

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 191

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE THERRIAULT

Introduced: 3/15/95

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the management and disposal of state land and resources;**
2 **relating to certain remote parcel and homestead entry land purchase contracts and**
3 **patents; and providing for an effective date."**

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

5 *** Section 1.** AS 38.04.020(a) is amended to read:

6 (a) The **state** [COMMISSIONER SHALL ESTABLISH A] land disposal
7 **program consists of** [BANK CONTAINING] state land **identified and** classified
8 **under adopted regional land use plans** for disposal into private ownership.

9 *** Sec. 2.** AS 38.04.020(b) is amended to read:

10 (b) The **state** land disposal **program** [BANK] does not include
11 (1) land nominated for selection or selected by a municipality to satisfy
12 a general grant land entitlement under AS 29.65 or former AS 29.18.201 - 29.18.213;
13 (2) land retained in state ownership for multiple-use management;
14 (3) land where less than a fee simple title has been conveyed;

1 (4) land retained in state ownership under an enactment of the
2 legislature or by the governor or a state agency under authority of law.

3 * **Sec. 3.** AS 38.04.020(d) is repealed and reenacted to read:

4 (d) On January 15 of the first regular session of each legislature, the
5 commissioner shall report to the legislature on the total acreage of land planned and
6 classified as suitable under this title for

7 (1) settlement purposes, including homestead, commercial, or industrial
8 disposal;

9 (2) agricultural disposal; and

10 (3) grazing leases.

11 * **Sec. 4.** AS 38.04.020(e) is repealed and reenacted to read:

12 (e) The commissioner may annually submit to the governor an appropriation
13 request for the entire amount of funding estimated to be necessary for each project
14 proposal to allow survey and disposal of land proposed to be offered for (1) homestead
15 staking under AS 38.09; (2) agricultural, commercial, industrial, or other uses under
16 AS 38.05.055 or 38.05.057; or (3) other subdivisions. Each project proposal shall
17 include the general location of the land and the estimated cost of preliminary feasibility
18 studies, engineering design work, right-of-way acquisition, and construction of access
19 roads and capital improvements required by municipal subdivision ordinance or
20 regulation of the platting authority or otherwise necessary to develop and market the
21 land.

22 * **Sec. 5.** AS 38.04.020(g) is amended to read:

23 (g) **The** [AFTER JULY 1 OF EACH YEAR, THE] commissioner shall direct
24 the expenditure of money appropriated for the disposal of land in response to requests
25 made under (e) [AND (f)] of this section for the following:

26 (1) Land designated as suitable for homestead disposal shall be
27 [CLASSIFIED AND] surveyed under this chapter and AS 38.05 and made available
28 for staking and lease under AS 38.09.

29 (2) Land designated as suitable for subdivision and homesite disposal
30 shall be surveyed, subdivided, [CLASSIFIED,] and disposed of under this chapter,
31 AS 38.05, and AS 38.08.

1 (3) Land designated agricultural, commercial, industrial, or suitable for
2 other disposal shall be sold under AS 38.05.055 or 38.05.057.

3 * **Sec. 6.** AS 38.04.020(h) is amended to read:

4 (h) Individual parcels disposed of in subdivisions **intended for private**
5 **residential or recreational use** may not exceed five acres unless the commissioner
6 determines that a larger size is necessary to comply with municipal ordinances; [,] to
7 permit the design of a viable subdivision because of topographical features, soil
8 conditions, on-site sewage disposal requirements, or water drainage or supply
9 considerations that are unique to the subdivision; **to increase the return to the state**
10 **from the sale of the parcels;** [,] to minimize adverse effect on wildlife, fishery, public
11 recreation, timber, or other significant resources in the area; [,] or to minimize adverse
12 effect on other residential uses in the area.

13 * **Sec. 7.** AS 38.04.020(i) is amended to read:

14 (i) Nothing in this section prevents the disposal of other land by the
15 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of
16 remote cabin permits under AS 38.05.079, AS 38.08, **AS 38.09**, or other law.

17 * **Sec. 8.** AS 38.04.021(a) is amended to read:

18 (a) A municipality may apply for financial assistance for the execution of a
19 land disposal program of general grant land entitlements received from the state under
20 AS 29.65 or former AS 29.18.201 - 29.18.213 by submitting a request to the
21 commissioner for inclusion in the request submitted to the **governor** [LEGISLATURE]
22 under AS 38.04.020(e). A municipality may request financial assistance for expenses
23 of surveying land, designing subdivision plats, installing improvements required by
24 municipal ordinance or regulation of the local platting authority, and other reasonable
25 direct costs of land disposal.

26 * **Sec. 9.** AS 38.04.021(b) is amended to read:

27 (b) A request by a municipality under this section must be accompanied by
28 (1) a schedule for the disposal of municipal land for the next five years;
29 the schedule shall be based on an assessment of the demand for private land within the
30 municipality [AND INCLUDED IN THE ASSESSMENT SUBMITTED UNDER
31 AS 38.04.020(f)];

1 (2) an estimate of the number of acres of municipal land that the
2 municipality plans to dispose of during each fiscal year of the five-year period;

3 (3) a description of the methods to be used for the disposal of
4 municipal land and the terms under which it will be offered to the public; and

5 (4) a description of the municipal land that the municipality plans to
6 dispose of each fiscal year during the five-year period.

7 * **Sec. 10.** AS 38.04.030 is amended to read:

8 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs that may
9 be used by the director to make the state's land surface available for private use under
10 AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple
11 estate, including conveyance of agricultural use rights; leasing; [OPEN-TO-ENTRY;]
12 homesiting; homesteading; permitting for construction and occupation of cabins in
13 isolated locations on land retained in state ownership; and other methods as provided
14 by regulation or other law. Notwithstanding a contrary provision of this title, a
15 land availability program adopted by regulation must provide for competitive
16 disposal, based on no less than fair market value, to serve the best interests of the
17 state.

18 * **Sec. 11.** AS 38.04.035 is amended to read:

19 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining
20 which land availability program is appropriate for state land in different locations, the
21 director shall be guided by the following criteria:

22 (1) to cover public costs associated with private land use and to provide
23 the public with a fair return for publicly owned property, conveyance of state land to
24 private parties **shall** [SHOULD] be at fair market value except where otherwise
25 authorized by statute, or by an administrative regulation the adoption of which is
26 specifically permitted by statute;

27 (2) sale or lease programs should be used where land is readily
28 accessible to a major community center or where, because of a prime location on
29 waterfront or a transportation route or some other location characteristic, land has
30 relatively high real estate value;

31 (3) sale programs are preferred but lease programs should be used

1 (A) where special land use controls are required and there is a
2 high public interest in having certain types of land used for particular purposes;

3 (B) when the intended use is a temporary one;

4 (C) in commercial or industrial situations when a leasehold can
5 provide cash flow advantages to the lessee;

6 (D) when a unique location with special public values is
7 involved, as in a deep water port, hydroelectric site, or aquaculture facility;

8 (E) where current demand for private use is high, but
9 projections suggest that, in the future, the land may be more valuable for public
10 use, as in accessible waterfront recreation areas;

11 (4) for enabling isolated cabin development in remote locations where
12 survey and conveyance is impractical **at the anticipated time of cabin development**,
13 or where disposal of land would cause potential conflicts with other resources and
14 uses, or where a long-range interest in public ownership and use exist, a system for
15 cabin permits on public land may be used;

16 (5) limited or conditional title may be granted when the state's best
17 interest so dictates; among other things, title limitations may include grants of
18 agricultural interest only, retention of development rights, and retention of scenic or
19 other easements; a conditional title may be tied to a development schedule or other
20 standards of performance.

21 * **Sec. 12.** AS 38.05.050 is amended to read:

22 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
23 commissioner shall determine the land to be disposed of for private use. The
24 commissioner shall determine the time and place of disposal. An auction sale, a
25 lottery sale, or a disposal of land for homesites **may** [SHALL] be held in a community
26 that is near the land to be sold or disposed of.

27 * **Sec. 13.** AS 38.05.055 is amended to read:

28 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of
29 sale is required under this chapter, [AS 38.07, OR] AS 38.08, **or AS 38.09**, the sale
30 of state land shall be made at public auction to the highest qualified bidder as
31 determined by the director. The director may accept bids and sell state land under this

1 section at no less than 70 percent of the appraised fair market value of the land. [A
2 BIDDER MUST APPEAR IN PERSON AT THE AUCTION UNLESS MEDICAL
3 REASONS, ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE
4 THE STATE PREVENT ATTENDANCE.] A bidder may be represented by an
5 attorney or agent at the auction [IF THE LAND OFFERED FOR DISPOSAL IS
6 COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL LAND]. An aggrieved
7 bidder may appeal to the commissioner within five days after the sale for a review of
8 the director's determination. The sale shall be conducted by the director and at the
9 time of sale the successful bidder shall deposit an amount equal to five percent of the
10 purchase price. The director shall immediately issue a receipt containing a description
11 of the land or property purchased, the price bid, and the amount deposited. The
12 receipt shall be acknowledged in writing by the bidder.

13 * **Sec. 14.** AS 38.05.057(a) is amended to read:

14 (a) The commissioner may dispose of land, including land limited to use for
15 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
16 the fair market value of the land as determined by the commissioner. The
17 commissioner may sell land by lottery for less than the fair market value of the land
18 on a determination that scarcity of land for private use in the area of the land to be
19 sold has resulted in unrealistic land values. [THE COMMISSIONER SHALL
20 CONSULT WITH THE ASSESSOR OF A MUNICIPALITY BEFORE
21 DETERMINING THE PURCHASE PRICE FOR LAND THAT IS LOCATED IN
22 THE MUNICIPALITY AND THAT IS TO BE SOLD UNDER THIS SECTION.] The
23 lottery shall be conducted in public by the commissioner. A [AN APPLICANT MAY
24 NOT BE SELECTED TO PURCHASE LAND UNLESS THE APPLICANT IS
25 PRESENT ON THE DATE AND AT THE PLACE THAT THE LOTTERY IS
26 CONDUCTED UNLESS MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
27 MILITARY SERVICE OUTSIDE THE STATE PREVENT ATTENDANCE. AN
28 APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE
29 LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL,
30 INDUSTRIAL, OR AGRICULTURAL LAND. ON THE DAY OF THE LOTTERY
31 A] purchaser selected by lot shall deposit an amount equal to five percent of the

1 purchase price within 30 days after receiving notification of the selection.

2 * **Sec. 15.** AS 38.05.065(a) is amended to read:

3 (a) The contract of sale for land sold at public auction under AS 38.05.055
4 shall require the remainder of the purchase price to be paid in monthly, quarterly, or
5 annual installments over a period of not more than 20 years, with interest at the
6 [PREVAILING] rate provided in (i) of this section [FOR REAL ESTATE
7 MORTGAGE LOANS MADE BY THE FEDERAL LAND BANK FOR THE FARM
8 CREDIT DISTRICT FOR ALASKA AT THE TIME THE CONTRACT IS SIGNED].

9 Installment payments plus interest shall be set on the level-payment basis.

10 * **Sec. 16.** AS 38.05.065(b) is amended to read:

11 (b) The contract of sale for land sold under AS 38.05.057 or under former
12 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
13 quarterly, or annual installments over a period of not more than 20 years. Installment
14 payments plus interest shall be set on the level-payment basis. The interest rate to be
15 charged on installment payments is the [PREVAILING] rate provided in (i) of this
16 section [FOR REAL ESTATE MORTGAGE LOANS MADE BY THE FEDERAL
17 LAND BANK FOR THE FARM CREDIT DISTRICT FOR ALASKA AT THE TIME
18 THE CONTRACT IS SIGNED].

19 * **Sec. 17.** AS 38.05.065 is amended by adding a new subsection to read:

20 (i) The interest rate for contracts under this section is the prime rate as
21 reported in the Wall Street Journal on the first business day of the month in which the
22 contract is sent to the purchaser for signature, plus 4 percent; however, the total rate
23 of interest may not exceed 13.5 percent.

24 * **Sec. 18.** AS 38.05.069(e)(2) is repealed and reenacted to read:

25 (2) "adjacent" means that a tract of land has a common boundary or
26 corner to presently held land or is separated from the presently held land only by a
27 physical barrier such as a road or stream.

28 * **Sec. 19.** AS 38.05.082(b) is amended to read:

29 (b) The director may classify land as subject to leases for fisheries
30 development. In an area or region of the state for which a land use plan has not been
31 adopted under AS 38.04.065, the director may classify land for lease under this section

1 after notice under AS 38.05.945. The director may [SHALL] publicly invite
2 applications for lease of the selected areas. Each application shall be accompanied by
3 an affidavit to the effect that the applicant presently intends to personally utilize the
4 leased area for fishing purposes throughout the term of the lease [THE
5 FOLLOWING SEASON]. If two or more applications are received for the same shore
6 area, the director may offer [SHALL AWARD] the lease at public auction under
7 AS 38.05.075(a). If only one application is received and the appraisal value of the
8 lease is \$5,000 a year or less, the commissioner may issue a negotiated lease under
9 AS 38.05.070(b) [TO THE MOST QUALIFIED APPLICANT. IN DETERMINING
10 THE QUALIFICATIONS OF APPLICANTS, THE DIRECTOR SHALL CONSIDER
11 THE LENGTH OF TIME DURING WHICH THE APPLICANT HAS BEEN
12 ENGAGED IN SET NETTING, THE PROXIMITY OF THE PAST FISHING SITES
13 OF THE APPLICANT TO THE LAND TO BE LEASED, THE PRESENT ABILITY
14 OF THE APPLICANT TO UTILIZE THE LOCATION TO ITS MAXIMUM
15 POTENTIAL, AND OTHER FACTORS RELEVANT TO THE EQUITABLE
16 ASSIGNMENT OF THE DISPUTED AREA. IF THE DIRECTOR CANNOT
17 DETERMINE A PREFERENCE BETWEEN CONFLICTING APPLICANTS FOR
18 THE SAME LEASE SITE ON THE BASIS OF QUALIFICATIONS, THE
19 DIRECTOR SHALL SELECT BETWEEN THE APPLICANTS BY LOT. AN
20 AGGRIEVED APPLICANT MAY APPEAL TO THE COMMISSIONER WITHIN 30
21 DAYS FOR A REVIEW OF THE DIRECTOR'S DETERMINATION].

22 * **Sec. 20.** AS 38.05.082(c) is amended to read:

23 (c) A lease for set net fishing may be issued for any period not exceeding 10
24 years. If the commissioner determines that the land is not being utilized for the
25 purpose for which the lease is issued, the lease may be declared void. [THE
26 DIRECTOR SHALL ESTABLISH A REASONABLE RENTAL FOR THE LEASE,
27 EQUAL TO THE ADMINISTRATIVE COSTS INVOLVED IN PROCESSING THE
28 LEASEHOLD APPLICATIONS.]

29 * **Sec. 21.** AS 38.05.083 is repealed and reenacted to read:

30 Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES.

31 (a) The commissioner may offer to the public for lease at public auction under

1 AS 38.05.075 or by negotiation under AS 38.05.070 a site for aquatic farming or
2 related hatchery operations. Before a final decision to issue or renew a lease under
3 this section, the commissioner shall give notice and allow opportunity for comment in
4 accordance with AS 38.05.945, and may hold a hearing to take testimony. Before a
5 final decision to issue or renew a lease under this section, the commissioner shall
6 consider all relevant comment or testimony submitted under this section, AS 38.05.945,
7 or 38.05.946.

8 (b) The commissioner, for good cause, may deny an application for issuance
9 or renewal of a lease under this section, but shall provide the applicant with written
10 findings that explain the reasons for the denial.

11 (c) A site may be leased under this section for not less than the appraised fair
12 market value of the lease. The value of the lease shall be reappraised every five years.

13 (d) A lease under this section may be assigned, but if the assignee changes the
14 use of the site the lease reverts to the state.

15 (e) Before entering into a lease under this section, the commissioner shall
16 require the lessee to post a performance bond or provide other security to cover the
17 costs to the department of restoring the leased site in the event the lessee abandons the
18 site.

19 (f) The commissioner shall adopt regulations establishing criteria for the
20 approval or denial of leases under this section and for limiting the number of sites for
21 which leases may be issued in an area in order to protect the environment and natural
22 resources of the area. The regulations must provide for the consideration of upland
23 management policies and whether the proposed use of a site is compatible with the
24 traditional and existing uses of the area in which the site is located.

25 * **Sec. 22.** AS 38.05.090 is repealed and reenacted to read:

26 Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON
27 TERMINATION OF LEASES. (a) Unless otherwise agreed to in writing by the
28 commissioner, a lessee shall remove from a former leasehold

29 (1) all personal property, including above-ground and below-ground
30 tanks, transportable buildings, equipment, machinery, tools, and other goods, not
31 belonging to the state, within 30 days after termination of the lease; and

1 (2) all buildings and fixtures, including gravel pads, foundations, and
2 slabs, not belonging to the state, within 60 days after termination of the lease.

3 (b) Unless otherwise agreed to in writing by the commissioner, the lessee shall
4 restore the leasehold to a good and marketable condition, acceptable to the
5 commissioner, within 120 days after termination of the lease.

6 (c) If the lessee does not remove personal property, buildings, and fixtures as
7 required within the time specified under (a) of this section, title to the personal
8 property, buildings, and fixtures that remain automatically vests in the state unless the
9 commissioner elects to remove and dispose of the remaining personal property,
10 buildings, and fixtures of the lessee. The commissioner may assess upon the lessee
11 the cost of removing and disposing of personal property, buildings, and fixtures
12 remaining upon the land.

13 (d) If the lessee does not restore the land within the time period specified
14 under (b) of this section, the commissioner may have the land restored and assess the
15 costs upon the lessee.

16 (e) As part of a lease agreement, and in order to protect the public interest, the
17 commissioner may require terms for removal or reversion of improvements additional
18 to those specified in (a) - (d) of this section.

19 (f) Private residential improvements of a lessee that have become fixtures of
20 the land and that are not removed by that lessee upon termination of the lease shall be
21 purchased by the subsequent purchaser of the land if the improvements were
22 authorized in the former lease or by permit from the director and if they have a net
23 value of more than \$10,000. The net value is the value of the improvements as
24 determined by an appraisal approved by the commissioner, less all rents due the
25 department, all costs of restoration under (d) of this section, and all department
26 expenses estimated to be incurred in making the sale. After termination of the former
27 lessee's lease, and at additional times as determined necessary by the commissioner,
28 the value of the authorized residential fixtures shall be determined by an independent
29 appraisal made at the cost of the former lessee. A notice or offer by the state to sell
30 formerly leased land under this subsection must state (1) the appraised value of
31 authorized residential fixtures remaining on the land that must be purchased, and (2)

1 that that cost is included in the purchase price. Out of the proceeds of the sale, the
2 department shall pay to the former lessee the appraised value of the residential
3 improvements, less all rents due the department, all costs of restoration due the
4 department under (d) of this section, and all department expenses incurred in making
5 the sale.

6 (g) Personal property described in (c) of this section is not subject to AS 34.45
7 (Uniform Unclaimed Property Act).

8 * **Sec. 23.** AS 38.05.130 is amended to read:

9 Sec. 38.05.130. DAMAGES AND POSTING OF BOND. **Except for entry**
10 **to post mining location corners under AS 38.05.195, 38.05.205, or 38.05.245, rights**
11 [RIGHTS] may not be exercised by the state, its lessees, successors or assigns under
12 the reservation as set out in AS 38.05.125 until the state, its lessees, successors, or
13 assigns make provision to pay the owner of the land full payment for all damages
14 sustained by the owner, by reason of entering upon the land. If the owner for any
15 cause refuses or neglects to settle the damages, the state, its lessees, successors,
16 assigns, or an applicant for a lease or contract from the state for the purpose of
17 prospecting for valuable minerals, or option, contract or lease for mining coal or lease
18 for extracting geothermal resources, petroleum, or natural gas, may enter upon the land
19 in the exercise of the reserved rights after posting a surety bond determined by the
20 director, after notice and an opportunity to be heard, to be sufficient as to form,
21 amount, and security to secure to the owner payment for damages, and may institute
22 legal proceedings in a court where the land is located, as may be necessary to
23 determine the damages **that** [WHICH] the owner may suffer.

24 * **Sec. 24.** AS 38.05.131(a) is amended to read:

25 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
26 provisions of **AS 38.05.005 - 38.05.037** [AS 38.05.005 - 38.05.040], 38.05.140(f),
27 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of
28 oil and gas exploration licenses and leases under AS 38.05.132 - 38.05.134.

29 * **Sec. 25.** AS 38.05.185(a) is amended to read:

30 (a) The acquisition and continuance of rights in and to deposits on state land
31 of minerals, which on January 3, 1959, were subject to location under the mining laws

1 of the United States, shall be governed by AS 38.05.185 - 38.05.275. Nothing in
2 AS 38.05.185 - 38.05.275 affects the law pertaining to the acquisition of rights to
3 mineral deposits owned by any other person or government. The director, with the
4 approval of the commissioner, shall determine that land from which mineral deposits
5 may be mined only under lease, and, subject to the limitations of AS 38.05.300, that
6 land that shall be closed to location under AS 38.05.185 - 38.05.275 [MINING].
7 State land may not be closed to [MINING OR MINERAL] location under
8 AS 38.05.185 - 38.05.275 except as provided in AS 38.05.300 and unless the
9 commissioner makes a finding that mining would be incompatible with significant
10 surface uses on the state land. State land may not be restricted to mining under lease
11 unless the commissioner determines that potential use conflicts on the state land
12 require that mining be allowed only under written leases issued under AS 38.05.205
13 or the commissioner has determined that the land was mineral in character at the time
14 of state selection. The determinations required under this subsection shall be made in
15 compliance with land classification orders and land use plans developed under
16 AS 38.05.300.

17 * **Sec. 26.** AS 38.05.190(a) is amended to read:

18 (a) The right to acquire exploration and mining rights under AS 38.05.185 -
19 38.05.275 may be acquired or held only by

20 (1) citizens of the United States at least 18 years of age;

21 (2) legal guardians or trustees of citizens of the United States under 18
22 years of age on behalf of the citizens;

23 (3) persons at least 18 years of age who have declared their intention
24 to become citizens of the United States;

25 (4) [ALIENS AT LEAST 18 YEARS OF AGE IF THE LAWS OF
26 THEIR COUNTRY GRANT LIKE PRIVILEGES TO CITIZENS OF THE UNITED
27 STATES;

28 (5)] corporations organized under the laws of the United States or of
29 any state or territory of the United States and qualified to do business in this state [,
30 EXCEPT THAT IF MORE THAN 50 PERCENT OF THE STOCK OF A
31 CORPORATION IS OWNED OR CONTROLLED BY ALIENS WHO ARE NOT

1 QUALIFIED, THE CORPORATION IS NOT QUALIFIED TO ACQUIRE OR HOLD
2 THE RIGHTS];

3 ~~(5)~~ [(6)] associations of persons described in ~~(1) - (4)~~ [(1) - (5)] of this
4 subsection.

5 * **Sec. 27.** AS 38.05.211(d) is repealed and reenacted to read:

6 (d) The rental amount established under this section shall be revised by the
7 commissioner as provided in this section based on changes in the Consumer Price
8 Index for all urban consumers, Anchorage Metropolitan Area (Semi-Annual Average)
9 compiled by the Bureau of Labor Statistics, United States Department of Labor, as
10 revised, rebased or replaced by that bureau. The reference base index is the index for
11 January - June, 1989, as revised or rebased by that bureau. The rental amount shall
12 be revised by the commissioner if the change between the index for the first six
13 months of the current year and the most recent index used to revise the rental, or the
14 reference base index if the rental amount has never been revised, equals or exceeds \$5.
15 The rental amount shall be increased or decreased, as appropriate, by an amount equal
16 to the change in the index described in this subsection rounded to the nearest whole
17 \$5 unit. The commissioner shall calculate the change in the index annually and, if the
18 rental amount must be revised, shall adopt a regulation establishing the revised rental
19 amount. A revised rental amount applies to a rental payment if the regulation
20 establishing the revised rental amount took effect at least 90 days before the date the
21 rental payment is due.

22 * **Sec. 28.** AS 38.05.255 is amended to read:

23 Sec. 38.05.255. SURFACE USE OF LAND OR WATER. Surface uses of
24 land or water included within mining properties by owners of those properties shall be
25 limited to those necessary for the prospecting for, extraction of, or basic processing of
26 mineral deposits and shall be subject to reasonable concurrent uses. **Leases**
27 [PERMITS] for millsites and tailings disposal may be **issued** [GRANTED] by the
28 director. The **leases** [PERMITS] shall be conditioned upon payment of a reasonable
29 **annual rent** [CHARGE] for the **lease** [USE] and **restriction to** [CONTINUANCE OF]
30 the limited use. Timber from land open to mining without lease, except timberland,
31 may be used by a mining claimant or prospecting site locator for the mining or

1 development of the location or adjacent claims under common ownership. On other
2 land, timber may be acquired as provided in this chapter. Use of water shall be made
3 in accordance with AS 46.15.

4 * **Sec. 29.** AS 38.05.255 is amended by adding a new subsection to read:

5 (b) A lease issued under this section is exempt from the provisions of
6 AS 38.05.075 - 38.05.080. The commissioner, by regulation, shall establish
7 appropriate leasing procedures and annual rent amounts for leases under this section.

8 * **Sec. 30.** AS 38.05.265 is amended to read:

9 Sec. 38.05.265. ABANDONMENT. Failure to properly record a certificate of
10 location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE
11 TIME PRESCRIBED A LEASE APPLICATION,] pay any required annual rental, pay
12 any required production royalty, or keep location boundaries clearly marked as
13 required by AS 38.05.185 - 38.05.275 and by regulations adopted under these sections
14 constitutes abandonment of all rights acquired under the mining claim, leasehold
15 location, lease, or site involved, and the claim, location, lease, or site is subject to
16 relocation by others. A locator or claimant of an abandoned location or a successor
17 in interest may not relocate the location until one year after abandonment. A statement
18 of annual labor that does not accurately set out the essential facts is void and of no
19 effect. If an annual rental or a royalty payment is deficient but is otherwise timely
20 paid, abandonment does not result if full payment is made within

21 (1) the period prescribed by a deficiency notice from the commissioner;

22 or

23 (2) 30 days after a final judgment establishing the amount due if the
24 deficiency amount due was contested.

25 * **Sec. 31.** AS 38.05.810(a) is amended to read:

26 (a) Except as otherwise provided in AS 38.05.183(h), the (1) lease, sale, or
27 other disposal of state land or resources may be made to a state or federal agency or
28 political subdivision, (2) [THE] lease, sale, or disposal of coal deposits suitable for
29 mining may be made to a utility owned and operated by a government agency or
30 nonprofit cooperative association organized to participate under the Federal Rural
31 Electrification Act for the purpose of generating electric power and energy or the

1 production of process steam, or both, **(3)** [OR THE] sale or other disposal of state land
2 may be made to a tax-exempt, nonprofit corporation, association, club, or society
3 organized and operated exclusively for the management of a cemetery or a solid waste
4 facility, **or (4) sale or other disposal of land within a state subdivision may be**
5 **made to that subdivision's nonprofit, tax-exempt homeowners' association,** for less
6 than the appraised value as determined by the director and approved by the
7 commissioner to be fair and proper and in the best interests of the public, with due
8 consideration given to the nature of the public services or function rendered by the
9 **applicant** [AGENCY, SUBDIVISION, TAX-EXEMPT, NONPROFIT
10 CORPORATION, ASSOCIATION, CLUB, OR SOCIETY, OR UTILITY MAKING
11 APPLICATION], and of the terms of the grant under which the land was acquired by
12 the state. **The commissioner shall ensure, by regulation, deed restriction, covenant,**
13 **or otherwise, that disposals of land under this subsection serve a public purpose**
14 **and are in the public interest.**

15 * **Sec. 32.** AS 38.05.850(a) is amended to read:

16 (a) The director, without the prior approval of the commissioner, may issue
17 permits, rights-of-way or easements on state land for roads, trails, ditches, field
18 gathering lines or transmission and distribution pipelines not subject to AS 38.35,
19 telephone or electric transmission and distribution lines, log storage, oil well drilling
20 sites and production facilities for the purposes of recovering minerals from adjacent
21 land under valid lease, and other similar uses or improvements, or **revocable,**
22 **nonexclusive permits** for the [LIMITED] personal **or commercial** use **or removal of**
23 **resources that the director has determined to be of limited value** [OF TIMBER OR
24 MATERIALS]. The commissioner, upon recommendation of the director, shall
25 establish a reasonable rate or fee schedule to be charged for these uses, subject to the
26 exception for nonprofit cooperative associations specified in (b) of this section. In the
27 granting, suspension or revocation of a permit or easement of land, the director shall
28 give preference to that use of the land which will be of greatest economic benefit to
29 the state and the development of its resources. However, first preference shall be
30 granted to the upland owner for the use of a tract of tideland, or tideland and
31 contiguous submerged land, which is seaward of the upland property of the upland

1 owner and which is needed by the upland owner for any of the purposes for which the
2 use may be granted.

3 * **Sec. 33.** AS 38.05.945(a) is amended to read:

4 (a) This section establishes the requirements for notice given by the department
5 for the following actions:

6 (1) classification or reclassification of state land under AS 38.05.300
7 and the closing of land to mineral leasing or entry under AS 38.05.185;

8 (2) zoning of land under applicable law;

9 (3) issuance of a

10 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
11 regarding the sale, lease, or disposal of an interest in state land or resources for
12 oil and gas subject to AS 38.05.180(b);

13 (B) final written finding under AS 38.05.035(e)(5)(B) regarding
14 the sale, lease, or disposal of an interest in state land or resources for oil and
15 gas subject to AS 38.05.180(b);

16 (C) written finding for the sale, lease, or disposal of an interest
17 in state land or resources under AS 38.05.035(e)(6);

18 (4) a competitive disposal of an interest in state land or resources after
19 final decision under AS 38.05.035(e);

20 (5) [A PUBLIC HEARING UNDER AS 38.05.856(b);

21 (6)] a preliminary finding under AS 38.05.035(e) [AND 38.05.855(c)]
22 concerning sites for aquatic farms and related hatcheries;

23 ~~(6)~~ [(7)] a decision under AS 38.05.132 - 38.05.134 regarding the sale,
24 lease, or disposal of an interest in state land or resources.

25 * **Sec. 34.** AS 38.08.030(b) is amended to read:

26 (b) Fees for filing an application may not exceed **\$25** [\$10].

27 * **Sec. 35.** AS 38.08.040(a) is amended to read:

28 (a) An applicant meeting the qualifications for homesite entry under
29 AS 38.08.030 **and selected under (f) of this section** shall be issued a revocable permit
30 to occupy and improve the homesite in order to qualify for issuance of patent as
31 provided in this chapter. **The holder of a homesite entry permit shall pay, in**

1 **advance, an annual rental fee of \$100.** [THE APPLICATION FEE IS THE SOLE
2 RENT CHARGEABLE ON THE PERMIT FOR ITS DURATION.]

3 * **Sec. 36.** AS 38.08.040 is amended by adding a new subsection to read:

4 (f) If only one application for a homesite parcel is received, the commissioner
5 shall offer an entry permit for the parcel to the applicant provided the applicant is
6 otherwise qualified. If more than one application is received for a parcel, the
7 commissioner shall select by lottery the applicant who is entitled to receive the permit
8 for the parcel. The lottery shall be conducted under regulations adopted by the
9 commissioner that are to the maximum extent practicable consistent with the provisions
10 of AS 38.05.057 and the regulations adopted under that section.

11 * **Sec. 37.** AS 38.09.010(g) is amended to read:

12 (g) The commissioner may limit the number of persons permitted to stake
13 homestead entries within an area designated under (a) of this section by a lottery of
14 qualified applicants. [THE COMMISSIONER MAY CONDUCT A LOTTERY HELD
15 UNDER THIS SUBSECTION IN THE COMMUNITY THAT IS CLOSEST TO THE
16 AREA DESIGNATED FOR HOMESTEAD ENTRY. THE COMMISSIONER MAY
17 REQUIRE THAT EACH PARTICIPANT IN THE LOTTERY BE PRESENT UNLESS
18 ATTENDANCE AT THE LOTTERY IS PREVENTED BY

19 (1) MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
20 MILITARY SERVICE OUTSIDE THE STATE; OR

21 (2) A MANDATORY, UNAVOIDABLE EMPLOYMENT
22 COMMITMENT DETERMINED VALID BY THE COMMISSIONER BEFORE THE
23 SALE.]

24 * **Sec. 38.** AS 38.09.030(a) is amended to read:

25 (a) An applicant for a homestead entry permit shall

26 (1) submit proof acceptable to the commissioner that the applicant is
27 at least 18 years of age and has been a resident of the state for not less than one year
28 immediately before the date of application;

29 (2) pay a fee of \$5 per acre according to the description provided by
30 the applicant **if the entry is on land classified agricultural, or \$20 per acre if the**
31 **entry is on land not classified agricultural;**

- 1 (3) agree to comply with the requirements of AS 38.09.050;
- 2 (4) certify that the corners of the land entered have been staked and the
- 3 boundaries have been flagged; **and** [OR]
- 4 (5) assume full responsibility for the accuracy of the description of the
- 5 land filed with the commissioner under AS 38.09.020(b).

6 * **Sec. 39.** AS 38.09 is amended by adding a new section to read:

7 Sec. 38.09.105. REMOVAL OF CONDITIONS ON REMOTE PARCEL AND

8 HOMESTEAD ENTRY LAND. (a) The commissioner may not include the

9 conditions of former AS 38.05.078(d) in a remote parcel purchase contract issued on

10 or after the effective date of this section.

11 (b) The commissioner shall amend a remote parcel or homestead entry land

12 purchase contract or patent issued before the effective date of this section to remove

13 the conditions of former AS 38.05.078(d) or former AS 38.09.050(e) if the holder of

14 the purchase contract or patent

15 (1) requests the amendment;

16 (2) pays the reasonable administrative costs of the amendment as

17 determined by the commissioner; and

18 (3) pays the difference, as established by the commissioner, between

19 the land's fair market value before the amendment and the estimated fair market value

20 after the amendment.

21 * **Sec. 40.** AS 38.04.020(c), 38.04.020(f), 38.04.020(j), 38.04.020(k);

22 AS 38.05.035(e)(6)(F), 38.05.040, 38.05.057(g), 38.05.057(j), 38.05.207, 38.05.855,

23 38.05.856, 38.05.945(g), 38.05.946(b); AS 38.09.050(d), and 38.09.050(e) are repealed.

24 * **Sec. 41.** Notwithstanding AS 41.21.120 - 41.21.125, within Township 10 North, Range

25 1 East, Seward Meridian, the commissioner of natural resources may

26 (1) convey a property interest in land to the Alaska Railroad Corporation for

27 the purpose of realigning the railroad in conjunction with the relocation of the Seward

28 Highway, provided that the property interest conveyed must be equivalent to that conveyed

29 to the state-owned railroad under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of

30 1982) and shall be held and managed by the Alaska Railroad Corporation under AS 42.40;

31 (2) grant a 300 foot wide highway easement to the Department of

1 Transportation and Public Facilities for the relocated Seward Highway;
2 (3) grant a 100 foot wide utility easement to Chugach Electric Association,
3 Inc., for the relocation of the 115 kilovolt electric transmission line (Federal Power
4 Commission project no. 2170, AA-39417, and ADL 32417) and the electric distribution line
5 (A-029885) located within the Chugach State Park.

6 * **Sec. 42.** APPLICABILITY. The change to the interest rate to be charged on contracts
7 for the sale of land under AS 38.05.065, made by secs. 15 - 17 of this Act, applies to all
8 contracts under AS 38.05.065 sent by the Department of Natural Resources to purchasers for
9 signature on or after the effective date of secs. 15 - 17 of this Act.

10 * **Sec. 43.** REVISOR'S INSTRUCTION. The amendments to AS 38.05.082(b), made by
11 sec. 19 of this Act, do not affect the amendments made to that subsection by sec. 3, ch. 27,
12 SLA 1991, effective January 1, 1997. Unless amended or repealed by Act of the legislature
13 after the effective date of this section, the amendments to AS 38.05.082(b), made by sec. 19
14 of this section, continue in effect after the amendments made by sec. 3, ch. 27, SLA 1991,
15 take effect January 1, 1997.

16 * **Sec. 44.** TRANSITIONAL PROVISIONS: REGULATIONS. (a) Notwithstanding
17 sec. 45 of this Act, the Department of Natural Resources may proceed to adopt regulations
18 necessary to implement the changes made by this Act. The regulations take effect under
19 AS 44.62 (Administrative Procedure Act), but not before July 1, 1995.

20 (b) To the extent they are consistent with AS 38.08, regulations governing the
21 selection of applicants for homesite parcels under AS 38.08 in effect on the effective date of
22 secs. 35 - 36 of this Act remain in effect notwithstanding the amendment to AS 38.08.040,
23 made by secs. 35 - 36 of this Act, until the regulations are amended, repealed, or superseded.

24 * **Sec. 45.** Except for sec. 44 of this Act, this Act takes effect July 1, 1995.

25 * **Sec. 46.** Section 44 of this Act takes effect immediately under AS 01.10.070(c).