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Bullard  
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**CS FOR SENATE BILL NO. 208( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTY-FOURTH LEGISLATURE - SECOND SESSION

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR BJORKMAN**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the sale and lease of state land for agricultural purposes; and**  
2 **providing for an effective date."**

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

4 **\* Section 1.** AS 38.04.020(i) is amended to read:

5 (i) Nothing in this section prevents the disposal of other land by the  
6 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.059, 38.05.070, the  
7 issuance of remote recreational cabin site leases or sales under AS 38.05.600,  
8 AS 38.08, AS 38.09, or other law.

9 **\* Sec. 2.** AS 38.05.059 is amended to read:

10 **Sec. 38.05.059. Sale of agricultural land.** The commissioner, after consulting  
11 with the Board of Agriculture and Conservation (AS 03.09.010), may provide for the  
12 sale of land classified under AS 38.05.020(b)(6) for agricultural uses in parcels or  
13 tracts described by aliquot parts. The parcels or tracts are subject to state subdivision  
14 requirements and municipal ordinances. Money from a sale of agricultural land shall

1 be separately accounted for and may be appropriated to the agricultural revolving loan  
 2 fund (AS 03.10.040). **The commissioner may offer land classified for agricultural**  
 3 **uses for sale at public auction under AS 38.05.057(c), by sealed bid under**  
 4 **AS 38.05.055, or as provided in (b) of this section. A parcel or tract sold under**  
 5 **this section is subject to AS 38.05.321 and must be used for agricultural purposes.**

6 \* **Sec. 3.** AS 38.05.059 is amended by adding new subsections to read:

7 (b) A person may apply to purchase a parcel or tract of land for an agricultural  
 8 purpose under this section by submitting an application to the department. An  
 9 application to purchase agricultural land must include

10 (1) the specific location, description, and amount of land the applicant  
 11 wants to purchase;

12 (2) a detailed summary of the proposed agricultural purposes the land  
 13 will be used for; and

14 (3) additional information and requirements established by the  
 15 department by regulation, including any application fees.

16 (c) The director shall evaluate an application submitted under this section  
 17 using scoring criteria established in regulation by the department that includes

18 (1) the department's assessment of the feasibility and value of the  
 19 proposed agricultural use;

20 (2) applicable conservation and stewardship considerations;

21 (3) applicant qualifications and experience; and

22 (4) financial viability of the proposed agricultural use.

23 (d) Upon receiving an application to purchase a parcel or tract of state land for  
 24 agricultural purposes under this section, the department shall solicit competitive  
 25 interest by issuing a public notice in the manner prescribed in AS 38.05.945. The  
 26 notice must contain an announcement seeking competitive interest. If, following  
 27 notice, the director has received only one application and finds, using the scoring  
 28 criteria established under (c) of this section, that the sale is in the best interests of the  
 29 state under AS 38.05.035(e), the commissioner may sell the parcel or tract to the  
 30 applicant. If, following notice, the director has received two or more applications for  
 31 the same parcel or tract, the commissioner may sell the parcel or tract to the applicant

1 whose proposal the director finds, using the scoring criteria established under (c) of  
 2 this section and information received under (e) of this section, is in the best interests of  
 3 the state under AS 38.05.035(e) and conveys the greatest benefit to the state,  
 4 notwithstanding the proposed monetary consideration. An application for the purchase  
 5 of state land under this section, including supporting documentation submitted to the  
 6 department for review, is a public record subject to AS 40.25.110 - 40.25.220. An  
 7 aggrieved applicant may appeal to the commissioner for a review of the director's  
 8 finding within 20 days after receiving notice of the finding.

9 (e) Before the commissioner signs a formal conveyance under this section, the

10 (1) director shall

11 (A) make public applications received for the purchase of the  
 12 land, including supporting documentation submitted to the department, and the  
 13 department's evaluation and scoring of the applications under (c) of this  
 14 section;

15 (B) evaluate information and applications received during a  
 16 solicitation of competitive interest under (d) of this section; and

17 (C) find under AS 38.05.035(e) that the sale of the land for the  
 18 proposed agricultural purpose is in the best interests of the state;

19 (2) commissioner may hold a hearing to take testimony and shall

20 (A) provide notice and allow opportunity for comment in  
 21 accordance with AS 38.05.945; and

22 (B) consider all relevant comments or testimony received under  
 23 this section, AS 38.05.945, and 38.05.946.

24 \* **Sec. 4.** AS 38.05.069(d) is amended to read:

25 (d) When not in conflict with this section, the provisions of

26 **(1)** AS 38.05.045 - 38.05.105 apply to disposals under this section;

27 **and**

28 **(2) AS 38.05.084 apply to leases issued under this section.**

29 \* **Sec. 5.** AS 38.05.070(c) is amended to read:

30 (c) A lease may be issued for a period up to 55 years, if the commissioner  
 31 determines it to be in the best interests of the state. The commissioner shall consider

1 the useful life of any improvements proposed and approved under AS 38.05.075 in  
2 determining the term of the lease. **The** [IF THE] commissioner **may declare a lease**  
3 **void if the commissioner** determines that

4 (1) the land or a part of it which is the subject of a grazing lease is not  
5 being used for the purpose issued; **or**

6 (2) **land leased under AS 38.05.084 is not being used for**  
7 **agricultural purposes** [, THE LEASE MAY BE DECLARED VOID].

8 \* **Sec. 6.** AS 38.05.070(e) is amended to read:

9 (e) The director may renew a lease issued under this section, AS 38.05.075,  
10 38.05.083, **38.05.084**, or 38.05.810 upon its expiration if the lease is in good standing  
11 and the lease renewal is determined to be in the best interests of the state. A renewal  
12 issued under this subsection is not subject to AS 38.05.035(e). **The director shall**  
13 **provide notice of the lease renewal decision.** A lease under

14 (1) this section, AS 38.05.075, or 38.05.810 may be renewed only once  
15 for a term not longer than the initial term of the lease; **and**

16 (2) **AS 38.05.084 may be renewed for a term of 10 years under**  
17 **AS 38.05.084(f)** [. THE DIRECTOR SHALL PROVIDE NOTICE OF THE LEASE  
18 RENEWAL DECISION].

19 \* **Sec. 7.** AS 38.05.075(a) is amended to read:

20 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.081,  
21 38.05.082, 38.05.083, **38.05.084**, 38.05.087, 38.05.102, 38.05.565, 38.05.600,  
22 38.05.810, and this section, when competitive interest has been demonstrated or the  
23 commissioner determines that it is in the state's best interests, leasing shall be made at  
24 public auction or by sealed bid, at the discretion of the director, to the highest qualified  
25 bidder as determined by the commissioner. A bidder may be represented by an  
26 attorney or agent at a public auction. In the public notice of a lease to be offered at  
27 public auction or by sealed bid, the commissioner shall specify a minimum acceptable  
28 bid and the lease compensation method. The lease compensation method shall be  
29 designed to maximize the return on the lease to the state and shall be a form of  
30 compensation set out in AS 38.05.073(m). An aggrieved bidder may appeal to the  
31 commissioner within five days for a review of the determination. The leasing shall be

1 conducted by the commissioner, and the successful bidder shall deposit at the public  
2 auction or with the sealed bid the first year's rental or other lease compensation as  
3 specified by the commissioner, or that portion of it that the commissioner requires in  
4 accordance with the bid. The commissioner shall require, under AS 38.05.860,  
5 qualified bidders to deposit a sum equal to any survey or appraisal costs reasonably  
6 incurred by another qualified bidder acting in accordance with the regulations of the  
7 commissioner or incurred by the department under AS 38.04.045 and AS 38.05.840. If  
8 a bidder making a deposit of survey or appraisal costs is determined by the  
9 commissioner to be the highest qualified bidder under this subsection, the deposit shall  
10 be paid to the unsuccessful bidder who incurred those costs or to the department if the  
11 department incurred the costs. All costs for survey and appraisal shall be approved in  
12 advance in writing by the commissioner. The commissioner shall immediately issue a  
13 receipt containing a description of the land or interest leased, the price bid, and the  
14 terms of the lease to the successful qualified bidder. If the receipt is not accepted in  
15 writing by the bidder under this subsection, the commissioner may offer the land for  
16 lease again under this subsection. A lease, on a form approved by the attorney general,  
17 shall be signed by the successful bidder and by the commissioner.

18 \* **Sec. 8.** AS 38.05 is amended by adding a new section to read:

19 **Sec. 38.05.084. Leases of state land for agricultural purposes.** (a) The  
20 commissioner may lease state land classified under AS 38.05.020(b)(6) for  
21 agricultural purposes. The commissioner may offer agricultural land for lease to the  
22 public at public auction, by sealed bid under AS 38.05.075, by negotiation under  
23 AS 38.05.070, or as provided in this section. State land that is not classified as  
24 agricultural land under AS 38.05.020(b)(6) may be leased for agricultural purposes  
25 under this section. A lease issued under this section must include land use restrictions  
26 and authorizations consistent with the agricultural purpose of the lease. However, the  
27 commissioner shall permit a person leasing land under this section

- 28 (1) to construct housing for farmers and farm laborers;  
29 (2) to use gravel reasonably required or related to agricultural  
30 production on the leased land; and  
31 (3) to remove and dispose of timber on the leased land to bring it into

1 agricultural use.

2 (b) A person may apply to lease state land for an agricultural purpose under  
3 this section by submitting an application to the department. An application to lease  
4 agricultural land must include

5 (1) the specific location, description, and amount of land the applicant  
6 wants to lease;

7 (2) a detailed summary of the proposed agricultural purposes the land  
8 will be used for, including, if applicable,

9 (A) a farm management plan that details proposed crop plans or  
10 livestock production;

11 (B) a timeline for agricultural production and infrastructure  
12 development;

13 (C) a plan for soil and water conservation;

14 (3) information supporting the financial viability of the proposal,  
15 including any marketing plans;

16 (4) the applicant's relevant qualifications, training, and experience; and

17 (5) additional information and requirements established by the  
18 department by regulation, including any application fees.

19 (c) The director shall evaluate an application submitted under this section  
20 using scoring criteria established in regulation by the department under  
21 AS 38.05.059(c).

22 (d) Upon receiving an application to lease state land for agricultural purposes  
23 under this section, the department shall solicit competitive interest by issuing a public  
24 notice in the manner prescribed in AS 38.05.945. The notice must contain an  
25 announcement seeking competitive interest. If, following notice, the director has  
26 received only one application and finds, using the scoring criteria established in  
27 regulation by the department under AS 38.05.059(c), that the lease is in the best  
28 interests of the state under AS 38.05.035(e), the commissioner may award a lease to  
29 the applicant. If, following notice, the director has received two or more applications  
30 for the same land, the commissioner may award a lease to the applicant whose  
31 proposal the director finds, using the scoring criteria established in regulation by the

1 department under AS 38.05.059(c) and information received under (e) of this section,  
2 is in the best interests of the state under AS 38.05.035(e) and conveys the greatest  
3 public benefit to the state, notwithstanding the proposed monetary consideration. An  
4 application for the lease of state land under this section, including supporting  
5 documentation submitted to the department for review, is a public record subject to  
6 AS 40.25.110 - 40.25.220. An aggrieved applicant may appeal to the commissioner for  
7 a review of the director's finding within 20 days after receiving notice of the finding.

8 (e) Before the commissioner awards a lease for agricultural land under this  
9 section, the

10 (1) director shall

11 (A) make public applications for the lease of the land,  
12 including supporting documentation submitted to the department, and the  
13 department's evaluation and scoring of the applications under (c) of this  
14 section;

15 (B) evaluate information and applications received during a  
16 solicitation of competitive interest under (d) of this section; and

17 (C) find under AS 38.05.035(e) that leasing the land for the  
18 proposed agricultural purpose is in the best interests of the state;

19 (2) commissioner may hold a hearing to take testimony and shall

20 (A) provide notice and allow opportunity for comment in  
21 accordance with AS 38.05.945; and

22 (B) consider all relevant comments or testimony received under  
23 this section, AS 38.05.945, and 38.05.946.

24 (f) Notwithstanding AS 38.05.070(f), a lease for state land under this section  
25 is for 10 years with an option for 10-year renewals as long as the lessee continues to  
26 meet the terms of the lease. The director shall establish by regulation criteria for lease  
27 termination, lease renewal, and requirements for returning land to the state.

28 (g) If the commissioner determines that it is in the best interests of the state to  
29 sell land leased under this section, the commissioner shall grant a lessee who has used  
30 the land for agricultural purposes for at least seven years and who is in compliance  
31 with the terms and conditions of the lease a first option to purchase the land under

1 AS 38.05.055. If a lessee does not use the land leased under this section for  
2 agricultural purposes for at least seven years, the lessee is not eligible for a preference  
3 under this subsection.

4 (h) The director shall establish by regulation an agricultural fee schedule for  
5 compensation for a lease under this section. The fee schedule established by the  
6 department must account for the value of the agricultural activity on the leased land in  
7 the state. The fee schedule must ensure fair compensation to the state. Rent may be set  
8 below fair market rate.

9 (i) State land leased for agricultural purposes under this section is subject to

10 (1) appraisal under AS 38.05.840 only if the commissioner determines  
11 in writing that the site is subject to appraisal under AS 38.05.840;

12 (2) survey under AS 38.04.045(b) only if the commissioner determines  
13 in writing that the site is subject to appraisal under AS 38.04.045(b); and

14 (3) inspection by the department under (j) of this section to ascertain  
15 and enforce compliance with the terms and conditions of a lease under this section.

16 (j) The department shall inspect land leased under this section at least once  
17 biennially. An inspection under this section, at the discretion of the department, may  
18 be conducted virtually or employ an unmanned aircraft system. In this section,  
19 "unmanned aircraft system" has the meaning given in AS 18.65.909.

20 (k) A lessee who violates a provision of this section may be assessed a civil  
21 penalty by the director. The director shall establish by regulation a schedule of

22 (1) applicable fines that a person may be required to pay under this  
23 section; and

24 (2) administrative and enforcement actions applicable to violation of  
25 the terms and conditions of a lease issued under this section.

26 (l) In this section, "agricultural purposes" means

27 (1) the commercial production of useful plants and animals;

28 (2) the construction of improvements for animals or improvements that  
29 are reasonably required for or related to agricultural use.

30 \* **Sec. 9.** AS 38.05.102 is amended to read:

31 **Sec. 38.05.102. Lessee preference.** Except for a lease under AS 38.05.081,

1 [OR] 38.05.083, or 38.05.084, if land within a leasehold created under AS 38.05.070 -  
 2 38.05.105 is offered for sale or long-term lease at the termination of the existing  
 3 leasehold, the director may, upon a finding that it is in the best interest of the state,  
 4 allow a holder in good standing of the existing leasehold to purchase or lease the land  
 5 for its appraised fair market value at the time of the sale or long-term lease.

6 \* **Sec. 10.** AS 38.05.321(g) is amended to read:

7 (g) A perpetual covenant described in (a) of this section may be enforced **by**  
 8 **the department under (k) of this section or** [ONLY] by a civil action brought by the  
 9 state, a municipality, or a resident. If a municipality or a resident brings an action  
 10 under this subsection, the municipality or resident shall also serve a copy of the  
 11 summons and complaint on the state in the manner prescribed by the Alaska Rules of  
 12 Civil Procedure for service on the state. An action may be maintained under this  
 13 subsection only if

14 (1) commenced within six years after the cause of action has accrued;  
 15 and

16 (2) the plaintiff has first notified in writing the appropriate soil and  
 17 water conservation district under AS 41.10 of the violation of the covenant at least 90  
 18 days before the civil action is filed.

19 \* **Sec. 11.** AS 38.05.321 is amended by adding a new subsection to read:

20 (k) If a landowner does not cooperate with a soil and water conservation  
 21 district as required by (d)(1) of this section, fails to prepare and implement a schedule  
 22 of agricultural development required by the commissioner under (d)(2) of this section,  
 23 or violates the covenant described in (a) of this section, the department may assess  
 24 civil penalties. The department shall adopt by regulation a schedule of civil penalties  
 25 for violations of this section and regulations adopted under this section.

26 \* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to  
 27 read:

28 REGULATIONS. The Department of Natural Resources may adopt regulations  
 29 necessary to implement this Act. The regulations take effect under AS 44.62 (Administrative  
 30 Procedure Act), but not before the effective date of this section.

31 \* **Sec. 13.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).

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\* **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect January 1, 2027.