

CS FOR SENATE BILL NO. 108(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/27/98
Referred: Finance

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the disposal of state land and interests in state land; and
2 providing for an effective date."

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

4 * **Section 1.** FINDINGS. The State of Alaska, through the Alaska Statehood Act, is
5 entitled to over 105,000,000 acres of land. Alaska is one of the smallest states by population.
6 Because of its small population, the state has been overly influenced by ephemeral riches from
7 nonrenewable oil wealth. The state should envision its future without the presence of
8 petroleum as the principal source of revenue. Land is the state's most secure and permanent
9 resource. In recent years, federal and state government agencies have acquired private land
10 to place into parks and preserves in a state that already has an abundance of acreage in similar
11 land classifications. The legislature desires to reverse this trend and resuscitate the
12 entrepreneurial spirit that was achieved before and at the beginning of statehood. Alaska is
13 made up of major land holdings owned by federal, state, and local governments with relatively
14 minor portions held privately by ANCSA corporations and individuals. There is little that can

1 be done to foster a private economy without sufficient privately held land capital. Private
 2 ownership of land has historically benefited people and assisted in promoting the economic
 3 development of our country. The legislature therefore finds that the distribution of land to
 4 citizens annually will stimulate economic development and benefit residents today and in the
 5 future.

6 * **Sec. 2.** INTENT. (a) It is the intent of the legislature that the Department of Natural
 7 Resources shall receive annual appropriations under AS 37.05.144 amounting to 10 percent
 8 of the receipts accounted for from the program under AS 37.05.142 to implement the
 9 requirements of sec. 4 of this Act.

10 (b) It is further the intent of the legislature that money received from the sale of land
 11 classified as (1) agricultural land shall be appropriated to the agricultural revolving loan fund
 12 established under AS 03.10.040, (2) forest land shall be appropriated to the state land
 13 reforestation fund established under AS 41.17.300, and (3) settlement land or that is
 14 unclassified shall be appropriated to the public school trust fund established under
 15 AS 37.14.110.

16 (c) Nothing in this section creates a dedicated fund.

17 * **Sec. 3.** AS 38.05.057(f) is amended to read:

18 (f) If only one application for a parcel is received, the commissioner shall offer
 19 the parcel to the applicant who applied for the parcel if the applicant is qualified to
 20 participate in the lottery. If more than one application is received for a parcel, the
 21 commissioner shall select the applicant who is entitled to receive a conveyance of the
 22 land by lottery. If the commissioner does not receive an application for a parcel of
 23 state land or if a purchaser fails to sign **or defaults on** a [LEASE AGREEMENT OR]
 24 contract of sale, the parcel **may** [SHALL] be offered to the first eligible person to
 25 apply for the parcel. If the **director considers that a change in value may have**
 26 **occurred since the parcel's last appraisal, the commissioner may require the**
 27 **applicant to post a deposit under AS 38.05.860 to pay for an updated appraisal**
 28 **under AS 38.05.840, or the applicant may provide the appraisal at the applicant's**
 29 **expense following instructions provided by the department** [PARCEL WAS
 30 DESIGNATED AS A HOMESITE AND OFFERED TO THE PUBLIC UNDER
 31 FORMER AS 38.05.047(f), THE PARCEL SHALL BE DISPOSED OF UNDER THE

1 TERMS REQUIRED BY AS 38.08].

2 * **Sec. 4.** AS 38.05.060 is amended to read:

3 **Sec. 38.05.060. Rejection of bids; over-the-counter sales.** Before the signing
 4 of the formal conveyance by the director, the commissioner may reject all bids when
 5 the best interests of the state justify this action. Land offered at public sale but not
 6 sold, or for which a purchaser fails to sign or defaults on a contract of sale, may
 7 be made available at private sale for not less than its appraised value. If the director
 8 considers that a change in value may have occurred since the parcel's last
 9 appraisal, the commissioner may require the applicant to post a deposit under
 10 AS 38.05.860 to pay for an updated appraisal under AS 38.05.840 or to provide
 11 the appraisal at the applicant's expense following instructions provided by the
 12 department.

13 * **Sec. 5.** AS 38.05 is amended by adding a new section to read:

14 **Sec. 38.05.064. Appraisal and survey costs.** The commissioner may require
 15 a purchaser of land, whether the purchase is by auction, lottery, or other means, to

16 (1) provide at the purchaser's expense

17 (A) an appraisal of the land completed in the manner directed
 18 by the commissioner;

19 (B) a survey of the land completed in the manner directed by
 20 the commissioner;

21 (2) reimburse the state for the cost of

22 (A) an appraisal of the land completed by the state;

23 (B) a survey of the land completed by the state.

24 * **Sec. 6.** AS 38 is amended by adding a new chapter to read:

25 **Chapter 14. Alaska Land Availability Act.**

26 **Sec. 38.14.010. Sale of state land; exemption.** (a) Notwithstanding any other
 27 provision of this title, the commissioner may sell state land as provided in this chapter.

28 (b) Land may not be selected by the department under AS 38.14.040 or
 29 otherwise sold under this chapter unless it is unclassified under AS 38.05.300 or, if
 30 classified, it is classified as forest, agricultural, settlement, or recreational land. The
 31 following land is not subject to sale under this chapter:

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

3 (2) land subject to a grazing lease;

4 (3) land selected by a municipality under AS 29.65; and

5 (4) land used as an administrative site by the state.

6 (c) The selection of land by the department under AS 38.14.040 and the
7 disposal of land by sale under this chapter are exempt from the requirements of
8 AS 38.04 and AS 38.05. The department shall provide prior public notice as required
9 under the state constitution for disposals of state land.

10 **Sec. 38.14.020. Sales to lessees; sales subject to existing leases;**
11 **commissioner may not convey mineral or resource rights.** (a) Before land that is
12 subject to a lease is sold under this chapter, the department shall offer the land to the
13 lessee if the lessee is eligible under AS 38.14.030 to purchase land under this chapter.
14 The lessee may purchase the land for the fair market value of the land as determined
15 by an appraiser selected by the lessee from the list of appraisers approved by the
16 department under AS 38.14.160. If the land has been previously surveyed by the
17 department, the department may require the lessee to reimburse the department for the
18 costs of the survey. If the land has not been previously surveyed by the department,
19 the lessee shall comply with the requirements of AS 38.14.120 before the lessee may
20 receive fee simple title to the land. A purchase of land by a lessee under this section
21 is subject to AS 38.14.060 - 38.14.160. A lessee may purchase a maximum of 640
22 acres of land under this section during the lessee's lifetime.

23 (b) A sale of land under this chapter to a person other than the lessee is
24 subject to an existing lease entered into by the department before the sale of the land.
25 The state shall retain the lease and the payments due under the lease affecting land
26 sold to a person other than the lessee under this section. A lease affecting land sold
27 by the state under this chapter to a person other than the lessee is subject to renewal
28 or extension as provided in the terms of the lease or the law under which the lease was
29 issued.

30 (c) In a sale of land under this chapter, the commissioner may not convey a
31 mineral or resource right that the state is required to maintain under a law of this state

1 or of the United States. A sale of land under this chapter must provide for access to
2 those minerals or resources by the state or a lessee or other designee of the state.

3 **Sec. 38.14.030. Eligibility to purchase land.** A person may not purchase land
4 under this chapter unless the person

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

7 (2) is an individual who is at least 18 years of age at the time of the
8 purchase;

9 (3) at the time of purchase, on a form provided by the department that
10 bears a notification that a false statement is punishable under AS 11.56.210, certifies
11 that the person

12 (A) meets the eligibility requirements of this section;

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

16 (C) understands that the state is not required to construct or
17 maintain roads to the land to be acquired and that the person may not require
18 the state to construct or maintain roads to the land to be acquired.

19 **Sec. 38.14.040. Selection of land for sale; over-the-counter land sales.** (a)
20 By October 1, 1998, the department shall select not less than 15,000 acres of state land
21 that the department has previously identified for disposal and offer that land for sale
22 as provided in this section. Not more than 180 days thereafter, the department shall
23 select an additional 15,000 acres for sale under this section. Not more than 180 days
24 thereafter, the department shall select an additional 20,000 acres for sale under this
25 section.

26 (b) The department shall sell the land selected for sale under this section to
27 the first person eligible under AS 38.14.030 to purchase land under this chapter who
28 appears in person to purchase the land at the site or sites designated by the department
29 for the sale of land. The sale price of the land shall be the fair market value of the
30 land as determined by an appraiser selected from the list of appraisers approved by the
31 department under AS 38.14.160. The prospective purchaser shall pay for the appraisal.

1 (c) The land offered for sale under this section may be offered based upon an
2 aliquot parts description. The state is not required to provide a survey by a licensed
3 surveyor. If the state provides a survey, the state may require the purchaser to
4 reimburse the state for the survey. The purchaser may not receive appropriate title to
5 the land until the person provides the survey required under AS 38.14.120 or the state
6 is reimbursed for the cost of the survey under this section if reimbursement is required
7 by the state. Land classified as agricultural land is subject to the provisions of
8 AS 38.14.060.

9 **Sec. 38.14.050. Open-to-entry land sales.** (a) Not more than six months
10 after all of the land selected for sale is offered for sale under AS 38.14.040 and each
11 year thereafter, the department shall select and designate as open to entry areas of the
12 state where at least an aggregate total of 200,000 acres of state land may be staked.

13 (b) A person eligible to purchase land under AS 38.14.030 may purchase land
14 that is selected for sale and designated by the department as open to entry.

15 (c) To purchase land under this section, a prospective purchaser shall
16 personally stake the exterior boundaries of the land in accordance with the regulations
17 adopted by the department. A prospective purchaser may stake a parcel of land that
18 is not less than five acres and that does not exceed 640 acres. A prospective purchaser
19 may not stake within 100 yards of private land or previously staked land unless the
20 purchaser has received written consent from the other property owner or person who
21 has previously staked land. The parcel of land staked may not include usable
22 waterfront in excess of one-third of the total exterior boundary of the parcel. The
23 parcel of land staked shall be compact in form with its length not exceeding
24 approximately four times its width unless the commissioner finds that the land use,
25 terrain, or effect of the form on access to it and other parcels requires another form.
26 Not later than 15 days after selection and staking the exterior boundaries of land, the
27 prospective purchaser shall file a sketch plat with the department which shows the
28 location of the land and shall pay a nonrefundable filing fee to the department of \$100.
29 The fair market value of the land shall be determined by an appraiser selected by the
30 purchaser from the list approved by the department under AS 38.14.160. Upon
31 payment in full of the purchase price by cash, certified check, or money order, and the

1 completion of the survey required under AS 38.14.120, the purchaser shall receive
 2 appropriate title to the land. The department shall require the appraisal and survey to
 3 be completed within a period of time set by regulation. Land classified as agricultural
 4 land is subject to the provisions of AS 38.14.060.

5 (d) During the person's lifetime, a person may purchase a cumulative
 6 maximum of 640 acres from the state under this section.

7 **Sec. 38.14.060. Sales of agricultural land.** Land classified as agricultural
 8 land may be sold under AS 38.14.020, 38.14.040, or 38.14.050 only if the
 9 commissioner includes in the document conveying the land the covenants and
 10 conditions provided for under AS 38.05.321.

11 **Sec. 38.14.070. Purchase by installments; void sales.** (a) The department
 12 shall offer a purchaser of land under AS 38.14.020, 38.14.040, or 38.14.050 the option
 13 of paying the purchase price in full at the time of purchase or on terms with payment
 14 of the balance of the purchase price over the next 15 years at an annual interest rate
 15 of not more than six percent.

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

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

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

28 **Sec. 38.14.100. Roads; acquisition by state.** (a) The state does not have a
 29 duty to construct or maintain roads to a parcel of land purchased by a person under
 30 this chapter. A person acquiring land by purchase under this chapter may construct
 31 a road from an existing state or municipal road to the land if the proposed route is

1 approved by the department or a municipality and the road is constructed to standards
2 set by the Department of Transportation and Public Facilities.

3 (b) A road constructed by a person who purchases land under this chapter that
4 is built on the state's section line right-of-way is open to the public and the purchaser
5 of the land may not exclude the public from its use.

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

10 **Sec. 38.14.110. Applicability of municipal zoning laws.** Except as otherwise
11 provided in this chapter, land disposed of by sale under this chapter is subject to
12 municipal zoning laws and regulations.

13 **Sec. 38.14.120. Surveys.** (a) Unless the state provided a survey at the time
14 of purchase, a person who acquires land by purchase under this chapter may not
15 receive fee simple title to the land until the person has the land surveyed at the
16 person's expense and provides a copy of that survey to the state without charge. The
17 survey shall be conducted as provided in regulations adopted by the department.

18 (b) To assist persons in completing surveys under this section, the state shall
19 ensure that at least one monument exists within five miles of each parcel of land
20 offered for sale under this chapter.

21 **Sec. 38.14.130. Security deposit.** A person who purchases land under this
22 chapter shall at the time of the purchase pay to the state a security deposit in the
23 amount of 10 percent of the purchase price to ensure the person's compliance with the
24 requirements of this chapter and other laws. The payment of this security deposit does
25 not immunize the person from liability for violations of this chapter or other laws nor
26 limit the ability or authority of the state to require compliance with and to enforce the
27 laws of the state. The department may, without process of any kind, expend the
28 deposit to cover costs incurred by the state, damage to the land, or a diminution in the
29 value of the land caused by the person's violation of the requirements of this chapter
30 or other laws. The department shall refund the deposit to the person after the person
31 pays the purchase price in full to the state.

1 **Sec. 38.14.140. Additional terms and conditions.** The department may not
2 impose terms and conditions in excess of those provided in this chapter or by the state
3 constitution.

4 **Sec. 38.14.150. Mapping.** To aid persons in making purchase choices under
5 this chapter, the state shall provide maps of state lands and plats that identify the
6 parcels available for purchase under this chapter. The state may charge a fee for the
7 maps and plats sufficient to cover the state's cost for reproducing the maps and plats.

8 **Sec. 38.14.160. Appraiser list.** The department shall compile a list of real
9 estate appraisers who are licensed under AS 08.87 and who have provided evidence
10 to the department that they are skilled in the appraisal of undeveloped land.

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

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

13 (2) "department" means the Department of Natural Resources.

14 * **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).