

27-GH2717\B
Bailey
3/21/12

CS FOR HOUSE BILL NO. 361(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Alaska Land Act, including certain leases, sales, and other disposals of state land and materials; relating to production royalties from miners; relating to rights to use state water; and providing for an effective date."

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

* **Section 1.** AS 38.05.050 is amended to read:

Sec. 38.05.050. Disposal of land for private ownership. The commissioner shall determine the land to be disposed of for private use. The commissioner shall determine the time and place of disposal. A public [AN] auction sale, sale by sealed bid, a lottery sale, or a disposal of land for homesites may be held in a community that is near the land to be sold or disposed of.

* **Sec. 2.** AS 38.05.055 is amended to read:

Sec. 38.05.055. Auction sale or sealed bid procedures. Unless another method of sale is required under this chapter, AS 38.08, or AS 38.09, the sale of state land shall be made at public auction or by sealed bid, at the discretion of the

director, to the highest qualified bidder as determined by the director. The director may accept bids and sell state land under this section at **not** [NO] less than 70 percent of the appraised fair market value of the land. To qualify to participate under this section in a public auction **or sale by sealed bid** of state land that is other than commercial, industrial, or agricultural land, a bidder shall have been a resident of the state for at least one year immediately preceding the date of the **sale** [AUCTION] and submit proof of that fact, as the commissioner requires by regulation. A bidder may be represented by an attorney or agent at **a public** [THE] auction. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director, and, at the time of sale, the successful bidder shall deposit an amount equal to five percent of the purchase price. The director shall immediately issue a receipt containing a description of the land or property purchased, the price bid, and the amount deposited. The receipt shall be acknowledged in writing by the bidder.

* **Sec. 3.** AS 38.05.065(a) is amended to read:

(a) The contract of sale for land sold at public auction **or by sealed bid** 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 rate provided in (i) of this section. Installment payments plus interest shall be set on the level-payment basis.

* **Sec. 4.** AS 38.05.069(a) is amended to read:

(a) After consulting with the Board of Agriculture and Conservation (AS 03.09.010), on a determination that the highest and best use of unoccupied land is for agricultural purposes and that it is in the best interests of the state to sell or lease the land, the commissioner shall grant to an Alaska resident owning and using or leasing and using land for agricultural purposes a first option [AT THE AUCTION] to purchase or lease the unoccupied land situated adjacent to land presently held by the Alaska resident for the amount of the high bid received at public auction **or by sealed bid**. If more than one Alaska resident qualifies for a first option under this section, eligibility for the first option shall be determined by lot, and the option must be exercised on the conclusion of the public auction **or opening of sealed bids**. A parcel

of agricultural land sold under this section may not be less than 20 acres, and a parcel of agricultural land that is acquired by exercise of the option granted in this subsection may not exceed 320 acres. Agricultural land that is acquired under this section must be used for agricultural purposes as required by law.

* **Sec. 5.** AS 38.05.069(c) is amended to read:

(c) Under this section,

(1) the director may transfer state land classified for agriculture only for agricultural purposes;

(2) the sale or lease shall be at public auction **or by sealed bid.**

* **Sec. 6.** AS 38.05.070(b) is amended to read:

(b) The director, with the approval of the commissioner, shall determine the land to be leased and the limitations, conditions, and terms of the lease. The director shall preserve reasonable and traditional access to state land and water. If the appraised value of the transaction is **\$10,000** [\$5,000] a year or less the director may negotiate a lease for a period not to exceed 10 years, and on the limitations, conditions, and terms that the director considers are in the best interests of the state. A lease negotiated under this subsection is not eligible for a preference under AS 38.05.102.

* **Sec. 7.** AS 38.05.070 is amended by adding new subsections to read:

(d) If, after notice under AS 38.05.945 soliciting interest for a competitive auction, the department determines that only one potential bidder has expressed interest in bidding, the director may cancel the competitive auction and negotiate a lease and its conditions and terms that the director determines to be in the best interests of the state.

(e) The director may renew a lease issued under this section, AS 38.05.075, or 38.05.810 upon its expiration if the lease is in good standing and the lease renewal is determined to be in the best interests of the state. A renewal issued under this subsection is not subject to AS 38.05.035(e). A lease may be renewed only once for a term not longer than the initial term of the lease.

* **Sec. 8.** AS 38.05.073(g) is amended to read:

(g) After soliciting proposals under (e) of this section, if the commissioner

determines that two or more potential lessees are acceptable, the commissioner may select the potential lessee who submits the highest bid during a public [AN] auction or by sealed bids, whichever method the commissioner chooses. The minimum bid must equal the amount established by the commissioner plus the administrative fee established under (k) of this section. The commissioner shall also require the potential lessee to make an earnest money deposit under AS 38.05.860(b). After the commissioner selects a potential lessee, the commissioner may begin negotiations with the potential lessee to develop the terms and conditions for the lease.

* **Sec. 9.** AS 38.05.075(a) is amended to read:

(a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.082, 38.05.083, 38.05.087, 38.05.102, 38.05.565, 38.05.600, 38.05.810, and this section, when competitive interest has been demonstrated or the commissioner determines that it is in the state's best interests, leasing shall be made at public auction or by sealed bid, at the discretion of the director, to the highest qualified bidder as determined by the commissioner. A bidder may be represented by an attorney or agent at a public auction. In the public notice of a lease to be offered at public auction or by sealed bid, the commissioner shall specify a minimum acceptable bid and the lease compensation method. The lease compensation method shall be designed to maximize the return on the lease to the state and shall be a form of compensation set out in AS 38.05.073(m). An aggrieved bidder may appeal to the commissioner within five days for a review of the determination. The leasing shall be conducted by the commissioner, and the successful bidder shall deposit at the public auction or with the sealed bid the first year's rental or other lease compensation as specified by the commissioner, or that portion of it that the commissioner requires in accordance with the bid. The commissioner shall require, under AS 38.05.860, qualified bidders to deposit a sum equal to any survey or appraisal costs reasonably incurred by another qualified bidder acting in accordance with the regulations of the commissioner or incurred by the department under AS 38.04.045 and AS 38.05.840. If a bidder making a deposit of survey or appraisal costs is determined by the commissioner to be the highest qualified bidder under this subsection, the deposit shall be paid to the unsuccessful bidder who incurred those costs or to the department if the

department incurred the costs. All costs for survey and appraisal shall be approved in advance in writing by the commissioner. The commissioner shall immediately issue a receipt containing a description of the land or interest leased, the price bid, and the terms of the lease to the successful qualified bidder. If the receipt is not accepted in writing by the bidder under this subsection, the commissioner may offer the land for lease again under this subsection. A lease, on a form approved by the attorney general, shall be signed by the successful bidder and by the commissioner [WITHIN THE PERIOD SPECIFIED IN THE AUCTION NOTICE].

* **Sec. 10.** AS 38.05.075(e) is amended to read:

(e) The commissioner may require prequalification of bidders for a lease to be issued under AS 38.05.070. If the commissioner determines to require prequalification, the procedures established by this section and the notice including **prequalification** [PRE-QUALIFICATION] requirements required to be given under AS 38.05.945 shall be completed within 75 days of the receipt of the first lease application unless the commissioner grants additional time for the completion of the procedures. Within the 75-day period or the additional time granted by the commissioner, the commissioner shall complete

(1) classification under AS 38.05.300;

(2) the procedures required by AS 38.05.035(e);

(3) any other action required by law for the disposal of the lease to a bidder except survey, appraisal, and the auction **or sealed bid**.

* **Sec. 11.** AS 38.05.075(g) is amended to read:

(g) Notice of an auction **or sealed bid** required under this section shall be made by certified mail to all prequalified bidders.

* **Sec. 12.** AS 38.05.083(a) is amended to read:

(a) The commissioner may offer to the public for lease at public auction **or by sealed bid** 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.

* **Sec. 13.** AS 38.05.110(a) is amended to read:

(a) The commissioner shall provide for cruises of timber on [AND APPRAISALS OF OTHER MATERIALS IN OR UPON] state land and shall assess the supply of and current markets for timber on [AND OTHER MATERIALS IN] privately owned land in close proximity to state land to determine

(1) the timber [AND OTHER MATERIALS] that should be offered for sale; and

(2) the terms of sale of the timber [OR OTHER MATERIALS].

* **Sec. 14.** AS 38.05.115 is amended to read:

Sec. 38.05.115. Limitations and conditions of sale. (a) The commissioner shall determine the timber [AND OTHER MATERIALS] to be sold [,] and the limitations, conditions, and terms of sale. The limitations, conditions, and terms shall include the utilization, development, and maintenance of the sustained yield principle, subject to preference among other beneficial uses. The commissioner may negotiate sales of timber [OR MATERIALS] without advertisement and on the limitations, conditions, and terms that are considered to be in the best interests of the state. Within a one-year period, the commissioner may not negotiate a sale without advertisement to the same purchaser of

[(1)] more than 500 M.B.M. or equivalent other measure of timber [;

(2) EXCEPT AS PROVIDED IN (3) OF THIS SUBSECTION, MORE THAN 25,000 CUBIC YARDS OF MATERIALS; OR

(3) MORE THAN 100,000 CUBIC YARDS OF MATERIALS TO A COMMON CARRIER HOLDING A LEASE UNDER AS 38.35].

(b) Negotiated sales not exceeding 50 M.B.M. or the equivalent other measure of timber [OR 2,500 CUBIC YARDS OF MATERIALS] are exempt from the provisions of AS 34.15.150.

(c) The limitations of this section are not applicable to timber that [WHICH] becomes state property under the provisions of AS 45.50.210 - 45.50.235.

* **Sec. 15.** AS 38.05.120 is amended to read:

1 **Sec. 38.05.120. Disposal procedure.** Timber [AND OTHER MATERIALS]
2 shall be sold either by sealed bids or public auction, depending on which method is
3 determined by the commissioner to be in the best interests of the state, to the highest
4 qualified bidder as determined by the commissioner. An aggrieved bidder may appeal
5 to the commissioner within five days after the sale for a review of the determination.
6 The sale shall be conducted by the commissioner, and, at the time of sale, the
7 successful bidder shall deposit the amount specified in the terms of sale. The means by
8 which the amount of deposit is determined shall be prescribed by appropriate
9 regulation. The commissioner shall immediately issue a receipt containing a
10 description of the timber [OR MATERIALS] purchased, the price bid, and the terms
11 of sale. The receipt shall be accepted in writing by the bidder. A contract of sale, on a
12 form approved by the attorney general, shall be signed by the purchaser and the
13 contract shall be signed by the commissioner on behalf of the state. The commissioner
14 may impose conditions, limitations, and terms considered necessary and proper to
15 protect the interests of the state. Violation of any provision of this chapter or the terms
16 of the contract of sale subjects the purchaser to appropriate legal action.

17 * **Sec. 16.** AS 38.05.212(a) is amended to read:

18 (a) In exchange for and to preserve the right to extract and possess the
19 minerals produced, the holder of a mining claim, leasehold location, or mining lease,
20 including a mining lease under AS 38.05.250, shall pay a royalty on all minerals
21 produced from land subject to the claim, leasehold location, or mining lease during
22 each calendar year, or each fiscal year if the miner does not file the mining license
23 tax on a calendar year basis. The department may exempt, by regulation, small
24 operations from the production royalty otherwise required by this section.

25 * **Sec. 17.** AS 38.05.250(c) is amended to read:

26 (c) Each submerged land mining lease shall be for a period of up to 20 years
27 and for so long as there is production in paying quantities from the leased area. A
28 submerged land mining lease may be renewed for a period of up to 20 years at
29 the discretion of the director if the director determines that the renewal is in the
30 best interests of the state.

31 * **Sec. 18.** AS 38.05 is amended by adding new sections to read:

Article 13A. Material Sales.

Sec. 38.05.550. Disposal of materials. (a) All materials owned by the state may be sold or conveyed as provided in AS 38.05.550 - 38.05.565.

(b) Materials may only be sold or removed from sources or sites designated by the department. The department shall issue a decision under AS 38.05.035(e) that the sale and extraction of materials from that location is in the best interests of the state at the time each source or site is designated. The department shall give notice, in accordance with AS 38.05.945, of the department's decision to designate a source or site for the sale and extraction of materials. After decision and notice, the department may sell materials continuously, without further finding or notice, from that designated source or site under this section until the source or site is closed by the department.

(c) Each sale of materials must be made through a materials sales contract on a form that has been approved by the attorney general. At the time of each sale, the department shall determine

(1) the location of the source or site from which materials are to be removed;

(2) the method of disposal as provided in AS 38.05.555 - 38.05.565; and

(3) the limitations, conditions, and terms of sale, which shall address the utilization, development, and maintenance of the source of the materials.

(d) The commissioner shall provide for valuation of materials in or upon state land. Materials sold or conveyed under AS 38.05.550 - 38.05.565 may, at the director's discretion, be sold at

(1) representative regional sales prices periodically determined by the commissioner for each type of material and for defined geographic regions, under procedures established by regulation; public notice under AS 38.05.945 must be made whenever the commissioner revises the representative regional sales prices;

(2) fair market value determined by appraisal completed and approved within two years of the date of sale; or

(3) a price less than appraised value, determined under

AS 38.05.810(a).

Sec. 38.05.555. Negotiated sales and personal use of materials. (a)

Notwithstanding any other provision of AS 38.05.550 - 38.05.565, the director may negotiate the sale of any amount of materials from a source or site designated under AS 38.05.550(b). The period of a contract for a sale of materials negotiated under this section may not exceed five years.

(b) Sales of materials under this section must be made at a representative regional sales price set by the commissioner under AS 38.05.550(d)(1) unless

(1) the director determines that it is in the best interests of the state to sell the materials at fair market value determined by an appraisal provided by the department;

(2) the applicant, at its own cost, elects to provide an appraisal, acceptable to the department, determining the fair market value of the materials to be sold; or

(3) the sale is to a state or federal agency or political subdivision under AS 38.05.810(a) and the material to be extracted and removed is used for public purposes; sales under this paragraph may be at a price less than appraised value as determined by the director.

(c) Subsequent sales of similar materials from the same source or site may be made by the department at the price established by an appraisal provided under (b) of this section.

(d) Individual negotiated contracts for the sale of materials authorized by (a) of this section are not subject to AS 38.05.035(e) or 38.05.945.

(e) Materials from a source or site designated under AS 38.05.550(b) may be extracted and removed for personal use without cost up to a limit of two cubic yards a person within a one-calendar-year period. Extraction and removal of materials under this subsection must be approved by the department before extraction operations.

(f) Notwithstanding (a) - (e) of this section, for the purpose of creating incentives for the development of peat as a source of heat or power, the director may negotiate the sale of peat to individuals, organized or unorganized communities, tribal governments, or private profit or nonprofit organizations. Under this subsection, the

director may provide

(1) for personal use by an individual, not more than 200 cubic yards of peat a year at no cost;

(2) for commercial use, not more than 30,000 cubic yards of peat during a single 10-year period at no cost; or

(3) for commercial use requiring more than 30,000 cubic yards of peat, the amount required by the user during a 10-year period beginning when the user uses more than 30,000 yards of peat at the price of

(A) 20 percent of the representative regional sales price determined by the director under AS 38.05.550(d)(1); or

(B) 20 percent of the fair market value determined by an appraisal completed under AS 38.05.550(d)(2), if the applicant provides the appraisal at the applicant's expense and the appraisal is approved by the commissioner.

Sec. 38.05.560. Competitive sales of materials. (a) The department shall offer materials from a source or site designated under AS 38.05.550(b) for competitive sale if the department determines that

(1) the sale would result in an exclusive use by the purchaser of a designated source or site;

(2) materials available at a designated source or site are insufficient to supply all anticipated buyers;

(3) the size of the designated source or site is too small to accommodate the extraction operations of all anticipated buyers; or

(4) it is in the best interests of the state.

(b) Notice of a competitive sale of materials from a source or site designated under AS 38.05.550(b) shall be given under AS 38.05.945(a)(4) and shall

(1) describe the location of the designated source or site, and the type and quantity of the materials to be sold;

(2) solicit potential bidders to register with the department to participate in the proposed sale; only persons registered to bid at a proposed sale of materials may bid; and

(3) include the minimum bid for materials to be sold.

(c) A notice of competitive sale required under (b) of this section may be combined with a notice required under AS 38.05.550.

(d) If, after notice under (b) of this section, only one potential bidder has registered to bid at a proposed competitive sale, the competitive sale may be cancelled and the materials sold by negotiation under AS 38.05.555.

(e) Materials sold under this section may be sold either by sealed bid or by public outcry or online auction, in the discretion of the department, to the highest qualified bidder as determined by the department. An aggrieved bidder may appeal to the commissioner under AS 44.37.011 within five days after the sale for a review of the determination. The sale shall be conducted by the director or the director's designee, and, at the time of sale, the successful bidder shall deposit the amount specified in the terms of sale. The means by which the amount of deposit is determined shall be prescribed by regulation. The director shall immediately issue a receipt containing a description of the materials purchased, the price bid, and the terms of sale. The receipt shall be accepted in writing by the bidder. A contract of sale, on a form approved by the attorney general, shall be signed by the purchaser, and the contract shall be signed by the director on behalf of the state. The director may impose conditions, limitations, and terms considered necessary and proper to protect the interests of the state.

Sec. 38.05.562. Violations. Violation of any provision of AS 38.05.550 - 38.05.565 or the terms of the contract of sale subjects the purchaser to appropriate legal action.

Sec. 38.05.565. Sale or disposal of materials for special purposes. (a) The department may negotiate the sale or otherwise dispose of materials from sources or sites other than those designated under AS 38.05.550(b) to

(1) municipalities, other state and federal agencies, or other entities under AS 38.05.872; sales under this paragraph may be at less than fair market value, and materials may be disposed of free of charge if the director determines that the disposal is in the public interest;

(2) a licensed public utility or a licensed common carrier under

AS 38.05.810(e); sales under this paragraph shall be at representative regional sales prices determined under AS 38.05.550(d)(1); or

(3) a holder of a permit, land lease, or right-of-way issued by the department, if the materials to be extracted and removed during the construction, use, or maintenance of a facility authorized by a permit, land lease, or right-of-way, are necessary and incidental to the primary purpose of the permit, land lease, or right-of-way, and the materials are put to beneficial use in a way that alters the character, usefulness, or availability of the materials in their native forms; the department may authorize the sale of materials under terms of the permit, land lease, or right-of-way; sales of materials under this paragraph must be at

(A) the representative regional sales price established under AS 38.05.550(d)(1) unless the sale is to a state or federal agency, political subdivision, or other entity under AS 38.05.810(a); or

(B) a price less than appraised value as determined by the director if the sale is to a state or federal agency, political subdivision, or other entity under AS 38.05.810(a) and the materials to be extracted and removed are used for public purposes.

(b) If materials are moved within and not removed from the boundaries of a permit, land lease, or right-of-way issued by the department without altering the character, usefulness, or availability of the materials in their native forms, the applicant may not be required to purchase the materials.

(c) In this section, "land lease"

(1) means a lease issued under AS 38.05.070 - 38.05.105;

(2) does not include a lease issued under AS 38.05.131 - 38.05.275.

*** Sec. 19.** AS 38.05.810(b) is amended to read:

(b) Notwithstanding AS 38.05.070 - 38.05.080 and 38.05.095, the director, upon application filed by an applicant eligible under (b) - (d) of this section, may, by negotiation and without **competitive bid** [PUBLIC AUCTION] in the manner prescribed in (b) - (d) of this section, lease state land for a term of not more than 55 years. Before leasing, the director shall prepare a land use plan and a land classification to **ensure** [INSURE] that the proposed use is compatible with area

utilization. Before the land may be leased under (b) - (d) of this section, it must be shown to the satisfaction of the director that the land is to be used for an established or definitely proposed project, and that the eligible applicant has the financial ability to carry out the project. The commissioner may establish limitations on the acreage **that** [WHICH] may be leased under (b) - (d) of this section to an applicant.

* **Sec. 20.** AS 38.05.810(e) is amended to read:

(e) The lease, sale, or other disposal of state land at appraised fair market value may be negotiated with a licensed public utility or a licensed common carrier by the director with the approval of the commissioner if the utility or carrier reasonably requires the land for the conduct of its business under its license. **Notwithstanding AS 38.05.550 - 38.05.565, the sale of materials necessary for construction, use, or maintenance of property leased, sold, or disposed of under this section may be negotiated by the director.** A lease with a licensed public utility that is an electric utility entered into under this subsection may not include, as part of the rent or other fee that is negotiated or charged, an amount that is based on or determined by a percentage of gross revenue for renewable energy produced by the electric utility.

* **Sec. 21.** AS 38.05.872 is repealed and reenacted to read:

Sec. 38.05.872. Disposition of state land and resources for flood control projects. (a) The department may make conveyances of title or other interests in state land, provide for exchange of land, or make other arrangements with respect to state land, as necessary to meet federally established requirements of flood control projects authorized inside the state by the United States.

(b) The commissioner may convey materials at less than fair market value to municipalities, other state and federal agencies, or other entities, and make other arrangements for land and materials as mitigation of a flooding area where excess material deposition significantly contributes to the flooding, consistent with a site-specific flood mitigation plan approved by the commissioner and determined to be in the best interests of the public.

* **Sec. 22.** AS 38.05.945(b) is amended to read:

(b) When notice is required to be given under this section,

(1) the notice must contain sufficient information in commonly

understood terms to inform the public of the nature of the action and the opportunity of the public to comment on it;

(2) if the notice is of a preliminary written finding described in (a)(3)(A) of this section, the department shall give notice at the beginning of the public comment period for the preliminary written finding, notifying the public of the right to submit comments; the department shall give notice by

(A) **posting notice on the Alaska Online Public Notice System for at least 30 consecutive days** [PUBLICATION OF A LEGAL NOTICE IN NEWSPAPERS OF STATEWIDE CIRCULATION AND IN NEWSPAPERS OF GENERAL CIRCULATION IN THE VICINITY OF THE PROPOSED ACTION AT LEAST ONCE A WEEK FOR TWO CONSECUTIVE WEEKS];

(B) publication of a notice in display advertising form **describing the proposed action and referencing the online notice required in (A) of this paragraph in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action, if available,** [IN THE NEWSPAPERS DESCRIBED IN (A) OF THIS PARAGRAPH] at least once a week for two consecutive weeks;

(C) public service announcements on the electronic media serving the area to be affected by the proposed action; and

(D) one or more of the following methods:

(i) **publication of a legal notice in newspapers of statewide circulation or in newspapers of general circulation in the vicinity of the proposed action, if available, at least once a week for two consecutive weeks;**

(ii) posting in a conspicuous location in the vicinity of the action;

(iii) [(ii)] notification of parties known or likely to be affected by the action; or

(iv) [(iii)] another method calculated to reach affected parties;

(3) if the notice is of an action described in (a) of this section, other than notice of an action under (a)(3)(A) of this section, the department shall give notice at least 30 days before the action by **posting notice on the Alaska Online Public Notice System for at least 30 consecutive days** [PUBLICATION IN NEWSPAPERS OF STATEWIDE CIRCULATION AND IN NEWSPAPERS OF GENERAL CIRCULATION IN THE VICINITY OF THE PROPOSED ACTION] and **by** one or more of the following methods:

(A) **publication of a notice in display advertising form describing the proposed action and referencing the online notice required in this paragraph in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action, if available, at least once a week for two consecutive weeks;**

(B) publication through public service announcements on the electronic media serving the area affected by the action;

(C) [(B)] posting in a conspicuous location in the vicinity of the action;

(D) [(C)] notification of parties known or likely to be affected by the action;

(E) **publication of a legal notice, at least 30 days before the action, briefly describing the proposed action and referencing the online notice required in this paragraph in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action, if available;** or

(F) [(D)] another method calculated to reach affected persons.

* **Sec. 23.** AS 38.05.945(b), as amended by sec. 22 of this Act, is amended to read:

(b) When notice is required to be given under this section,

(1) the notice must contain sufficient information in commonly understood terms to inform the public of the nature of the action and the opportunity of the public to comment on it;

(2) if the notice is of a preliminary written finding described in (a)(3)(A) of this section, the department shall give notice at the beginning of the public

comment period for the preliminary written finding, notifying the public of the right to submit comments; the department shall give notice by

(A) posting notice on the Alaska Online Public Notice System for at least 30 consecutive days;

(B) publication of a notice in display advertising form describing the proposed action and referencing the online notice required in (A) of this paragraph in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action, if available, at least once a week for two consecutive weeks;

(C) public service announcements on the electronic media serving the area to be affected by the proposed action; and

(D) one or more of the following methods:

(i) publication of a legal notice in newspapers of statewide circulation or in newspapers of general circulation in the vicinity of the proposed action, if available, at least once a week for two consecutive weeks;

(ii) posting in a conspicuous location in the vicinity of the action;

(iii) notification of parties known or likely to be affected by the action; or

(iv) another method calculated to reach affected parties;

(3) if the notice is of an action described in (a) of this section, other than notice of an action under (a)(3)(A) of this section, the department shall give notice at least 30 days before the action by posting notice on the Alaska Online Public Notice System for at least 30 consecutive days and by one or more of the following methods:

(A) publication of a notice in display advertising form describing the proposed action and referencing the online notice required in this paragraph in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action, if available, at least once a week for two consecutive weeks;

(B) publication through public service announcements on the electronic media serving the area affected by the action;

(C) posting in a conspicuous location in the vicinity of the action;

(D) notification of parties known or likely to be affected by the action; **or**

(E) [PUBLICATION OF A LEGAL NOTICE, AT LEAST 30 DAYS BEFORE THE ACTION, BRIEFLY DESCRIBING THE PROPOSED ACTION AND REFERENCING THE ONLINE NOTICE REQUIRED IN THIS PARAGRAPH IN NEWSPAPERS OF STATEWIDE CIRCULATION AND IN NEWSPAPERS OF GENERAL CIRCULATION IN THE VICINITY OF THE PROPOSED ACTION, IF AVAILABLE; OR

(F)] another method calculated to reach affected persons.

* **Sec. 24.** AS 38.05.965(10) is repealed and reenacted to read:

(10) "materials"

(A) means all common variety rock and minerals of any quality, that are saleable and not subject to location under state or federal mining laws;

(B) includes aggregate, riprap, railroad ballast, road ballast, road metal, peat, silt, loam, sand, gravel, stone, pumice, and common clay;

* **Sec. 25.** AS 41.23.470(b) is amended to read:

(b) The commissioner may conduct only a negotiated timber [OR MATERIAL] sale under AS 38.05.115 to provide for personal use, including house logs and firewood, or for a use incidental to the construction of access, or for habitat enhancement.

* **Sec. 26.** AS 46.15.155(a) is amended to read:

(a) Notwithstanding any contrary provision of this chapter, the commissioner may authorize the temporary use of a significant amount of water, as determined by the department by regulation, for a period of time not to exceed five consecutive years **for each authorization**, if the water applied for has not been appropriated in accordance with this chapter. **In the commissioner's discretion, a new authorization**

1 **for the temporary use of a significant amount of water may be issued for a**
2 **project at or before the expiration of the existing authorization issued for the**
3 **same project.**

4 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change

7 (1) the heading of art. 4 of AS 38.05 from "Disposal of Timber and Materials"
8 to "Disposal of Timber";

9 (2) the catch line of AS 38.05.110 from "Sale of timber and materials;
10 account" to "Sale of timber."

11 * **Sec. 28.** Section 23 of this Act takes effect July 1, 2017.

12 * **Sec. 29.** Except as provided in sec. 28 of this Act, this Act takes effect July 1, 2012.