

**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 uses; and providing**  
2 **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. The commissioner shall publish a schedule

1 **that provides per-acre prices of land, based on the region within which the land is**  
 2 **located. The commissioner shall ensure that the schedule serves the best interest**  
 3 **of the state. The commissioner may set land sale prices below the market rate.**  
 4 Money from a sale of agricultural land shall be separately accounted for **under**  
 5 **AS 37.05.142** and may be appropriated to the agricultural revolving loan fund  
 6 (AS 03.10.040). **The commissioner may offer land classified for agricultural uses**  
 7 **for sale at public auction under AS 38.05.057(c), by sealed bid under**  
 8 **AS 38.05.055, or as provided in (b) of this section. A parcel or tract sold under**  
 9 **this section is subject to AS 38.05.321 and must be used for agricultural uses.**

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

11 (b) The department may solicit applications for the purchase of state  
 12 agricultural land under this section. A person may apply to purchase a parcel or tract  
 13 of land offered for sale under this section by submitting an application to the  
 14 department. An application to purchase agricultural land must include

- 15 (1) the specific land the applicant wants to purchase;
- 16 (2) a detailed summary of the proposed agricultural uses the land will  
 17 be used for;
- 18 (3) a plan for soil and water conservation;
- 19 (4) information supporting the financial viability of the applicant's  
 20 proposed agricultural uses for the land, including any marketing plans;
- 21 (5) the applicant's relevant qualifications, training, and experience; and
- 22 (6) additional information and requirements established by the  
 23 department by regulation, including any application fees.

24 (c) The director shall, in consultation with the director of agriculture, evaluate  
 25 an application submitted under this section using scoring criteria established in  
 26 regulation by the department. Criteria developed under this subsection must be  
 27 flexible in application and account for the range of land offered under this subsection  
 28 and the variety of agricultural uses that the land may accommodate. The department  
 29 may provide the applicable criteria, and how an application submitted under this  
 30 section will be scored under those criteria, in a solicitation of interest for a particular  
 31 parcel or tract. The criteria must include

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

3 (2) applicable conservation and stewardship considerations;

4 (3) applicant qualifications and experience; and

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

6 (d) If the director, in consultation with the director of agriculture, finds, using  
7 the scoring criteria established under (c) of this section, that a sale of agricultural land  
8 to an applicant under (b) of this section is in the best interests of the state under  
9 AS 38.05.035(e), the commissioner may sell the parcel or tract to the applicant. If the  
10 director has received two or more applications for the same parcel or tract, the  
11 commissioner may sell the parcel or tract to the applicant whose proposal the director  
12 finds, after consulting with the director of agriculture, using the scoring criteria  
13 established under (c) of this section, and reviewing the information received under (e)  
14 of this section, is in the best interests of the state under AS 38.05.035(e). An  
15 application for the purchase of state land under this section, including supporting  
16 documentation submitted to the department for review, is a public record subject to  
17 AS 40.25.110 - 40.25.220. The commissioner shall publish all applications received  
18 for the purchase of the land, including supporting documentation submitted to the  
19 department, and the department's evaluation and scoring of the applications under (c)  
20 of this section, when the department provides notice of the sale under AS 38.05.945.  
21 An aggrieved applicant may appeal to the commissioner for a review of the director's  
22 finding within 20 days after receiving notice of the finding.

23 (e) Before the commissioner signs a formal conveyance under this section, the  
24 commissioner may hold a hearing to take testimony and shall

25 (1) provide notice and allow opportunity for comment in accordance  
26 with AS 38.05.945; and

27 (2) consider all relevant comments or testimony received under this  
28 section, AS 38.05.945, and 38.05.946.

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

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

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

1 and

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

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

4 (c) A lease may be issued for a period up to 55 years, if the commissioner  
5 determines it to be in the best interests of the state. The commissioner shall consider  
6 the useful life of any improvements proposed and approved under AS 38.05.075 in  
7 determining the term of the lease. The [IF THE] commissioner may declare a lease  
8 void if the commissioner determines that

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

11 (2) land leased under AS 38.05.084 is not being used for  
12 agricultural uses [, THE LEASE MAY BE DECLARED VOID].

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

14 (e) The director may renew a lease issued under this section, AS 38.05.075,  
15 38.05.083, 38.05.084, or 38.05.810 upon its expiration if the lease is in good standing  
16 and the lease renewal is determined to be in the best interests of the state. A renewal  
17 issued under this subsection is not subject to AS 38.05.035(e). The director shall  
18 provide notice of the lease renewal decision. A lease under

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

21 (2) AS 38.05.084 may be renewed for a term of 20 years under  
22 AS 38.05.084(f) [. THE DIRECTOR SHALL PROVIDE NOTICE OF THE LEASE  
23 RENEWAL DECISION].

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

25 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.081,  
26 38.05.082, 38.05.083, 38.05.084, 38.05.087, 38.05.102, 38.05.565, 38.05.600,  
27 38.05.810, and this section, when competitive interest has been demonstrated or the  
28 commissioner determines that it is in the state's best interests, leasing shall be made at  
29 public auction or by sealed bid, at the discretion of the director, to the highest qualified  
30 bidder as determined by the commissioner. A bidder may be represented by an  
31 attorney or agent at a public auction. In the public notice of a lease to be offered at

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

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

24 **Sec. 38.05.084. Leases of state land for agricultural uses.** (a) The  
25 commissioner may lease state land classified under AS 38.05.020(b)(6) for  
26 agricultural uses. Money from the lease of agricultural land shall be separately  
27 accounted for under AS 37.05.142 and may be appropriated to the agricultural  
28 revolving loan fund (AS 03.10.040). The commissioner may offer agricultural land for  
29 lease to the public at public auction, by sealed bid under AS 38.05.075, by negotiation  
30 under AS 38.05.070, or as provided in this section. State land that is not classified as  
31 agricultural land under AS 38.05.020(b)(6) may be leased for agricultural uses under

1 this section. A lease issued under this section must include land use restrictions and  
2 authorizations consistent with the agricultural use of the lease. However, the  
3 commissioner shall permit a person leasing land under this section to construct  
4 housing for farmers and farm laborers.

5 (b) A person may apply to lease state land for an agricultural use under this  
6 section by submitting an application to the department. An application to lease  
7 agricultural land must include

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

10 (2) a detailed summary of the proposed agricultural uses the land will  
11 be used for;

12 (3) an agricultural development plan that

13 (A) details proposed crop plans or livestock production;

14 (B) includes a timeline for agricultural production and  
15 infrastructure development on the land;

16 (C) provides how soil and water will be conserved;

17 (4) information supporting the financial viability of the proposal,  
18 including any marketing plans;

19 (5) the applicant's relevant qualifications, training, and experience; and

20 (6) additional information and requirements established by the  
21 department by regulation, including any application fees.

22 (c) The director shall, in consultation with the director of agriculture, evaluate  
23 an application submitted under this section using scoring criteria established in  
24 regulation by the department under AS 38.05.059(c). Upon the director's request, an  
25 applicant may amend and resubmit an application provided under this section before  
26 the director approves or denies the application.

27 (d) Upon receiving an application to lease state land for agricultural uses  
28 under this section, the department shall solicit competitive interest by issuing a public  
29 notice in the manner prescribed in AS 38.05.945. The notice must contain an  
30 announcement seeking competitive interest. If, following notice, the director has  
31 received only one application and finds, using the scoring criteria established in

1 regulation by the department under AS 38.05.059(c), that the lease is in the best  
 2 interests of the state under AS 38.05.035(e), the commissioner may award a lease to  
 3 the applicant. If, following notice, the director has received two or more applications  
 4 for the same land, the commissioner may award a lease to the applicant whose  
 5 proposal the director finds, using the scoring criteria established in regulation by the  
 6 department under AS 38.05.059(c) and information received under (e) of this section,  
 7 is in the best interests of the state under AS 38.05.035(e) and conveys the greatest  
 8 public benefit to the state, notwithstanding the proposed monetary consideration. An  
 9 application for the lease of state land under this section, including supporting  
 10 documentation submitted to the department for review, is a public record subject to  
 11 AS 40.25.110 - 40.25.220. The commissioner shall publish all applications received  
 12 for the lease of the land, including supporting documentation submitted to the  
 13 department, and the department's evaluation and scoring of the applications under (c)  
 14 of this section, when the department provides notice of the lease under AS 38.05.945.  
 15 An aggrieved applicant may appeal to the commissioner for a review of the director's  
 16 finding within 20 days after receiving notice of the finding.

17 (e) Before the commissioner awards a lease for agricultural land under this  
 18 section, the commissioner may hold a hearing to take testimony and shall

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

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

23 (f) Notwithstanding AS 38.05.070(f), a lease for state land under this section  
 24 is for 20 years with an option for 20-year renewals as long as the lessee continues to  
 25 meet the terms of the lease. The director shall establish by regulation criteria for lease  
 26 termination, lease renewal, and requirements for returning land to the state. The  
 27 commissioner may terminate a lease under this section if the lessee fails to use the  
 28 leased land for agricultural uses or otherwise fails to adhere to the terms and  
 29 conditions of the agricultural development plan approved by the director under this  
 30 section. However, the commissioner may modify a lessee's agricultural development  
 31 plan if the commissioner makes a written finding that the plan should be modified

1 because of economic hardship or other extenuating circumstances.

2 (g) Land leased under this section may be subleased or assigned as provided in  
3 AS 38.05.095 if the sublessee or assignee agrees in writing to adhere to the terms and  
4 conditions of the agricultural development plan for the land approved by the director  
5 under this section, and provides a copy of the agreement to the director.

6 (h) If the commissioner determines that it is in the best interests of the state to  
7 sell land leased under this section, the commissioner shall grant a lessee who has used  
8 the land for agricultural uses for at least seven years and who is in compliance with the  
9 terms and conditions of the lease a first option to purchase the land by sealed bid  
10 under AS 38.05.059. If a lessee does not use the land leased under this section for  
11 agricultural uses for at least seven years, the lessee is not eligible for a preference  
12 under this subsection.

13 (i) The director shall establish by regulation an agricultural fee schedule for  
14 compensation for a lease under this section. The fee schedule must ensure fair  
15 compensation to the state. Rent may be set below fair market rate.

16 (j) State land leased for agricultural uses under this section is subject to

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

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

21 (3) inspection by the department under (k) of this section to ascertain  
22 and enforce compliance with the terms and conditions of a lease under this section.

23 (k) The department shall inspect land leased under this section at least once  
24 biennially. An inspection under this section, at the discretion of the department, may  
25 be conducted virtually or employ an unmanned aircraft system. In this subsection,  
26 "unmanned aircraft system" has the meaning given in AS 18.65.909.

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

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

31 (2) administrative and enforcement actions applicable to violation of

1 the terms and conditions of a lease issued under this section.

2 (m) The commissioner shall adopt regulations establishing a lease-purchase  
3 program under which, if a lessee purchases leased land under AS 38.05.059, the sale  
4 price of the land may be reduced by an amount equal to a portion of the lessee's lease  
5 payments made to the state. The regulations must require that the lessee have used the  
6 land for agricultural uses during the lessee's tenancy to qualify for the program.

7 (n) In this section, "agricultural uses" means

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

9 (2) the construction of improvements for animals or improvements that  
10 are reasonably required for or related to agricultural use;

11 (3) the use of gravel reasonably required or related to agricultural  
12 production on the leased land; and

13 (4) the removal and disposal of timber on the leased land to bring the  
14 land into agricultural use.

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

16 **Sec. 38.05.102. Lessee preference.** Except for a lease under AS 38.05.081,  
17 [OR] 38.05.083, or 38.05.084, if land within a leasehold created under AS 38.05.070 -  
18 38.05.105 is offered for sale or long-term lease at the termination of the existing  
19 leasehold, the director may, upon a finding that it is in the best interest of the state,  
20 allow a holder in good standing of the existing leasehold to purchase or lease the land  
21 for its appraised fair market value at the time of the sale or long-term lease. **If land**  
22 **within a leasehold created under AS 38.05.084 is offered for sale, the director**  
23 **may, upon a finding that it is in the best interest of the state, allow a holder of the**  
24 **lease to purchase the land under AS 38.05.059.**

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

26 (g) A perpetual covenant described in (a) of this section may be enforced **by**  
27 **the department under (k) of this section or** [ONLY] by a civil action brought by the  
28 state, a municipality, or a resident. If a municipality or a resident brings an action  
29 under this subsection, the municipality or resident shall also serve a copy of the  
30 summons and complaint on the state in the manner prescribed by the Alaska Rules of  
31 Civil Procedure for service on the state. An action may be maintained under this

subsection only if

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

and

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

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

(k) If a landowner does not cooperate with a soil and water conservation district as required by (d)(1) of this section, fails to prepare and implement a schedule of agricultural development required by the commissioner under (d)(2) of this section, or violates the covenant described in (a) of this section, the department may assess civil penalties. In accordance with a schedule adopted in regulation, the department may assess and collect these and other civil penalties for violations of this section and regulations adopted under this section.

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

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

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

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