

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 191(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/10/95
Referred: Finance

Sponsor(s): REPRESENTATIVES THERRIAULT, James

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 38.04.010(b) is amended to read:

6 (b) State land that is located beyond the range of existing schools and other
7 necessary public services, or that is located where development of sources of
8 employment is improbable, may be made available for seasonal recreational purposes
9 or for low density settlement. The seasonal recreation use or low density settlement
10 shall have sufficient separation between residences so that public services will not be
11 necessary or expected. The availability of timber, firewood, and water resources shall
12 be considered in determining separation between residences. **By considering the**
13 **availability of timber, firewood, and water under this subsection or in making any**
14 **disposal decision, the state does not by virtue of that consideration imply any**

1 right of the person receiving the disposal to an exclusive or other right to the
2 timber, firewood, or water, that the state will not make any other disposals in the
3 area, or that any disposals made will be limited in type or any other manner.

4 * **Sec. 2.** AS 38.04.020(a) is amended to read:

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

8 * **Sec. 3.** AS 38.04.020(b) is amended to read:

9 (b) The state land disposal program [BANK] does not include

10 (1) land nominated for selection or selected by a municipality to satisfy
11 a general grant land entitlement under AS 29.65 or former AS 29.18.201 - 29.18.213;

12 (2) land retained in state ownership for multiple-use management;

13 (3) land where less than a fee simple title has been conveyed;

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

16 * **Sec. 4.** AS 38.04.020(d) is repealed and reenacted to read:

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

20 (1) settlement purposes, including homestead, commercial, or industrial
21 disposal;

22 (2) agricultural disposal; and

23 (3) grazing leases.

24 * **Sec. 5.** AS 38.04.020(e) is repealed and reenacted to read:

25 (e) The commissioner may annually submit to the governor an appropriation
26 request for the entire amount of funding estimated to be necessary for each project
27 proposal to allow survey and disposal of land proposed to be offered for (1) homestead
28 staking under AS 38.09; (2) agricultural, commercial, industrial, or other uses under
29 AS 38.05.055 or 38.05.057; or (3) other subdivisions. Each project proposal shall
30 include the general location of the land and the estimated cost of preliminary feasibility
31 studies, engineering design work, right-of-way acquisition, and construction of access

1 roads and capital improvements required by municipal subdivision ordinance or
2 regulation of the platting authority or otherwise necessary to develop and market the
3 land.

4 * **Sec. 6.** AS 38.04.020(g) is amended to read:

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

8 (1) **land** [LAND] designated as suitable for homestead disposal shall
9 be [CLASSIFIED AND] surveyed under this chapter and AS 38.05 and made available
10 for **entry** [STAKING AND LEASE] under AS 38.09; [.]

11 (2) **land** [LAND] designated as suitable for subdivision and homesite
12 disposal shall be surveyed, subdivided, [CLASSIFIED,] and disposed of under this
13 chapter, AS 38.05, and AS 38.08; [.]

14 (3) **land** [LAND] designated agricultural, commercial, industrial, or
15 suitable for other disposal shall be sold under AS 38.05.055 or 38.05.057.

16 * **Sec. 7.** AS 38.04.020(h) is amended to read:

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

26 * **Sec. 8.** AS 38.04.020(i) is amended to read:

27 (i) Nothing in this section prevents the disposal of other land by the
28 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of
29 remote **recreational** cabin **site leases or sales** [PERMITS] under AS 38.05.079,
30 AS 38.08, **AS 38.09,** or other law.

31 * **Sec. 9.** AS 38.04.021(a) is amended to read:

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

9 * **Sec. 10.** AS 38.04.021(b) is amended to read:

10 (b) A request by a municipality under this section must be accompanied by

11 (1) a schedule for the disposal of municipal land for the next five years;
12 the schedule shall be based on an assessment of the demand for private land within the
13 municipality [AND INCLUDED IN THE ASSESSMENT SUBMITTED UNDER
14 AS 38.04.020(f)];

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

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

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

21 * **Sec. 11.** AS 38.04.030 is amended to read:

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

1 * **Sec. 12.** AS 38.04.035 is amended to read:

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

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

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

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

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

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

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

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

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

25 (4) [FOR ENABLING ISOLATED CABIN DEVELOPMENT IN
26 REMOTE LOCATIONS WHERE SURVEY AND CONVEYANCE IS
27 IMPRACTICAL, OR WHERE DISPOSAL OF LAND WOULD CAUSE POTENTIAL
28 CONFLICTS WITH OTHER RESOURCES AND USES, OR WHERE A LONG-
29 RANGE INTEREST IN PUBLIC OWNERSHIP AND USE EXIST, A SYSTEM FOR
30 CABIN PERMITS ON PUBLIC LAND MAY BE USED;

31 (5)] limited or conditional title may be granted when the state's best

1 interest so dictates; among other things, title limitations may include grants of
2 agricultural interest only, retention of development rights, and retention of scenic or
3 other easements; a conditional title may be tied to a development schedule or other
4 standards of performance.

5 * **Sec. 13.** AS 38.04.045(b) is amended to read:

6 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
7 for state land, an official cadastral survey shall be accomplished, unless a comparable,
8 approved survey exists that has been conducted by the federal Bureau of Land
9 Management. Before land may be offered under AS 38.05.055, 38.05.057, AS 38.08,
10 or AS 38.09, an official rectangular survey grid shall be established. The rectangular
11 survey section corner positions shall be monumented and shown on a cadastral survey
12 plat approved by the state. For those areas where the state may wish to convey
13 surface estate outside of an official rectangular survey grid, the commissioner may
14 waive monumentation of individual section corner positions and substitute an official
15 control survey with control points being monumented and shown on control survey
16 plats approved by the state. The commissioner may not issue more than one
17 conveyance for each section within a township outside of an official rectangular survey
18 grid. No portion of land to be conveyed may be located more than two miles from an
19 official survey control monument except that the commissioner may waive this
20 requirement on a determination that a single purpose use does not justify the
21 requirement if the existing status of the land is known with reasonable certainty. The
22 lots and tracts in state subdivisions shall be monumented and the cadastral survey and
23 plats for the subdivision shall be approved by the state. Where land is located within
24 a municipality with planning, platting, and zoning powers, plats for state subdivisions
25 shall comply with local ordinances and regulations in the same manner and to the same
26 extent as plats for subdivisions by other landowners. State subdivisions shall be filed
27 and recorded in the district recorder's office. The requirements of this section do not
28 apply to land made available [THROUGH A CABIN PERMIT SYSTEM,] for material
29 sales, for short-term leases, or for parcels adjoining a surveyed right-of-way, [OR FOR
30 LAND THAT HAS BEEN OPEN TO RANDOM STAKING UNDER THE REMOTE
31 PARCEL PROGRAM OR HOMESTEAD PROGRAM IN THE PAST]; however, for

1 short-term leases the lessee must comply with local subdivision ordinances unless
2 waived by the municipality under procedures specified by ordinance. In this subsection,
3 "a single purpose use" includes a communication site, an aid to navigation, and a park
4 site.

5 * **Sec. 14.** AS 38.05.050 is amended to read:

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

11 * **Sec. 15.** AS 38.05.055 is amended to read:

12 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of
13 sale is required under this chapter, [AS 38.07, OR] AS 38.08, or AS 38.09, the sale
14 of state land shall be made at public auction to the highest qualified bidder as
15 determined by the director. The director may accept bids and sell state land under this
16 section at no less than 70 percent of the appraised fair market value of the land. [A
17 BIDDER MUST APPEAR IN PERSON AT THE AUCTION UNLESS MEDICAL
18 REASONS, ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE
19 THE STATE PREVENT ATTENDANCE.] A bidder may be represented by an
20 attorney or agent at the auction [IF THE LAND OFFERED FOR DISPOSAL IS
21 COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL LAND]. An aggrieved
22 bidder may appeal to the commissioner within five days after the sale for a review of
23 the director's determination. The sale shall be conducted by the director and at the
24 time of sale the successful bidder shall deposit an amount equal to five percent of the
25 purchase price. The director shall immediately issue a receipt containing a description
26 of the land or property purchased, the price bid, and the amount deposited. The
27 receipt shall be acknowledged in writing by the bidder.

28 * **Sec. 16.** AS 38.05.057(a) is amended to read:

29 (a) The commissioner may dispose of land, including land limited to use for
30 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
31 the fair market value of the land as determined by the commissioner. The

1 commissioner may sell land by lottery for less than the fair market value of the land
2 on a determination that scarcity of land for private use in the area of the land to be
3 sold has resulted in unrealistic land values. [THE COMMISSIONER SHALL
4 CONSULT WITH THE ASSESSOR OF A MUNICIPALITY BEFORE
5 DETERMINING THE PURCHASE PRICE FOR LAND THAT IS LOCATED IN
6 THE MUNICIPALITY AND THAT IS TO BE SOLD UNDER THIS SECTION.] The
7 lottery shall be conducted in public by the commissioner. A [AN APPLICANT MAY
8 NOT BE SELECTED TO PURCHASE LAND UNLESS THE APPLICANT IS
9 PRESENT ON THE DATE AND AT THE PLACE THAT THE LOTTERY IS
10 CONDUCTED UNLESS MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR
11 MILITARY SERVICE OUTSIDE THE STATE PREVENT ATTENDANCE. AN
12 APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE
13 LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL,
14 INDUSTRIAL, OR AGRICULTURAL LAND. ON THE DAY OF THE LOTTERY
15 A] purchaser selected by lot shall deposit an amount equal to five percent of the
16 purchase price **within 30 days after receiving notification of the selection.**

17 * **Sec. 17.** AS 38.05.065(a) is amended to read:

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

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

25 * **Sec. 18.** AS 38.05.065(b) is amended to read:

26 (b) The contract of sale for land sold under AS 38.05.057 or under former
27 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
28 quarterly, or annual installments over a period of not more than 20 years. Installment
29 payments plus interest shall be set on the level-payment basis. The interest rate to be
30 charged on installment payments is the [PREVAILING] rate **provided in (i) of this**
31 **section** [FOR REAL ESTATE MORTGAGE LOANS MADE BY THE FEDERAL

1 LAND BANK FOR THE FARM CREDIT DISTRICT FOR ALASKA AT THE TIME
2 THE CONTRACT IS SIGNED].

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

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

8 * **Sec. 20.** AS 38.05.069(a) is amended to read:

9 (a) On a determination that the highest and best use of unoccupied land is for
10 agricultural purposes and that it is in the best interests of the state to sell or lease the
11 land, the commissioner may [SHALL] grant to an Alaska [ALASKAN] resident
12 owning and using or leasing and using land for agricultural purposes a first option at
13 the auction to purchase or lease the unoccupied land situated adjacent to land presently
14 held by the Alaska [ALASKAN] resident for the amount of the high bid received at
15 public auction. If more than one Alaska [ALASKAN] resident qualifies for a first
16 option under this section, eligibility for the first option shall be determined by lot and
17 the option must be exercised on the conclusion of the public auction. A parcel of
18 agricultural land sold under this section may not be less than 20 acres and a parcel of
19 agricultural land that is acquired by exercise of the option granted in this subsection
20 may not exceed 320 acres. Agricultural land that is acquired under this section must
21 be used for agricultural purposes as required by law.

22 * **Sec. 21.** AS 38.05.069(e)(2) is repealed and reenacted to read:

23 (2) "adjacent" means that a tract of land has one common boundary
24 point with presently held land or is separated from the presently held land only by a
25 physical barrier such as a road or stream.

26 * **Sec. 22.** AS 38.05.079(a) is amended to read:

27 (a) The [AFTER SEPTEMBER 1, 1980, THE] commissioner may **provide for**
28 **the sale or lease of state land for remote recreational cabin sites in areas of the**
29 **state with dispersed populations** [ISSUE A PERMIT FOR THE USE OF REMOTE
30 STATE LAND IN A MUNICIPALITY FOR A CABIN SITE IF THE LAND WAS
31 CLASSIFIED FOR THAT PURPOSE UNDER FORMER AS 38.05.047(a)(5)(B).

1 AFTER SEPTEMBER 1, 1981, THE COMMISSIONER MAY ISSUE A PERMIT
2 FOR THE USE OF REMOTE STATE LAND OUTSIDE A MUNICIPALITY FOR
3 A CABIN SITE] if the land is classified for that purpose under the procedures required
4 by AS 38.05.300 and 38.05.945. **Sales under this section shall be at fair market**
5 **value and the purchaser shall reimburse the state for the appraisal, survey, and**
6 **platting costs for the recreational cabin site.**

7 * **Sec. 23.** AS 38.05.079(b) is amended to read:

8 (b) The **annual** fee for a remote **recreational** cabin **site lease shall be set by**
9 **the commissioner so as to ensure that the state receives a fair return for the use**
10 **granted by the lease for the term of the lease** [PERMIT IS \$100 A YEAR]. The
11 commissioner shall establish regulations **that** [WHICH] specify the application
12 procedures for and the terms and conditions of a remote **recreational** cabin **site lease**
13 [PERMIT]. A **lease** [PERMIT] must be for a term of not **more** [LESS] than **five** [25]
14 years, and may be **renewed for one additional five-year period. At any time during**
15 **the lease, the lessee may purchase the remote recreational cabin site by having the**
16 **site appraised and surveyed in a manner acceptable to the department and by**
17 **paying to the state the fair market value for the site. The lease may not be**
18 assigned by the original **lessee** [PERMITTEE] during the term of the **lease** [PERMIT].

19 * **Sec. 24.** AS 38.05.079(c) is amended to read:

20 (c) A remote **recreational** cabin **site lease** [PERMIT] may be terminated by
21 the commissioner before the expiration of the term of the **lease** [PERMIT] if a
22 permittee fails to use the land under **lease** [PERMIT] in the manner required by the
23 terms of the **lease** [PERMIT]. After termination of a remote **recreational** cabin **site**
24 **lease** [PERMIT], improvements or personal property on the land subject to the **lease**
25 [PERMIT] shall be managed in the same manner as required by AS 38.05.090.

26 * **Sec. 25.** AS 38.05.082(b) is amended to read:

27 (b) The director may classify land as subject to leases for fisheries
28 development. In an area or region of the state for which a land use plan has not been
29 adopted under AS 38.04.065, the director may classify land for lease under this section
30 after notice under AS 38.05.945. The director **may** [SHALL] publicly invite
31 applications for lease of the selected areas. Each application shall be accompanied by

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

20 * **Sec. 26.** AS 38.05.082(c) is amended to read:

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

27 * **Sec. 27.** AS 38.05.082(d) is amended to read:

28 (d) Subleasing and renewals of leases are governed by AS 38.05.095 and
29 38.05.102. Notwithstanding (b) of this section, a lease held under this section on
30 the effective date of this bill section may be renewed under terms and conditions
31 prescribed by the commissioner.

1 * **Sec. 28.** AS 38.05.083 is repealed and reenacted to read:

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

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

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

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

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

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

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

28 * **Sec. 29.** AS 38.05.090 is repealed and reenacted to read:

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

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

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

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

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

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

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

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

1 appraisal made at the cost of the former lessee. A notice or offer by the state to sell
2 formerly leased land under this subsection must state (1) the appraised value of
3 authorized residential fixtures remaining on the land that must be purchased, and (2)
4 that that cost is included in the purchase price. Out of the proceeds of the sale, the
5 department shall pay to the former lessee the appraised value of the residential
6 improvements, less all rents due the department, all costs of restoration due the
7 department under (d) of this section, and all department expenses incurred in making
8 the sale.

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

11 * **Sec. 30.** AS 38.05.130 is amended to read:

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

27 * **Sec. 31.** AS 38.05.131(a) is amended to read:

28 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the
29 provisions of **AS 38.05.005 - 38.05.037** [AS 38.05.005 - 38.05.040], 38.05.140(f),
30 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of
31 oil and gas exploration licenses and leases under AS 38.05.132 - 38.05.134.

1 * **Sec. 32.** AS 38.05.185(a) is amended to read:

2 (a) The acquisition and continuance of rights in and to deposits on state land
3 of minerals, which on January 3, 1959, were subject to location under the mining laws
4 of the United States, shall be governed by AS 38.05.185 - 38.05.275. Nothing in
5 AS 38.05.185 - 38.05.275 affects the law pertaining to the acquisition of rights to
6 mineral deposits owned by any other person or government. The director, with the
7 approval of the commissioner, shall determine that land from which mineral deposits
8 may be mined only under lease, and, subject to the limitations of AS 38.05.300, that
9 land that shall be closed to **location under AS 38.05.185 - 38.05.275** [MINING].
10 State land may not be closed to [MINING OR MINERAL] location **under**
11 **AS 38.05.185 - 38.05.275** except as provided in AS 38.05.300 and unless the
12 commissioner makes a finding that mining would be incompatible with significant
13 surface uses on the state land. State land may not be restricted to mining under lease
14 unless the commissioner determines that potential use conflicts on the state land
15 require that mining be allowed only under written leases issued under AS 38.05.205
16 or the commissioner has determined that the land was mineral in character at the time
17 of state selection. The determinations required under this subsection shall be made in
18 compliance with land classification orders and land use plans developed under
19 AS 38.05.300.

20 * **Sec. 33.** AS 38.05.190(a) is amended to read:

21 (a) The right to acquire exploration and mining rights under AS 38.05.185 -
22 38.05.275 may be acquired or held only by
23 (1) citizens of the United States at least 18 years of age;
24 (2) legal guardians or trustees of citizens of the United States under 18
25 years of age on behalf of the citizens;
26 (3) persons at least 18 years of age who have declared their intention
27 to become citizens of the United States;
28 (4) [ALIENS AT LEAST 18 YEARS OF AGE IF THE LAWS OF
29 THEIR COUNTRY GRANT LIKE PRIVILEGES TO CITIZENS OF THE UNITED
30 STATES;
31 (5)] corporations organized under the laws of the United States or of

1 any state or territory of the United States and qualified to do business in this state [,
2 EXCEPT THAT IF MORE THAN 50 PERCENT OF THE STOCK OF A
3 CORPORATION IS OWNED OR CONTROLLED BY ALIENS WHO ARE NOT
4 QUALIFIED, THE CORPORATION IS NOT QUALIFIED TO ACQUIRE OR HOLD
5 THE RIGHTS];

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

8 * **Sec. 34.** AS 38.05.211(d) is repealed and reenacted to read:

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

25 * **Sec. 35.** AS 38.05.255 is amended to read:

26 Sec. 38.05.255. SURFACE USE OF LAND OR WATER. Surface uses of
27 land or water included within mining properties by owners of those properties shall be
28 limited to those necessary for the prospecting for, extraction of, or basic processing of
29 mineral deposits and shall be subject to reasonable concurrent uses. **Leases**
30 [PERMITS] for millsites and tailings disposal may be **issued** [GRANTED] by the
31 director. The **leases** [PERMITS] shall be conditioned upon payment of a reasonable

1 **annual rent** [CHARGE] for the **lease** [USE] and **restriction to** [CONTINUANCE OF]
2 the limited use. Timber from land open to mining without lease, except timberland,
3 may be used by a mining claimant or prospecting site locator for the mining or
4 development of the location or adjacent claims under common ownership. On other
5 land, timber may be acquired as provided in this chapter. Use of water shall be made
6 in accordance with AS 46.15.

7 * **Sec. 36.** AS 38.05.255 is amended by adding a new subsection to read:

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

11 * **Sec. 37.** AS 38.05.265 is amended to read:

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

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

25 or

26 (2) 30 days after a final judgment establishing the amount due if the
27 deficiency amount due was contested.

28 * **Sec. 38.** AS 38.05.810(a) is amended to read:

29 (a) Except as otherwise provided in AS 38.05.183(h), the **(1)** lease, sale, or
30 other disposal of state land or resources may be made to a state or federal agency or
31 political subdivision, **(2)** [THE] lease, sale, or disposal of coal deposits suitable for

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

18 * **Sec. 39.** AS 38.05.850(a) is amended to read:

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

1 the state and the development of its resources. However, first preference shall be
2 granted to the upland owner for the use of a tract of tideland, or tideland and
3 contiguous submerged land, which is seaward of the upland property of the upland
4 owner and which is needed by the upland owner for any of the purposes for which the
5 use may be granted.

6 * **Sec. 40.** AS 38.05.945(a) is amended to read:

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

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

11 (2) zoning of land under applicable law;

12 (3) issuance of a

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

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

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

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

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

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

26 (6) [(7)] a decision under AS 38.05.132 - 38.05.134 regarding the sale,
27 lease, or disposal of an interest in state land or resources.

28 * **Sec. 41.** AS 38.08.030(b) is amended to read:

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

30 * **Sec. 42.** AS 38.08.040(a) is amended to read:

31 (a) An applicant meeting the qualifications for homesite entry under

1 AS 38.08.030 and selected under (f) of this section shall be issued a revocable permit
2 to occupy and improve the homesite in order to qualify for issuance of patent as
3 provided in this chapter. The holder of a homesite entry permit shall pay, in
4 advance, an annual rental fee of \$100. [THE APPLICATION FEE IS THE SOLE
5 RENT CHARGEABLE ON THE PERMIT FOR ITS DURATION.]

6 * **Sec. 43.** AS 38.08.040 is amended by adding a new subsection to read:

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

14 * **Sec. 44.** AS 38.09.010(g) is amended to read:

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

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

25 (2) A MANDATORY, UNAVOIDABLE EMPLOYMENT
26 COMMITMENT DETERMINED VALID BY THE COMMISSIONER BEFORE THE
27 SALE.]

28 * **Sec. 45.** AS 38.09.030(a) is amended to read:

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

30 (1) submit proof acceptable to the commissioner that the applicant is
31 at least 18 years of age and has been a resident of the state for not less than one year

1 immediately before the date of application; **and**

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

5 (3) agree to comply with the requirements of AS 38.09.050 [;

6 (4) CERTIFY THAT THE CORNERS OF THE LAND ENTERED
7 HAVE BEEN STAKED AND THE BOUNDARIES HAVE BEEN FLAGGED; OR

8 (5) ASSUME FULL RESPONSIBILITY FOR THE ACCURACY OF
9 THE DESCRIPTION OF THE LAND FILED WITH THE COMMISSIONER UNDER
10 AS 38.09.020(b)].

11 * **Sec. 46.** AS 38.09.050(a) is amended to read:

12 (a) The commissioner shall issue a patent to homestead entry land if the permit
13 holder

14 (1) **either**

15 (A) resides and lives on the homestead entry land for not less
16 than 25 months within five years after the issuance of the homestead entry
17 permit **and reimburses the state for the survey and platting of the**
18 **homestead parcel; or**

19 (B) **within five years pays the state the fair market value of**
20 **the homestead parcel at the time of patent and reimburses the state for the**
21 **survey and platting of the homestead parcel; and**

22 (2) [SUBMITS AN ALIQUOT PARTS DESCRIPTION OR
23 COMPLETES AN APPROVED SURVEY OF THE LAND IN AN AREA WHERE
24 THE COMMISSIONER WAIVES THE RECTANGULAR SURVEY GRID WITHIN
25 FIVE YEARS AFTER THE ISSUANCE OF THE PERMIT;

26 (3) ERECTS A HABITABLE, PERMANENT DWELLING ON THE
27 HOMESTEAD WITHIN THREE YEARS AFTER THE ISSUANCE OF THE
28 HOMESTEAD ENTRY PERMIT;

29 (4) BRUSHES THE BOUNDARIES OF THE LAND NOT
30 DESCRIBED BY ALIQUOT PARTS OR AS A LOT OF RECORD WITHIN 90
31 DAYS AFTER THE ISSUANCE OF THE PERMIT;

1 (5)] clears and either puts into production or prepares for cultivation
2 either 25 percent of the land classified for agricultural use or 50 percent of the
3 cropland soils, whichever is less, within five years after issuance of the permit.

4 * **Sec. 47.** AS 38.09.050(b) is amended to read:

5 (b) Nothing in this chapter prohibits a homestead entry permit holder from
6 residing in a temporary dwelling on the homestead [BEFORE ERECTION OF THE
7 PERMANENT DWELLING].

8 * **Sec. 48.** AS 38.09 is amended by adding a new section to read:

9 Sec. 38.09.105. REMOVAL OF CONDITIONS ON REMOTE PARCEL AND
10 HOMESTEAD ENTRY LAND. (a) The commissioner may not include the
11 conditions of former AS 38.05.078(d) in a remote parcel purchase contract issued on
12 or after the effective date of this section.

13 (b) The commissioner shall amend a remote parcel or homestead entry land
14 purchase contract or patent issued before the effective date of this section to remove
15 the conditions of former AS 38.05.078(d) or former AS 38.09.050(e) if the holder of
16 the purchase contract or patent

17 (1) requests the amendment;

18 (2) pays the reasonable administrative costs of the amendment as
19 determined by the commissioner; and

20 (3) pays the difference, as established by the commissioner, between
21 the land's fair market value before the amendment and the estimated fair market value
22 after the amendment.

23 * **Sec. 49.** AS 38.95 is amended by adding a new section to read:

24 **ARTICLE 7. NO OBLIGATION TO PROVIDE SERVICES TO DISPOSALS**
25 **OF STATE LAND; NO LIMITATION ON FURTHER DISPOSALS.**

26 Sec. 38.95.300. **DISCLAIMER APPLICABLE TO STATE DISPOSALS.**

27 Except as otherwise specifically provided, nothing in this title

28 (1) obligates the state to provide services to land that is disposed of by
29 the state, or any grantee of the state, or is the subject of any disposal program;

30 (2) limits the authority of the state to dispose of land or any interest
31 in land or resources in the area of the current disposal, provides any exclusive right

1 or interest in the area of the disposal, or implies or requires that any disposals made
2 will be limited in type or any other manner.

3 * **Sec. 50.** AS 38.04.020(c), 38.04.020(f), 38.04.020(j), 38.04.020(k);
4 AS 38.05.035(e)(6)(F), 38.05.040, 38.05.057(g), 38.05.057(j), 38.05.079(d), 38.05.207,
5 38.05.855, 38.05.856, 38.05.945(g), 38.05.946(b); AS 38.08.090; AS 38.09.010(e), 38.09.020,
6 38.09.040(a)(2), 38.09.040(a)(3), 38.09.040(a)(4), 38.09.050(d), 38.09.050(e), 38.09.060,
7 38.09.070, 38.09.090, 38.09.900(1), 38.09.900(3), and 38.09.900(4) are repealed.

8 * **Sec. 51.** Notwithstanding AS 41.21.120 - 41.21.125, within Township 10 North, Range
9 1 East, Seward Meridian, the commissioner of natural resources may

10 (1) convey a property interest in land to the Alaska Railroad Corporation for
11 the purpose of realigning the railroad in conjunction with the relocation of the Seward
12 Highway, provided that the property interest conveyed must be equivalent to that conveyed
13 to the state-owned railroad under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
14 1982) and shall be held and managed by the Alaska Railroad Corporation under AS 42.40;

15 (2) grant a 300 foot wide highway easement to the Department of
16 Transportation and Public Facilities for the relocated Seward Highway;

17 (3) grant a 100 foot wide utility easement to Chugach Electric Association,
18 Inc., for the relocation of the 115 kilovolt electric transmission line (Federal Power
19 Commission project no. 2170, AA-39417, and ADL 32417) and the electric distribution line
20 (A-029885) located within the Chugach State Park.

21 * **Sec. 52.** APPLICABILITY. The change to the interest rate to be charged on contracts
22 for the sale of land under AS 38.05.065, made by secs. 17 - 19 of this Act, applies to all
23 contracts under AS 38.05.065 sent by the Department of Natural Resources to purchasers for
24 signature on or after the effective date of secs. 17 - 19 of this Act.

25 * **Sec. 53.** REVISOR'S INSTRUCTION. The amendments to AS 38.05.082(b), made by
26 sec. 25 of this Act, do not affect the amendments made to that subsection by sec. 3, ch. 27,
27 SLA 1991, effective January 1, 1997. Unless amended or repealed by Act of the legislature
28 after the effective date of this section, the amendments to AS 38.05.082(b), made by sec. 25
29 of this Act, continue in effect after the amendments made by sec. 3, ch. 27, SLA 1991, take
30 effect January 1, 1997.

31 * **Sec. 54.** TRANSITIONAL PROVISIONS: REGULATIONS. (a) Notwithstanding

1 sec. 55 of this Act, the Department of Natural Resources may proceed to adopt regulations
2 necessary to implement the changes made by this Act. The regulations take effect under
3 AS 44.62 (Administrative Procedure Act), but not before July 1, 1995.

4 (b) To the extent they are consistent with AS 38.08, regulations governing the
5 selection of applicants for homesite parcels under AS 38.08 in effect on the effective date of
6 secs. 42 - 43 of this Act remain in effect notwithstanding the amendment to AS 38.08.040,
7 made by secs. 42 - 43 of this Act, until the regulations are amended, repealed, or superseded.

8 * **Sec. 55.** Except for sec. 54 of this Act, this Act takes effect July 1, 1995.

9 * **Sec. 56.** Section 54 of this Act takes effect immediately under AS 01.10.070(c).