

**CS FOR HOUSE BILL NO. 109(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 4/30/97**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVE THERRIAULT**

**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 09.10.120 is amended by adding a new subsection to read:

**6 (b)** Notwithstanding (a) of this section or any other provision of law, the state  
**7** may bring an action in the name of or for the benefit of the state to (1) quiet or  
**8** confirm the state's interests in real property, or (2) protect resources held in trust for  
**9** the public, at any time.

**10 \* Sec. 2.** AS 38.04.010(b) is amended to read:

**11 (b)** State land that is located beyond the range of existing schools and other  
**12** necessary public services, or that is located where development of sources of  
**13** employment is improbable, may be made available for seasonal recreational purposes  
**14** or for low density settlement. The seasonal recreation use or low density settlement

1 shall have sufficient separation between residences so that public services will not be  
 2 necessary or expected. The availability of timber, firewood, and water resources shall  
 3 be considered in determining separation between residences. **By considering the**  
 4 **availability of timber, firewood, and water under this subsection or in making any**  
 5 **disposal decision, the state does not by virtue of that consideration imply any**  
 6 **right of the person receiving the disposal to an exclusive or other right to the**  
 7 **timber, firewood, or water, that the state will not make any other disposals in the**  
 8 **area, or that any disposals made will be limited in type or any other manner.**

9 \* **Sec. 3.** AS 38.04.020(a) is amended to read:

10 (a) **State** [THE COMMISSIONER SHALL ESTABLISH A] land **disposals**  
 11 **must include** [DISPOSAL BANK CONTAINING] state land **identified and** classified  
 12 **under adopted regional land use plans** for disposal into private ownership.

13 \* **Sec. 4.** AS 38.04.020(b) is amended to read:

14 (b) **State** [THE] land **disposals may** [DISPOSAL BANK DOES] not include  
 15 (1) land nominated for selection or selected by a municipality to satisfy  
 16 a general grant land entitlement under AS 29.65 or former AS 29.18.201 - 29.18.213;  
 17 (2) land retained in state ownership for multiple-use management;  
 18 (3) land where less than a fee simple title has been conveyed;  
 19 (4) land retained in state ownership under an enactment of the  
 20 legislature or by the governor or a state agency under authority of law.

21 \* **Sec. 5.** AS 38.04.020(d) is repealed and reenacted to read:

22 (d) By January 15 of the first regular session of each legislature, the  
 23 commissioner shall notify the legislature that the commissioner has available a report  
 24 on the total acreage of land planned and classified as suitable under this title for  
 25 (1) settlement purposes, including homestead, commercial, or industrial  
 26 disposal;  
 27 (2) agricultural disposal; and  
 28 (3) grazing leases.

29 \* **Sec. 6.** AS 38.04.020(e) is repealed and reenacted to read:

30 (e) The commissioner may annually submit to the governor an appropriation  
 31 request for the amount of funding estimated to be necessary to allow survey and

1 disposal of land that the commissioner proposes to be offered for (1) homestead entry  
 2 under AS 38.09, (2) agricultural, commercial, industrial, or other uses under 38.05.055  
 3 or 38.05.057, or (3) other subdivisions. The appropriation request must include the  
 4 general location of the land, the estimated income of the proposal, and the estimated  
 5 cost necessary to develop and market the land.

6 \* **Sec. 7.** AS 38.04.020(g) is amended to read:

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

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

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

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

18 \* **Sec. 8.** AS 38.04.020(h) is amended to read:

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

28 \* **Sec. 9.** AS 38.04.020(i) is amended to read:

29 (i) Nothing in this section prevents the disposal of other land by the  
 30 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of  
 31 remote **recreational** cabin **site leases or sales** [PERMITS] under **AS 38.05.600**

1 [AS 38.05.079], AS 38.08, AS 38.09, or other law.

2 \* **Sec. 10.** AS 38.04.021(a) is amended to read:

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

11 \* **Sec. 11.** AS 38.04.021(b) is amended to read:

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

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

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

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

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

23 \* **Sec. 12.** AS 38.04.030 is amended to read:

24 **Sec. 38.04.030. Land availability programs.** Programs that may be used by  
25 the director to make the state's land surface available for private use under  
26 AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple  
27 estate, including conveyance of agricultural use rights; leasing; [OPEN-TO-ENTRY;]  
28 homesiting; homesteading; permitting for construction and occupation of cabins in  
29 isolated locations on land retained in state ownership; and other methods as provided  
30 by regulation or other law. Notwithstanding a contrary provision of this title, a  
31 land availability program adopted by regulation must provide for competitive

1 disposal, based on no less than fair market value, to serve the best interests of the  
 2 state.

3 \* **Sec. 13.** AS 38.04.035 is amended to read:

4 **Sec. 38.04.035. Criteria for program selection.** In determining which land  
 5 availability program is appropriate for state land in different locations, the director  
 6 shall be guided by the following criteria:

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

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

16 (3) sale programs are preferred but lease programs **may** [SHOULD] be  
 17 used

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

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

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

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

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

28 (4) [FOR ENABLING ISOLATED CABIN DEVELOPMENT IN  
 29 REMOTE LOCATIONS WHERE SURVEY AND CONVEYANCE IS  
 30 IMPRACTICAL, OR WHERE DISPOSAL OF LAND WOULD CAUSE POTENTIAL  
 31 CONFLICTS WITH OTHER RESOURCES AND USES, OR WHERE A LONG-

1 RANGE INTEREST IN PUBLIC OWNERSHIP AND USE EXIST, A SYSTEM FOR  
2 CABIN PERMITS ON PUBLIC LAND MAY BE USED;

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

8 \* **Sec. 14.** AS 38.04.045(b) is amended to read:

9 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent  
10 for state land, an official cadastral survey shall be accomplished, unless a comparable,  
11 approved survey exists that has been conducted by the federal Bureau of Land  
12 Management. Before land may be offered under AS 38.08 or AS 38.09, or before land  
13 may be offered under AS 38.05.055 or 38.05.057, except land that is classified for  
14 agricultural uses, an official rectangular survey grid shall be established. The  
15 rectangular survey section corner positions shall be monumented and shown on a  
16 cadastral survey plat approved by the state. For those areas where the state may wish  
17 to convey surface estate outside of an official rectangular survey grid, the  
18 commissioner may waive monumentation of individual section corner positions and  
19 substitute an official control survey with control points being monumented and shown  
20 on control survey plats approved by the state. The commissioner may not issue more  
21 than one conveyance for each section within a township outside of an official  
22 rectangular survey grid. Land to be conveyed may not be located more than two miles  
23 from an official survey control monument except that the commissioner may waive this  
24 requirement on a determination that a single purpose use does not justify the  
25 requirement if the existing status of the land is known with reasonable certainty. The  
26 lots and tracts in state subdivisions shall be monumented and the cadastral survey and  
27 plats for the subdivision shall be approved by the state. Where land is located within  
28 a municipality with planning, platting, and zoning powers, plats for state subdivisions  
29 shall comply with local ordinances and regulations in the same manner and to the same  
30 extent as plats for subdivisions by other landowners. State subdivisions shall be filed  
31 and recorded in the district recorder's office. The requirements of this section do not

1 apply to land made available [THROUGH A CABIN PERMIT SYSTEM,] for material  
 2 sales, for short-term leases, **or** for parcels adjoining a surveyed right-of-way [, OR  
 3 FOR LAND THAT HAS BEEN OPEN TO RANDOM STAKING UNDER THE  
 4 REMOTE PARCEL PROGRAM OR HOMESTEAD PROGRAM IN THE PAST];  
 5 however, for short-term leases, the lessee shall comply with local subdivision  
 6 ordinances unless waived by the municipality under procedures specified by ordinance.  
 7 In this subsection, "a single purpose use" includes a communication site, an aid to  
 8 navigation, and a park site.

9 \* **Sec. 15.** AS 38.05.050 is amended to read:

10 **Sec. 38.05.050. Disposal of land for private ownership.** The commissioner  
 11 shall determine the land to be disposed of for private use. The commissioner shall  
 12 determine the time and place of disposal. An auction sale, a lottery sale, or a disposal  
 13 of land for homesites **may** [SHALL] be held in a community that is near the land to  
 14 be sold or disposed of.

15 \* **Sec. 16.** AS 38.05.055 is amended to read:

16 **Sec. 38.05.055. Auction sale procedures.** Unless another method of sale is  
 17 required under this chapter, [AS 38.07, OR] AS 38.08, **or AS 38.09**, the sale of state  
 18 land shall be made at public auction to the highest qualified bidder as determined by  
 19 the director. The director may accept bids and sell state land under this section at no  
 20 less than 70 percent of the appraised fair market value of the land. To qualify to  
 21 participate under this section in a public auction of state land that is other than  
 22 commercial, industrial, or agricultural land, a bidder shall have been a resident of the  
 23 state for at least one year immediately preceding the date of the auction and submit  
 24 proof of that fact, as the commissioner requires by regulation. [A BIDDER MUST  
 25 APPEAR IN PERSON AT THE AUCTION UNLESS MEDICAL REASONS,  
 26 ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE THE STATE  
 27 PREVENT ATTENDANCE.] A bidder may be represented by an attorney or agent  
 28 at the auction [IF THE LAND OFFERED FOR DISPOSAL IS COMMERCIAL,  
 29 INDUSTRIAL, OR AGRICULTURAL LAND]. An aggrieved bidder may appeal to  
 30 the commissioner within five days after the sale for a review of the director's  
 31 determination. The sale shall be conducted by the director, and, at the time of sale,

1 the successful bidder shall deposit an amount equal to five percent of the purchase  
 2 price. The director shall immediately issue a receipt containing a description of the  
 3 land or property purchased, the price bid, and the amount deposited. The receipt shall  
 4 be acknowledged in writing by the bidder.

5 \* **Sec. 17.** AS 38.05.057(a) is amended to read:

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

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

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

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

2   \* **Sec. 19.** AS 38.05.065(b) is amended to read:

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

11 \* **Sec. 20.** AS 38.05.065 is amended by adding a new subsection to read:

12           (i) The interest rate for contracts under this section is the prime rate as  
13 reported in the Wall Street Journal on the first business day of the month in which the  
14 contract is sent to the purchaser for signature, plus four percent; however, the total rate  
15 of interest may not exceed

16                   (1) 9.5 percent, in contracts for the sale of land classified under  
17 AS 38.05.020(b)(6) for agricultural uses; or

18                   (2) 13.5 percent, in other contracts for the sale of land.

19 \* **Sec. 21.** AS 38.05.067(d) is amended to read:

20           (d) This section does not apply to the sale of state land under **AS 38.05.057,**  
21 **AS 38.08, or** [AS 38.04.020(g)(2) AND] AS 38.09.

22 \* **Sec. 22.** 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. 23.** AS 38.05.075(a) is amended to read:

27           (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, [38.05.079,]  
28 38.05.082, 38.05.083, 38.05.087, 38.05.102, **38.05.600,** 38.05.810, and this section,  
29 leasing shall be made at public auction to the highest qualified bidder as determined  
30 by the commissioner. In the public notice of a lease to be offered at public auction,  
31 the commissioner shall specify a minimum acceptable bid and the lease compensation

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

22 \* **Sec. 24.** AS 38.05.075(c) is amended to read:

23 (c) The owner or lessee of land that fronts on **shoreland, tideland**, [TIDE] or  
 24 submerged land of the state **may be granted a preference right to** [IS ENTITLED  
 25 TO ACQUIRE] a lease for the **shoreland, tideland, or** [TIDE AND] submerged land  
 26 without competitive bidding if the director determines that

27 (1) the lease of the **shoreland, tideland**, [TIDE] or submerged land is  
 28 necessary to facilitate water transportation of goods, services, or resources to or from  
 29 the owned or leased upland or for another water-dependent purpose;

30 (2) the proposed use of the **shoreland, tideland**, [TIDE] or submerged  
 31 land is compatible with the classification of the land and with any applicable land use

1 plan adopted under AS 38.04.065; and

2 (3) issuance of the lease to the shoreland, tideland, [TIDE] or  
3 submerged land will not interfere with prior existing rights to the leased land.

4 \* **Sec. 25.** AS 38.05.075(d) is amended to read:

5 (d) If the commissioner issues a lease under (c) of this section, the right of  
6 access to the shoreland, tideland, or [TIDE AND] submerged land shall be  
7 nonexclusive in the lessee unless the commissioner grants the lessee the exclusive right  
8 to use the shoreland, tideland, or [TIDE AND] submerged land.

9 \* **Sec. 26.** AS 38.05.083 is repealed and reenacted to read:

10 **Sec. 38.05.083. Aquatic farming and hatchery site leases.** (a) The  
11 commissioner may offer to the public for lease at public auction under AS 38.05.075  
12 or by negotiation under AS 38.05.070 a site for aquatic farming or related hatchery  
13 operations. Before a final decision to issue or renew a lease under this section, the  
14 commissioner shall give notice and allow opportunity for comment in accordance with  
15 AS 38.05.945 and may hold a hearing to take testimony. Before a final decision to  
16 issue or renew a lease under this section, the commissioner shall consider all relevant  
17 comment or testimony submitted under this section, AS 38.05.945, or 38.05.946.

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

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

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

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

29 (f) The commissioner shall adopt regulations establishing criteria for the  
30 approval or denial of leases under this section and for limiting the number of sites for  
31 which leases may be issued in an area in order to protect the environment and natural

1 resources of the area. The regulations must provide for the consideration of upland  
 2 management policies and whether the proposed use of a site is compatible with the  
 3 traditional and existing uses of the area in which the site is located.

4 \* **Sec. 27.** AS 38.05.090 is repealed and reenacted to read:

5 **Sec. 38.05.090. Removal or reversion of improvements upon termination**  
 6 **of leases.** (a) Unless otherwise agreed to in writing by the commissioner, a lessee  
 7 shall remove from a former leasehold

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

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

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

16 (c) If the lessee does not remove personal property, buildings, and fixtures as  
 17 required within the time specified under (a) of this section, title to the personal  
 18 property, buildings, and fixtures that remain automatically vests in the state unless the  
 19 commissioner elects to remove and dispose of the remaining personal property,  
 20 buildings, and fixtures of the lessee. The commissioner may assess upon the lessee  
 21 the cost of removing and disposing of personal property, buildings, and fixtures  
 22 remaining upon the land.

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

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

29 (f) Private residential improvements of a lessee that have become fixtures of  
 30 the land and that are not removed by that lessee upon termination of the lease shall be  
 31 purchased by the subsequent purchaser of the land if the improvements were

1 authorized in the former lease or by permit from the director and if they have a net  
 2 value of more than \$10,000. The net value is the value of the improvements as  
 3 determined by an appraisal approved by the commissioner, less all rents due the  
 4 department, all costs of restoration under (d) of this section, and all department  
 5 expenses estimated to be incurred in making the sale. After termination of the former  
 6 lessee's lease, and at additional times as determined necessary by the commissioner,  
 7 the value of the authorized residential fixtures shall be determined by an independent  
 8 appraisal made at the cost of the former lessee. A notice or offer by the state to sell  
 9 formerly leased land under this subsection must state (1) the appraised value of  
 10 authorized residential fixtures remaining on the land that must be purchased, and (2)  
 11 that that cost is included in the purchase price. Out of the proceeds of the sale, the  
 12 department shall pay to the former lessee the appraised value of the residential  
 13 improvements, less all rents due the department, all costs of restoration due the  
 14 department under (d) of this section, and all department expenses incurred in making  
 15 the sale.

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

18 \* **Sec. 28.** AS 38.05.131(a) is amended to read:

19 (a) Unless specifically provided otherwise in AS 38.05.132 - 38.05.134, the  
 20 provisions of AS 38.05.005 - 38.05.037 [AS 38.05.005 - 38.05.040], 38.05.140(f),  
 21 38.05.180, 38.05.182 - 38.05.184, and 38.05.920 - 38.05.990 apply to the issuance of  
 22 oil and gas exploration licenses and leases under AS 38.05.132 - 38.05.134.

23 \* **Sec. 29.** AS 38.05 is amended by adding a new section to read:

24 **Article 12A. Remote Recreational Cabin Site Sales and Leases.**

25 **Sec. 38.05.600. Remote recreational cabin sites.** (a) The commissioner may  
 26 provide for the sale or lease of state land for remote recreational cabin sites in areas  
 27 of the state with dispersed populations if the land is classified for that purpose under  
 28 the procedures required by AS 38.05.300 and 38.05.945. Sales under this section shall  
 29 be at fair market value and the purchaser shall reimburse the state for the appraisal,  
 30 survey, and platting costs for the recreational cabin site.

31 (b) The annual fee for a remote recreational cabin site lease shall be set by the

1 commissioner so as to ensure that the state receives a fair return for the use granted  
 2 by the lease for the term of the lease. The commissioner shall establish regulations  
 3 that specify the application procedures for and the terms and conditions of a remote  
 4 recreational cabin site lease. A lease must be for a term of not more than five years,  
 5 and may be renewed for one additional five-year period. At any time during the lease,  
 6 the lessee may purchase the remote recreational cabin site by having the site appraised  
 7 and surveyed in a manner acceptable to the department and by paying to the state the  
 8 fair market value for the site. The lease may not be assigned by the original lessee  
 9 during the term of the lease.

10 (c) A remote recreational cabin site lease may be terminated by the  
 11 commissioner before the expiration of the term of the lease if a permittee fails to use  
 12 the land under lease in the manner required by the terms of the lease. After  
 13 termination of a remote recreational cabin site lease, improvements or personal  
 14 property on the land subject to the lease shall be managed in the same manner as  
 15 required by AS 38.05.090.

16 \* **Sec. 30.** AS 38.05.810(a) is amended to read:

17 (a) Except as otherwise provided in AS 38.05.183(h), the **(1)** lease, sale, or  
 18 other disposal of state land or resources may be made to a state or federal agency or  
 19 political subdivision, **(2)** [THE] lease, sale, or disposal of coal deposits suitable for  
 20 mining may be made to a utility owned and operated by a government agency or  
 21 nonprofit cooperative association organized to participate under the Federal Rural  
 22 Electrification Act for the purpose of generating electric power and energy or the  
 23 production of process steam, or both, **(3)** [OR THE] sale or other disposal of state land  
 24 may be made to a tax-exempt, nonprofit corporation, association, club, or society  
 25 organized and operated [EXCLUSIVELY] for the management of a cemetery or a solid  
 26 waste **or other public** facility, **or (4) sale or other disposal of land within a state**  
 27 **subdivision may be made to that subdivision's nonprofit, tax-exempt homeowners'**  
 28 **association,** for less than the appraised value as determined by the director and  
 29 approved by the commissioner to be fair and proper and in the best interests of the  
 30 public, with due consideration given to the nature of the public services or function  
 31 rendered by the **applicant** [AGENCY, SUBDIVISION, TAX-EXEMPT, NONPROFIT

1 CORPORATION, ASSOCIATION, CLUB, OR SOCIETY, OR UTILITY MAKING  
 2 APPLICATION], and of the terms of the grant under which the land was acquired by  
 3 the state. **The commissioner shall ensure, by regulation, deed restriction, covenant,  
 4 or otherwise, that disposals of land under this subsection serve a public purpose  
 5 and are in the public interest.**

6 \* **Sec. 31.** AS 38.05.840(a) is amended to read:

7 (a) Land may not be sold or leased, or a renewal lease issued, except in the  
 8 case of an oil or gas or mineral lease, unless it has been appraised within **two years**  
 9 [ONE YEAR] before the date fixed for the sale or lease. When land is offered at  
 10 public sale but is not sold and is available at private sale, a reappraisal is not required  
 11 unless the director considers that a change in value of the land may have occurred.  
 12 A grazing lease may be granted to a lessee of federal grazing land without prior  
 13 appraisal [,] if the federal lease was cancelled to allow the state to select the land  
 14 under lease. Land may not be sold or leased for less than the approved, appraised  
 15 market value, except as provided in AS 38.05.055, 38.05.057, 38.05.075 - 38.05.085,  
 16 38.05.097, 38.05.810, and 38.05.820.

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

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

1 shall be granted to the upland owner for the use of a tract of tideland, or tideland and  
 2 contiguous submerged land, **that** [WHICH] is seaward of the upland property of the  
 3 upland owner and **that** [WHICH] is needed by the upland owner for any of the  
 4 purposes for which the use may be granted.

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

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

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

10 (2) zoning of land under applicable law;

11 (3) issuance of a

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

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

18 (C) written finding for the sale, lease, or disposal of an interest  
 19 in state land or resources under AS 38.05.035(e)(6), except an oil or gas lease  
 20 sale described in AS 38.05.035(e)(6)(G) for which the director must provide  
 21 opportunity for public comment under the provisions of that subparagraph;

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

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

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

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

29 \* **Sec. 34.** AS 38.05.945(d) is amended to read:

30 (d) Notice at least 30 days before action under (a)(5) [OR (6)] of this section  
 31 shall be given to appropriate

1 (1) regional fish and game councils established under AS 16.05.260;  
2 and

3 (2) coastal resource service areas organized under AS 46.40.110 -  
4 46.40.210.

5 \* **Sec. 35.** AS 38.08.030(b) is amended to read:

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

7 \* **Sec. 36.** AS 38.08.040(a) is amended to read:

8 (a) An applicant meeting the qualifications for homesite entry under  
9 AS 38.08.030 **and selected under (f) of this section** shall be issued a revocable permit  
10 to occupy and improve the homesite in order to qualify for issuance of patent as  
11 provided in this chapter. **The holder of a homesite entry permit shall pay, in**  
12 **advance, an annual rental fee of \$100.** [THE APPLICATION FEE IS THE SOLE  
13 RENT CHARGEABLE ON THE PERMIT FOR ITS DURATION.]

14 \* **Sec. 37.** AS 38.08.040 is amended by adding a new subsection to read:

15 (f) If only one application for a homesite parcel is received, the commissioner  
16 shall offer an entry permit for the parcel to the applicant provided the applicant is  
17 otherwise qualified. If more than one application is received for a parcel, the  
18 commissioner shall select by lottery the applicant who is entitled to receive the permit  
19 for the parcel. The lottery shall be conducted under regulations adopted by the  
20 commissioner that are to the maximum extent practicable consistent with the provisions  
21 of AS 38.05.057 and the regulations adopted under that section.

22 \* **Sec. 38.** AS 38.09.010(g) is amended to read:

23 (g) The commissioner may limit the number of persons permitted to **obtain**  
24 [STAKE] homestead entries within an area designated under (a) of this section by a  
25 lottery of qualified applicants. [THE COMMISSIONER MAY CONDUCT A  
26 LOTTERY HELD UNDER THIS SUBSECTION IN THE COMMUNITY THAT IS  
27 CLOSEST TO THE AREA DESIGNATED FOR HOMESTEAD ENTRY. THE  
28 COMMISSIONER MAY REQUIRE THAT EACH PARTICIPANT IN THE  
29 LOTTERY BE PRESENT UNLESS ATTENDANCE AT THE LOTTERY IS  
30 PREVENTED BY

31 (1) MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR

1 MILITARY SERVICE OUTSIDE THE STATE; OR

2 (2) A MANDATORY, UNAVOIDABLE EMPLOYMENT  
3 COMMITMENT DETERMINED VALID BY THE COMMISSIONER BEFORE THE  
4 SALE.]

5 \* **Sec. 39.** AS 38.09.030(a) is amended to read:

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

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

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

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

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

16 (5) ASSUME FULL RESPONSIBILITY FOR THE ACCURACY OF  
17 THE DESCRIPTION OF THE LAND FILED WITH THE COMMISSIONER UNDER  
18 AS 38.09.020(b)].

19 \* **Sec. 40.** AS 38.09.050(a) is amended to read:

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

22 (1) **either**

23 **(A) resides and lives on the homestead entry land for not less**  
24 **than 25 months within five years after the issuance of the homestead entry**  
25 **permit and reimburses the state for the survey and platting of the**  
26 **homestead parcel;**

27 **(B) within five years pays the state the fair market value of**  
28 **the homestead parcel at the time of patent and reimburses the state for the**  
29 **survey and platting of the homestead parcel; or**

30 **(C) pays to the state the fair market value of the homestead**  
31 **parcel under the terms of a contract under AS 38.05.065 to purchase the**

1           parcel, entered into within five years of the issuance of the permit, and  
 2           reimburses the state for the survey and platting of the parcel; under this  
 3           subparagraph, the fair market value of the homestead parcel shall be  
 4           determined as of the date of the contract; and

5                   (2) [SUBMITS AN ALIQUOT PARTS DESCRIPTION OR  
 6           COMPLETES AN APPROVED SURVEY OF THE LAND IN AN AREA WHERE  
 7           THE COMMISSIONER WAIVES THE RECTANGULAR SURVEY GRID WITHIN  
 8           FIVE YEARS AFTER THE ISSUANCE OF THE PERMIT;

9                   (3) ERECTS A HABITABLE, PERMANENT DWELLING ON THE  
 10          HOMESTEAD WITHIN THREE YEARS AFTER THE ISSUANCE OF THE  
 11          HOMESTEAD ENTRY PERMIT;

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

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

18 \* **Sec. 41.** AS 38.09.050(b) is amended to read:

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

22 \* **Sec. 42.** AS 38.09 is amended by adding a new section to read:

23                  **Sec. 38.09.105. Removal of conditions on remote parcel and homestead**  
 24          **entry land.** (a) The commissioner may not include the conditions of former  
 25          AS 38.05.078(d) in a remote parcel purchase contract issued on or after the effective  
 26          date of this section.

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

31                   (1) requests the amendment;

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

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

6 \* **Sec. 43.** AS 38.95 is amended by adding a new section to read:

7 **Article 7. No Obligation to Provide Services to Disposals**  
8 **of State Land; No Limitation on Further Disposals.**

9 **Sec. 38.95.300. Disclaimer applicable to state disposals.** Except as otherwise  
10 specifically provided, nothing in this title

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

13 (2) limits the authority of the state to dispose of land or any interest  
14 in land or resources in the area of the current disposal, provides any exclusive right  
15 or interest in the area of the disposal, or implies or requires that any disposals made  
16 will be limited in type or any other manner.

17 \* **Sec. 44.** AS 38.04.020(c), 38.04.020(f), 38.04.020(j), 38.04.020(k); AS 38.05.040,  
18 38.05.057(g), 38.05.057(j), 38.05.079, 38.05.855, 38.05.856, 38.05.946(b); AS 38.08.090;  
19 AS 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(3), 38.09.040(a)(4), 38.09.050(d),  
20 38.09.050(e), 38.09.060, 38.09.070, 38.09.090, 38.09.900(1), 38.09.900(3), and 38.09.900(4)  
21 are repealed.

22 \* **Sec. 45.** Notwithstanding AS 41.21.120 - 41.21.125, within Township 10 North, Range  
23 1 East, Seward Meridian, the commissioner of natural resources may

24 (1) convey a property interest in land to the Alaska Railroad Corporation for  
25 the purpose of realigning the railroad in conjunction with the relocation of the Seward  
26 Highway, provided that the property interest conveyed must be equivalent to that conveyed  
27 to the state-owned railroad under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of  
28 1982) and shall be held and managed by the Alaska Railroad Corporation under AS 42.40;

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

31 (3) grant a 100 foot wide utility easement to Chugach Electric Association,

1 Inc., for the relocation of the 115 kilovolt electric transmission line (Federal Power  
2 Commission project no. 2170, AA-39417, and ADL 32417) and the electric distribution line  
3 (A-029885) located within the Chugach State Park.

4 \* **Sec. 46.** (a) Notwithstanding the decision of the Alaska Supreme Court in Kachemak  
5 Bay Watch v. Noah, \_\_\_\_\_ P.2d \_\_\_\_\_ (Sup. Ct. No. S-7326; April 11, 1997), the Department  
6 of Natural Resources shall issue a lease under AS 38.05.083, as amended by sec. 26 of this  
7 Act, to a person who, on April 10, 1997, held a lease issued under AS 38.05.083 as it read  
8 on the day before the effective date of this Act. Notwithstanding AS 38.05.083, as amended  
9 by sec. 26 of this Act, the terms and conditions of a lease issued under this subsection shall  
10 be substantially similar to the terms of the lease as it read on the day before the effective date  
11 of this Act. Notice under AS 38.05.945 and a best interest determination under AS 38.05.035  
12 are not required for the issuance of a lease under this subsection.

13 (b) Notwithstanding the repeal of AS 38.05.856 by sec. 41 of this Act and the decision  
14 of the Alaska Supreme Court in Kachemak Bay Watch v. Noah, \_\_\_\_\_ P.2d \_\_\_\_\_ (Sup. Ct.  
15 No. S-7326; April 11, 1997), the Department of Natural Resources shall allow a person who,  
16 on April 10, 1997, held a permit issued under former AS 38.05.856 that had not been revoked  
17 or for which renewal had not been denied to continue to operate under the terms and  
18 conditions of the permit as it read on the day before the effective date of this Act if the person  
19 applies within 90 days of the effective date of this Act for a lease under AS 38.05.083, as  
20 amended by sec. 26 of this Act. The department shall provide a preference right to a person  
21 applying for a lease under this subsection who has developed an aquatic farm site under  
22 former AS 38.05.855 by October 1, 1998. The right of a person to continue to operate under  
23 the terms and conditions of a previous permit continues until the earlier of the date the  
24 person's lease application is denied by the department, the date the person is issued a lease  
25 by the department, or July 1, 1999. The right of a person to continue to operate under the  
26 terms and conditions of a previous permit as allowed by this subsection is proper  
27 notwithstanding a failure of the department to properly identify districts under former  
28 AS 38.05.855 before the issuance of the permit.

29 \* **Sec. 47.** A disposal by the Department of Natural Resources of a homesite under  
30 AS 38.08 by lottery, on or after July 6, 1984, and before the effective date of this section, is  
31 valid and effective, notwithstanding the fact that the disposal was by lottery, if the disposal

1 otherwise complied with the requirements of AS 38.08.

2 \* **Sec. 48. APPLICABILITY.** The change to the interest rate to be charged on contracts  
3 for the sale of land under AS 38.05.065, made by secs. 18 - 20 of this Act, applies to all  
4 contracts under AS 38.05.065 sent by the Department of Natural Resources to purchasers for  
5 signature on or after the effective date of secs. 18 - 20 of this Act.

6 \* **Sec. 49. TRANSITIONAL PROVISIONS: REGULATIONS.** (a) Notwithstanding  
7 sec. 51 of this Act, the Department of Natural Resources may proceed to adopt regulations  
8 necessary to implement the changes made by this Act. The regulations take effect under  
9 AS 44.62 (Administrative Procedure Act), but not before July 1, 1997.

10 (b) To the extent they are consistent with AS 38.08, regulations governing the  
11 selection of applicants for homesite parcels under AS 38.08 in effect on the effective date of  
12 secs. 36 and 37 of this Act remain in effect notwithstanding the amendment to AS 38.08.040,  
13 made by secs. 36 and 37 of this Act, until the regulations are amended, repealed, or  
14 superseded.

15 \* **Sec. 50. RETROACTIVE EFFECT.** To the maximum extent constitutionally permissible,  
16 sec. 1 of this Act is retroactive to January 3, 1959.

17 \* **Sec. 51.** Except for sec. 49 of this Act, this Act takes effect July 1, 1997.

18 \* **Sec. 52.** Section 49 of this Act takes effect immediately under AS 01.10.070(c).