



LAWS OF ALASKA

1976

Source

SCS CSHB 654

Chapter No.

257

AN ACT

Relating to the administration of state land.

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

* Section 1. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.032. SCHOOL LAND DISPOSITION PROCEDURES.

(a) Before the sale, lease or other disposal of school land, the director shall

(1) cause the preparation of a development plan which adequately describes the manner in which the land will be developed or utilized; however, no development plan is required for an exchange of school land to a public entity;

(2) make notice under sec. 345 of this chapter of the proposed development plan, stating that a disposal of the land for such use is under consideration, and that interested persons may make comments and submit alternative proposals for development and use within 30 days of the last publication of notice; and

(3) notify municipalities as provided in sec. 305 of this chapter at the same time notice is published or posted under (2) of this subsection; no further notice to municipalities need be given at the time of disposal.

(b) In the case of school land to be disposed of within municipalities, no disposal may be made until the municipal planning authority has held a public hearing on development plans and applications relating to the land to be disposed of. The director shall make development plans and applications available to municipal planning authorities for this purpose. No disposition of land may be made sooner than three weeks after a hearing held under this subsection.

No disposition of land may be made unless the development plan is approved by the municipal planning authority.

* Sec. 2. AS 38.05.035(a)(13) is amended to read:

(13) select, administer, and dispose of mental health lands for the support of the mental health program except that no mental health lands may be disposed of without the approval of a board composed of the director of the division of mental health, chairman of the Mental Health Advisory Council, and the commissioner of revenue;

* Sec. 3. AS 38.05.035(a)(14) is amended to read:

(14) when he makes a written finding that the interests of the state will be best served, he may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available lands, resources, property or interests in them, and in addition to the conditions and limitations imposed by law, he may impose additional conditions or limitations in the contracts as he, with the consent of the commissioner, determines will best serve the interests of the state; and no contract for the sale, lease, or other disposal of available lands or interest in them, is legally binding on the state until the commissioner formally records his consent to the contract; but if the appraised value is not greater than \$10,000 in the case of the sale of land or an interest in land, or \$1,000 in the case of the annual rental of land or interest in land, the director may approve and issue the contract without the consent or approval of the commissioner. The written finding shall be available to the public upon request. Before a public hearing, if held, or in any case no less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them, the director shall make available to the public a written decision in which he sets out the facts and applicable law upon which he based his determination that the sale, lease, or other disposal will best serve the interests of the state.

* Sec. 4. AS 38.05.069(a) is repealed and re-enacted to read:

(a) If the director determines that the highest and best use of unoccupied land is for agricultural purposes, and if he determines that it is in the best interests of the state to sell or lease the land, he shall grant to an Alaskan resident owning and using or leasing and using land for agricultural purposes a 60-day first option after the date of the auction to purchase or lease the unoccupied land situated adjacent to or in the approximate vicinity of his presently held land for the amount of the high bid received at public auction; provided the aggregate number of acres owned and acquired under the option shall not exceed 320 acres; and further provided that the land acquired under this section is used for agricultural purposes as required by law.

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

(b) If more than one person is eligible for a first option under (a) of this section, the director shall deter-

mine priority by granting precedence first to the person who demonstrates the greatest need for the unoccupied land in order to establish an economic unit and, secondly, to the eligible person who occupies land that is most readily accessible to the unoccupied land to be sold or leased. In the event that two or more persons have approximately equal qualifications for priority under this section, the director shall grant priority to that person who is a veteran. If more than one person is approximately equally well qualified under this section, the director shall determine priority by lot.

* Sec. 6. AS 38.05.069 is amended by adding a new subsection to read:

(f) Nothing in (c) of this section affects the disposal of minerals under secs. 135 - 183 of this chapter.

* Sec. 7. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold created under secs. 70 - 100 of this chapter is offered for sale or long-term lease at the termination of the existing leasehold, the director may, if he finds that it is in the best interest of the state, allow the holder in good standing of that leasehold to purchase or lease the land for the amount of the high bid received at public auction.

* Sec. 8. AS 38.05.105 is amended to read:

Sec. 38.05.105. PERIODIC RENTAL ADJUSTMENTS. Each lease shall stipulate that the annual rental payment is subject to adjustment at five-year intervals and charges or adjustments shall be based primarily on a reappraised annual rental value.

* Sec. 9. AS 38.05.115 is amended to read:

Sec. 38.05.115. LIMITATIONS AND CONDITIONS OF SALE.
 (a) The commissioner, upon recommendation of the director, 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 director may negotiate sales of timber or materials without advertisement and on the limitations, conditions, and terms which he considers are in the best interests of the state, subject to the approval of the commissioner. However, not more than 500 M.B.M. or equivalent other measure of timber or more than \$5,000 of materials may be sold by nonadvertised, negotiated sale to the same purchaser within a one-year period.

(b) Negotiated sales for timber or materials not exceeding a value of \$500 are exempt from the provisions of AS 34.15.150.

* Sec. 10 AS 38.05.135 is amended by adding a new subsection to read:

(b) When minerals are to be leased on a competitive basis, in addition to any other notice given, notice shall also be given as provided in secs. 305 and 345 of this chapter. If land is to be made available for noncompetitive mineral leasing, notice of the proposed action shall also be given as provided in secs. 305 and 345 of this chapter. After the notice of noncompetitive leasing has been made as required in this subsection, notice of the subsequent issuance of a noncompetitive lease for the land involved shall be made by mail not less than 30 days before the issuance of the lease only to those who have requested the notice.

* Sec. 11. AS 38.05.305 is repealed and re-enacted to read:

Sec. 38.05.305. NOTICE AND REVIEW. (a) No land or interest in land within the boundaries or within six linear miles of the boundaries of a general law, home rule or unified municipality, as defined under AS 29, may be classified, reclassified, sold or leased, or otherwise disposed of, including the renewal of a lease entered into after the effective date of this Act, unless the following procedures have been complied with:

(1) A notice of the proposed action shall be sent to the governing body of each municipality a boundary of which is within six linear miles of the land involved.

(2) The notice shall be sent at the earliest practicable time but no less than 30 days before the proposed action.

(3) The notice must contain a statement of the proposed action, identifying the land involved and the action proposed in sufficient detail to fairly inform the recipient of the nature of the proposed action. If the land is not surveyed, a legal description need not be used; but the land must be described in sufficient detail to allow the recipient to understand its approximate size, number of tracts involved, and location. The notice must also contain a statement to the effect that the municipality is invited to comment on the proposed action and that, upon the request of the governing body, chief executive officer, or planning agency, the division will consult with the municipal officials on the proposed action. Any request by a municipality for consultation must include the name of the municipal official to be consulted and be sent no later than 15 days after receipt of the notice by the municipality, and the notice must contain a statement to this effect and name the official and address to which the municipality's request should be sent.

(4) In consulting with the municipal officials, the proposed action and the authority under which it is to be taken shall be explained and the reason for the proposed action shall be given. A public hearing need not be held, but the municipal officials may hold a public hearing or otherwise allow public participation and comment. A hearing held under this paragraph shall be attended by the commissioner of natural resources or his designee.

(5) A municipality having a right to notice or consultation under this section may appeal to the superior

court and have set aside any action taken which does not conform to this section. A municipality incorporated or established less than 30 days before the action is taken has no right to notice or consultation under this section.

(b) No land or interest in land outside the boundaries of a general law, home rule, or unified municipality, as defined under AS 29, may be classified, reclassified, sold or leased, or otherwise disposed of, including the renewal of a lease entered into after the effective date of this Act, unless a notice of the proposed action as required by (a)(3) of this section is made upon the regional corporation organized under the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. secs. 1601-1626), within the boundaries of which the land is located. The president of the affected regional corporation or his designee has the same rights of notice, consultation, hearing and appeal as those provided for in (a)(2) - (5) of this section.

(c) When notice is given under (b) of this section, the requirements of sec. 345 of this chapter relating to notice apply in addition to any other applicable notice requirements. If requested, the director shall hold a hearing within the affected area under (b) of this section. No action proposed by the director which is subject to the notice requirement specified in (b) of this section is final until at least 30 days after the date the notice was published.

* Sec. 12. AS 38.05.315 is amended by adding a new subsection 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.

* Sec. 13. AS 38.05.330 is amended to read:

Sec. 38.05.330. PERMITS. The director, without the prior approval of the commissioner, may issue permits, rights-of-way or easements on state land for roads, trails, ditches, field gathering lines or transmission and distribution pipelines not subject to AS 38.35, telephone and transmission lines, log storage, oil well drilling sites and production facilities for the purposes of recovering minerals from adjacent lands under valid lease, and other similar uses or improvements, or for the limited personal use of timber or materials. The commissioner, upon recommendation of the director, shall establish a reasonable rate or fee schedule to be charged for these uses. In the granting, suspension or revocation of a permit or easement of lands, the director shall give preference to that use of the land which will be of greatest economic benefit to the state and the development of its resources. However, first preference shall be granted to the upland owner for the use of a tract of tideland, or tideland and contiguous submerged land, which is seaward of the upland property of the upland owner and which is needed by the upland owner for any of the purposes for which the use may be granted.

* Sec. 14. AS 38.05.345 is amended to read:

Sec. 38.05.345. NOTICES. (a) Public notice of a sale, lease or other disposal of land or interest in it shall be substantially as follows.

(b) Notice shall be published once a week for three consecutive weeks preceding the time of sale stated in the notice, in at least one newspaper of general circulation in the vicinity in which the land, property or interest in it is to be sold, leased or disposed of. Where there is no newspaper of general circulation in the vicinity, notices shall be posted in three public places near the land to be sold, leased or otherwise disposed of. The sale, lease or disposal of lands shall be held not less than 30 days after publication of the first notice and not more than five weeks following the last appearance of the published notice. The notice shall contain a description of the land and interest to be sold, leased or disposed of and the time, place, and general terms of the sale, lease or disposal.

(c) [deleted]

* Sec. 15. AS 38.05.100 and 38.05.347 are repealed.

* Sec. 16. Preferences granted under 11 AAC 54.250 and 11 AAC 58.660 before the effective date of this Act to leaseholders in good standing are confirmed and ratified.