

HOUSE BILL NO. 20

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MOSES, Kubina

Introduced: 1/16/95

Referred: Community and Regional Affairs, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to rights in certain tide and submerged land."**

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

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

4 Sec. 38.05.825. CONVEYANCE OF TIDE AND SUBMERGED LAND TO
5 MUNICIPALITIES. (a) Unless the commissioner finds that the public interest in
6 retaining state ownership of the land clearly outweighs the municipality's interest in
7 obtaining the land, the commissioner shall convey to a municipality tide or submerged
8 land requested by the municipality that is occupied or suitable for occupation and
9 development if the

10 (1) use of the land would not unreasonably interfere with navigation
11 or public access;

12 (2) municipality has applied to the commissioner for conveyance of the
13 land under this section;

14 (3) land is classified for waterfront development or for another use that
15 is consistent or compatible with the use proposed by the municipality, or the proposed

1 use of the land is consistent or compatible with a land use plan adopted by the
2 municipality, the department, or the Alaska Coastal Policy Council; and

3 (4) land

4 (A) is required for the accomplishment of a public or private
5 development approved by the municipality;

6 (B) is the subject of a lease from the state to the municipality;
7 or

8 (C) has been approved for lease to the municipality.

9 (b) The commissioner may not convey land under this section that has been
10 designated by statute unless the commissioner determines that the proposed use is
11 consistent or compatible with the purpose of the statutory designation. If land
12 designated by statute is conveyed, uses of the land after conveyance are restricted to
13 those uses determined by the commissioner to be consistent or compatible with the
14 purpose of the designation.

15 (c) Upon receipt of an application, the commissioner shall determine whether
16 the requested conveyance meets the requirements of this section and issue a written
17 decision regarding that determination. Upon a determination that the requirements
18 have been met, the commissioner shall approve the conveyance of the land to the
19 municipality. After conveyance to the municipality is approved, the municipality has
20 management authority of the land and may convey the land by lease or sale. The cost
21 of the survey and all subdivision or other platting required for conveyance shall be
22 borne by the municipality.

23 (d) A conveyance under this section may contain only those restrictions
24 required by law, including AS 38.05.127 and (b) of this section. Land conveyed is
25 subject to the public trust doctrine that may be enforced by the state in a court of
26 competent jurisdiction. The municipality shall be required to ensure that reasonable
27 access to public waters is provided. Title to land conveyed under this section that is
28 retained by the municipality reverts to the state upon the dissolution of the
29 municipality.

30 (e) This section does not enlarge or diminish the general grant land entitlement
31 of a municipality under AS 29.65, nor is a conveyance under this section counted

1 against the municipality's general grant land entitlement.