 38.50.050 is amended to read:

9 **Sec. 38.50.050. Conveyance of mineral rights.** Subject to the requirements of
10 this chapter, the director is authorized to exchange mineral rights in state land to the
11 extent that the conveyance is authorized by the state constitution and applicable
12 federal law. [THE DIRECTOR MAY NOT EXCHANGE OR RECEIVE THE
13 SURFACE ESTATE OF LAND OR THE MINERAL RIGHTS IN IT, ONE
14 WITHOUT THE OTHER, UNLESS THE SEPARATION OF ESTATE IS
15 NECESSITATED BY A PRIOR SEPARATION OF OWNERSHIP OR BY
16 RESTRICTIONS IN APPLICABLE LAW, OR THE DIRECTOR OTHERWISE
17 FINDS THAT THE CONVEYANCE OR RECEIPT OF THE SURFACE OR
18 MINERAL ESTATES, ONE WITHOUT THE OTHER, IS NECESSARY TO
19 ACHIEVE A SIGNIFICANT PUBLIC PURPOSE.]

20 * **Sec. 9.** AS 38.50.070 is amended to read:

21 **Sec. 38.50.070. Valid existing rights.** Conveyances made by the state under
22 this chapter are subject to valid existing rights, including [, BUT NOT LIMITED TO,]
23 contracts, permits, leases, rights-of-way, and easements. Unless jurisdiction is waived,
24 the appropriate state agency shall continue to administer valid existing rights, **and**
25 **revenue** [AS LONG AS ANY REVENUES] derived from the **existing** rights
26 **continue to accrue to the state until state land is conveyed under AS 38.50.150**
27 [ARE DISTRIBUTED AS PROVIDED IN THE EXCHANGE AGREEMENT].

28 * **Sec. 10.** AS 38.50.120(a) is amended to read:

29 (a) [THE COMMISSIONER MAY HOLD AS MANY PUBLIC HEARINGS
30 AS IS CONSIDERED APPROPRIATE.] For an exchange of state land having an
31 appraised or estimated fair market value of more than \$5,000,000, **the director**

1 [THERE] shall **hold** [BE] at least **two public meetings before the exchange is**
2 **submitted to the legislature for approval. Meetings under this subsection may be**
3 **held telephonically, except at least** [THREE PUBLIC HEARINGS IN] one **meeting**
4 **shall be held in person in a municipality** [OR MORE MUNICIPALITIES] close to
5 the state land proposed for exchange [BEFORE IT IS SUBMITTED TO THE
6 LEGISLATURE FOR APPROVAL].

7 * **Sec. 11.** AS 38.50.140 is amended to read:

8 **Sec. 38.50.140. Legislative review.** Within 10 days **after** [OF] the convening
9 of a regular legislative session, the governor shall transmit to the president of the
10 senate and the speaker of the house of representatives any proposal for a land
11 exchange required to be submitted to the legislature for approval under **AS 38.50.010**
12 [AS 38.50.020(a)] that is scheduled to occur before the next legislative session. If
13 exigent circumstances seriously affecting state interests so require, the governor may
14 submit the proposed exchange to the legislature at **another** [SOME OTHER] time. A
15 finding of exigent circumstances shall be carefully documented in the letter of
16 transmittal. The director is authorized to conclude a proposed exchange agreement
17 upon approval by the legislature of the proposed exchange agreement. A decision by
18 the legislature to disapprove a proposed exchange shall be accompanied by a
19 recommendation to the governor with respect to future actions **that** [WHICH] the
20 director should take concerning the exchange.

21 * **Sec. 12.** AS 38.50.170(3) is amended to read:

22 (3) "state land" means all land, including **shoreland, tideland**
23 [SHORE, TIDE], and submerged land or unsevered resources belonging to or acquired
24 by the state excluding interests in land severed or constructively severed from the
25 land.

26 * **Sec. 13.** AS 38.50.020, 38.50.040, 38.50.080(b), 38.50.090, 38.50.100, 38.50.110,
27 38.50.120(b), and 38.50.130 are repealed.