

HOUSE BILL NO. 174

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MARTIN

Introduced: 3/6/97

Referred: Resources, State Affairs

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the disposal of state and municipal land and to taxation of
2 that land."

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

4 * **Section 1.** AS 38 is amended by adding a new chapter to read:

5 **Chapter 14. Alaska Family Land Entitlement Act.**

6 **Sec. 38.14.010. Sale and lease of state land; exemption.** (a)

7 Notwithstanding any other provision of this title, the commissioner shall sell and lease
8 state land as provided in this chapter until at least 25 percent of all land in state
9 ownership as of the effective date of this Act has been sold or leased under this
10 chapter.

11 (b) Land may not be selected by the department for auction under
12 AS 38.14.050 or otherwise sold or leased under this chapter unless it is unclassified
13 under AS 38.05.300 or, if classified, it is classified as agricultural, forest, grazing,
14 resource management, settlement, or wildlife habitat land.

1 (c) The selection of land by the department for auction under AS 38.14.050
2 and the disposal of land by sale or lease under this chapter is exempt from the
3 requirements of AS 38.04 and AS 38.05. The department shall provide prior public
4 notice as required under the state constitution for disposals or leases of state land.

5 **Sec. 38.14.020. Sales and leases subject to existing leases; commissioner**
6 **may not convey mineral or resource rights.** (a) A sale or lease of land under this
7 chapter is subject to an existing lease entered into by the department before the sale
8 or lease of the land. A lease affecting land sold or leased by the state under this
9 chapter is subject to renewal or extension as provided in the terms of the lease or the
10 law under which the lease was issued.

11 (b) In a sale or lease of land under this chapter, the commissioner may not
12 convey a mineral or resource right that the state is required to maintain under a law
13 of this state or of the United States. A sale or lease of land under this chapter must
14 provide for access to these minerals or resources by the state or a lessee or other
15 designee of the state.

16 **Sec. 38.14.030. Eligibility to purchase or lease land.** A person may not
17 purchase or lease land under this chapter unless the person

18 (1) is a resident of the state under AS 01.10.055 and has been a
19 resident of the state for one year;

20 (2) is an individual who is at least 18 years of age at the time of the
21 purchase or lease;

22 (3) at the time of purchase or lease, on a form provided by the
23 department that bears a notification that a false statement is punishable under
24 AS 11.56.210, the person certifies that the person

25 (A) meets the eligibility requirements of this section and
26 AS 38.14.040;

27 (B) understands that the state or a political subdivision of the
28 state is not required to provide on-site schools for the land to be acquired and
29 that the person may not require the state to provide on-site schools;

30 (C) understands that the state is not required to construct or
31 maintain roads to the land to be acquired and that the person may not require

1 the state to construct or maintain roads to the land to be acquired; and

2 (D) will take good care of the property and the environment to
3 the best of the person's ability.

4 **Sec. 38.14.040. Maximum entitlement to purchases or leases.** (a) During
5 the person's lifetime, a person may purchase or lease a cumulative maximum of 160
6 acres from the state under this chapter. Except as provided in (b) of this section, the
7 160-acre limit applies whether or not the person retains ownership of or a leasehold
8 interest in the land originally purchased or leased.

9 (b) Notwithstanding the 160-acre limit under (a) of this section, if a person
10 returns the land to the state, terminates a lease of land from the state, or otherwise
11 provides clear title to the state of land purchased or leased under this chapter, the
12 acreage returned, formerly leased, or otherwise relinquished to the state may be
13 replaced, in whole or in part, by purchase or lease under this chapter.

14 (c) Under regulations adopted by the department, the commissioner may reduce
15 the acreage credit allowed under (b) of this section to compensate the state for
16 diminution in value of the land returned to the state that is caused by the person
17 seeking the credit.

18 **Sec. 38.14.050. Sale of land by public auction.** (a) Within 60 days after the
19 effective date of this Act, the department shall select not more than 2,000,000 acres
20 of state land to be sold at public auction as provided in this section. The department
21 shall include in the initial selection all land that the department has, before the
22 effective date of this Act, identified for disposal and included in the land disposal
23 bank. After the initial 2,000,000 acres have been sold, the department shall select
24 additional land for sale under this section until the requirement of AS 38.14.010(a) has
25 been met. Not more than 1,000,000 acres of state land may be included in any one
26 subsequent selection under this subsection.

27 (b) At least once every 90 days until the land is disposed of, the department
28 shall offer for sale by public auction not less than 100,000 acres of land selected under
29 (a) of this section. Except as provided in AS 38.14.130 and 38.14.140, the land shall
30 be in parcels of not less than 40 acres nor more than 160 acres, more or less. Upon
31 payment in full of the purchase price and the security required by AS 38.14.190 by

1 cash, certified check, or money order, a successful bidder at the auction shall receive
 2 fee simple title to the land. A minimum bid of not less than \$100 an acre shall be
 3 required by the department for purchase at public auction.

4 (c) The land offered for sale under (b) of this section may be offered based
 5 upon an aliquot parts description. The state is not required to provide a survey by a
 6 licensed surveyor.

7 (d) A parcel of land offered for sale at public auction under (b) of this section
 8 that is not sold at the auction may be purchased for a period of 180 days after the
 9 auction for not less than \$100 an acre. After 180 days after the auction, an individual
 10 who is not a state resident or has not been a state resident for at least one year but
 11 who is otherwise eligible to purchase land under AS 38.14.030 may purchase a parcel
 12 of land that was not sold at the auction or in the 180 days following the auction.

13 (e) The department shall offer a purchaser of land under this section the option
 14 of paying in full at time of purchase or on terms, requiring a 10 percent down payment
 15 and payment of the balance of the purchase price over the next 15 years at an annual
 16 interest rate of not more than six percent.

17 (f) A purchase of land under this chapter that is made in violation of
 18 AS 38.14.030 - 38.14.040 is void as of the date of sale and does not give the
 19 purchaser, a subsequent purchaser, a lessee, a devisee, or other person a right to the
 20 land, an interest in the land, or the return of the purchase price paid to the state for the
 21 land.

22 **Sec. 38.14.060. Leases of land.** (a) Beginning 60 days after the effective date
 23 of this Act, a person may lease a parcel of land that has not been selected for auction
 24 by the state under AS 38.14.050 of not less than 40 acres more or less nor more than
 25 160 acres more or less, except as provided in AS 38.14.130 and 38.14.140, by marking
 26 the location of the parcel of land on the ground under (b) of this section and by filing
 27 with the department the certification required under AS 38.14.030, the legal description
 28 of the land sought to be acquired by lease, a statement of the length of lease, not
 29 greater than 55 years, desired by the person, and payment by cash, certified check, or
 30 money order of the (1) first year's lease fee of \$10 an acre, but not less than \$400 for
 31 each parcel, and (2) security deposit required by AS 38.14.190. Within 30 days of the

1 filing, the department shall notify the person if the land selected is available for lease.
2 If the land is available for lease, the department shall at the time of notification issue
3 to the person a lease that complies with the requirements of this chapter. If the land
4 is not available for lease, the department shall refund the first year's lease fee to the
5 person.

6 (b) A person leasing a parcel of land under (a) of this section shall mark the
7 location of the parcel on the ground by

8 (1) posting at the northeast corner of the parcel of land plain sign or
9 notice containing

10 (A) the name of the person;

11 (B) the date of the location; and

12 (C) the approximate bearing of corners and angle posts of the
13 parcel and the distances between them; and

14 (2) erecting at each corner or angle of the parcel substantial monuments
15 of stone or setting posts, not less than three feet in height nor less than three inches
16 in diameter hewn and marked with the name of the person, the position or number of
17 the monument, and the direction of the boundary lines, and by cutting out, blazing, or
18 marking the boundary lines so that they can be readily traced. Where it is
19 impracticable to place a monument at its true position, a witness monument shall be
20 erected and marked to indicate the true position of the corner or angle.

21 (c) A lease issued by the department under this chapter must contain a
22 provision permitting the lessee to purchase the land subject to the lease anytime after
23 one year has elapsed since the issuance of the lease. A purchase of leased land under
24 this section shall be at the fair market value of the land, but not less than \$100 an acre.
25 A purchaser under this subsection has the payment options described in AS 38.14.050.

26 (d) A lease acquired under this section is freely transferable and may be sold
27 or subleased and is not terminated by the death of the lessee.

28 (e) A lease of land acquired by a person in violation of AS 38.14.030 -
29 38.14.040 is void as if the lease had never been entered into by the state and does not
30 give the lessee or a subsequent purchaser, sublessee, or devisee, any right to the land,
31 the purchase of the land, or the refund of payments made under the lease.

1 (f) Before issuing a lease under this section, the department may require the
 2 preparation of an appraisal of the land sought to be leased. An applicant for a lease
 3 may provide and pay for the appraisal.

4 **Sec. 38.14.070. Restrictions on removal of surface resources.** (a) A person
 5 purchasing land under this chapter, for the first three years immediately following the
 6 purchase of the land, or a person leasing land under this chapter during the term of the
 7 lease, may not remove timber, gravel, or other surface materials from the land except
 8 for

9 (1) personal use on the land; or

10 (2) exchanges with adjoining landowners for personal use on the
 11 adjoining land.

12 (b) After three years following the purchase of land under this chapter, a
 13 person may remove timber, gravel, or other surface materials for any purpose, except
 14 that, if it is for a commercial purpose other than as provided in (a)(1) - (2) of this
 15 section, the person shall pay the state a royalty fee equal to 20 percent of the proceeds
 16 received from the removal.

17 **Sec. 38.14.080. Schools.** The state, a municipality, or a rural educational
 18 attendance area does not have a duty to provide on-site schools for a parcel of land
 19 purchased or leased by a person under this chapter.

20 **Sec. 38.14.090. Rights-of-way and easements.** The state shall retain a 100-
 21 foot right-of-way along each section line of land sold or leased under this chapter and
 22 shall reserve other rights-of-way and easements as are necessary to reach and use
 23 public water and public and private land. The state shall identify the reservations
 24 under this section at the time of a sale or lease under this chapter.

25 **Sec. 38.14.100. Roads; acquisition by state.** (a) The state does not have a
 26 duty to construct or maintain roads to a parcel of land purchased or leased by a person
 27 under this chapter. A person acquiring land by purchase or lease under this chapter
 28 may construct a road from an existing state or municipal road to the land if the
 29 proposed route is approved by the department or a municipality and the road is
 30 constructed to standards set by the Department of Transportation and Public Facilities.

31 (b) A road constructed by a person who purchases or leases land under this

1 chapter that is built on the state's section line right-of-way is open to the public and
2 the purchaser or lessee of the land may not exclude the public from its use.

3 (c) A road constructed by a person who purchases or leases land under this
4 chapter becomes a public road, without compensation to the builder of the road, if the
5 state or a municipality agrees to accept the road and undertake responsibility for the
6 maintenance of the road.

7 **Sec. 38.14.110. Applicability of municipal zoning laws and the Alaska**
8 **coastal management program.** Land disposed of by sale or lease under this chapter
9 is subject to municipal zoning laws or regulations. Notwithstanding any other
10 provision of law, land disposed of by sale or lease under this chapter is not subject to
11 municipal zoning laws or regulations or AS 46.40 (Alaska coastal management
12 program).

13 **Sec. 38.14.120. Land not subject to sale or lease.** The following land is not
14 subject to sale or lease under this chapter:

15 (1) land identified under AS 16.20, AS 41.15.300 - 41.15.330,
16 AS 41.17, AS 41.21, and AS 41.23;

17 (2) land used as an administrative site by the state.

18 **Sec. 38.14.130. Limitation on acquisition of land near Willow.** The
19 department shall identify an area of not more than 66,000 acres near Willow within
20 which area a person may not acquire by purchase or lease under this chapter more than
21 40 acres of land, more or less.

22 **Sec. 38.14.140. Southeast Alaska land south of 60 degrees north latitude.**

23 (a) A person may not purchase or lease more than one acre of land, more or
24 less, under this chapter in Southeast Alaska south of 60 degrees north latitude.

25 (b) Notwithstanding AS 38.14.050 and 38.14.060, the department shall offer
26 land for sale under AS 38.14.050 and a person may lease land under AS 38.14.060 in
27 one-acre parcels, more or less, in the area described in (a) of this section.

28 **Sec. 38.14.150. Surveys.** A person who acquires land by purchase or lease
29 under this chapter shall, within 10 years of acquiring the land, have the land surveyed
30 at the person's expense. The survey shall be conducted as provided in regulations
31 adopted by the department. The person shall provide a copy of the survey to the state

1 without charge.

2 **Sec. 38.14.160. Agricultural land.** Notwithstanding AS 38.14.050 and
3 38.14.060, land that has been previously classified as agricultural by the department
4 and that has been previously sold or leased as agricultural land shall be first offered
5 to the current lessees of the land, if any, subject to the requirements of AS 38.14.030
6 and 38.14.040, for purchase or lease under this chapter.

7 **Sec. 38.14.170. Land subject to existing leases.** (a) Notwithstanding
8 AS 38.14.050 and 38.14.060, land that is subject to an existing surface estate lease or
9 subsurface or mining lease shall be first offered to the current lessee of the land, if
10 any, subject to the requirements of AS 38.14.030 and 38.14.040 for purchase or lease
11 under this chapter.

12 (b) To accept an offer under (a) of this section, the lessee shall purchase or
13 lease the land within 180 days of the offer at the fair market value of the land, but not
14 less than \$100 an acre. The department may require the preparation of an appraisal
15 at the lessee's expense.

16 **Sec. 38.14.180. No liability for contamination of soil or water before**
17 **purchase or lease.** Notwithstanding any other provision of law, a person who
18 purchases or leases land under this chapter is not liable under state law for
19 contamination of soil or water occurring before the person's purchase or lease.

20 **Sec. 38.14.190. Security deposit.** A person who purchases or leases land
21 under this title shall at the time of the purchase or lease pay to the state a
22 nonrefundable security deposit in the amount of \$100 for each 40 acres or less
23 purchased or leased to ensure the person's compliance with the requirements of this
24 chapter and other laws. The payment of this security deposit does not immunize the
25 person from liability for violations of this chapter or other laws nor limit the ability
26 or authority of the state to require compliance with and to enforce the laws of the
27 state.

28 **Sec. 38.14.200. Additional terms and conditions.** The department may not
29 impose terms and conditions in excess of those provided in this chapter or by the state
30 constitution.

31 **Sec. 38.14.210. Aerial geophysical mapping.** To aid persons in making

1 purchase choices under this chapter, the state shall provide aerial geophysical maps of
 2 state lands. The state may charge a fee for the maps sufficient to cover the state's cost
 3 for reproducing the maps.

4 **Sec. 38.14.220. Appropriation of money received.** The legislature may
 5 appropriate money received from sales or leases of state land under this chapter to the
 6 Alaska permanent fund.

7 **Sec. 38.14.230. Taxation.** (a) Land acquired by sale or lease under this
 8 chapter shall be taxed annually at the rate of 20 mills of the assessed value of the land
 9 and all the improvements and appurtenances thereto. Land shall be assessed at its full
 10 and true value as of January 1 of the assessment year. The full and true value is the
 11 estimated price that the land would bring in an open market and under the then
 12 prevailing market conditions in a sale between a willing seller and a willing buyer both
 13 conversant with the property and with prevailing general price levels. If the land is
 14 located within a municipality, the land shall be assessed and the tax shall be levied and
 15 collected by the municipality. If the land is located in the unorganized borough, the
 16 land shall be assessed and the tax shall be levied and collected by the state through the
 17 Department of Revenue and the state assessor. A municipality levying and collecting
 18 the tax under this section shall use and follow the procedure provided in AS 29.45 for
 19 the levy and collection of property taxes. The Department of Revenue shall adopt
 20 regulations for the levy and collection of the tax under this section that are to the
 21 maximum extent possible consistent with the procedure provided in AS 29.45.

22 (b) The state or a municipality may not levy or collect any other property tax
 23 upon land acquired under this chapter.

24 **Sec. 38.14.300. Definitions.** In this chapter,

25 (1) "commissioner" means the commissioner of natural resources;

26 (2) "department" means the Department of Natural Resources;

27 (3) "recorder" and "recording district" have the meanings given in
 28 AS 40.17.900.

29 * **Sec. 2.** AS 29.45.030(a) is amended by adding a new paragraph to read:

30 (10) land acquired from the state under AS 38.14 and taxed in the
 31 manner provided under AS 38.14.230.

1 * **Sec. 3.** AS 29.65 is amended by adding a new section to read:

2 **Sec. 29.65.075. Disposal of land conveyed; reversion to state of undisposed**
3 **land.** A municipality that has received or receives land from the state under this title
4 shall, within five years of the effective date of this Act, sell to private parties 50
5 percent of the land received and that still remains in municipal ownership on the
6 effective date of this Act and, within 10 years of the effective date of this Act, shall
7 sell to private parties 66 percent of the land received and that still remains in
8 municipal ownership on the effective date of this Act. If a municipality fails to sell
9 land as required by this section, all of the land the municipality has received from the
10 state that has not been sold reverts to state ownership and is available for sale or lease
11 as provided in AS 38.14.

12 * **Sec. 4.** AS 43.80 is amended by adding a new section to read:

13 **Section 43.80.025. Taxation of land acquired under AS 38.14.**
14 Notwithstanding another provision of law, land acquired from the state under AS 38.14
15 may only be taxed in the manner provided in AS 38.14.230 and is not subject to any
16 other tax of the state or a political subdivision of the state.

17 * **Sec. 5.** If two or more persons file for a lease on the same parcel of land under
18 AS 38.14.060 within the first seven days after 60 days after the effective date of this Act, the
19 department shall conduct a lottery for those filing within 30 days. The winner of the lottery
20 shall be entitled to lease the land if the person otherwise meets the requirements of
21 AS 38.14.030 and 38.14.040.