

HOUSE BILL NO. 390

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES COGHILL, Kohring

Introduced: 2/16/00

Referred: Resources, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act creating a State Land Commission and regional land disposal advisory
2 boards; providing for the disposal of 250,000 acres of state land annually;
3 changing the residency requirements for bidders at land auction sales; amending
4 other laws relating to disposal of state land; and providing for an effective date."

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

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new
7 section to read:

8 FINDINGS AND INTENT. (a) The legislature finds that Alaska is rich in natural
9 resources, of which only a few have been developed. Over the past 20 years, the state has
10 become almost solely dependent on oil revenues, which fluctuate drastically depending on
11 world events. It is imperative for the future well-being of our state and its citizens that we
12 develop a more stable source of revenue.

13 (b) It is the intent of the legislature

14 (1) that the Department of Natural Resources immediately embark on a

1 systematic process of identifying land to be sold to the public to promote the development and
2 use of our resources; and

3 (2) that the Department of Natural Resources make available for sale not less
4 than 250,000 acres a year, commencing on the effective date of this Act.

5 * **Sec. 2.** AS 38.04 is amended by adding new sections to article 2 to read:

6 **Sec. 38.04.016. Creation of State Land Commission; powers of the**
7 **commission.** (a) There is created the State Land Commission within the Department
8 of Natural Resources. The commission consists of five members appointed by the
9 governor and confirmed by the legislature in joint session.

10 (b) The members of the commission must include a real estate appraiser
11 certified under AS 08.87, a real estate broker licensed under AS 08.88, and a land
12 surveyor registered under AS 08.48, each chosen by the governor from a list of
13 nominees provided by the respective state licensing, certification, or registration
14 authority, and two other individuals. No more than three commissioners may be
15 members of the same political party.

16 (c) The members of the commission serve staggered three-year terms.

17 (d) Members of the commission serve without compensation but are entitled
18 to per diem and travel expenses authorized for members of boards and commissions
19 under AS 39.20.180.

20 (e) The commission shall meet annually.

21 (f) The commission may employ staff and contract for services relating to
22 matters within its authority.

23 **Sec. 38.04.018. Creation of land disposal advisory boards.** (a) There are
24 created within the Department of Natural Resources land disposal advisory boards. A
25 land disposal advisory board shall be established for each borough and unified
26 municipality within the state, except the unorganized borough.

27 (b) The department shall establish regional advisory boards for each model
28 borough within the unorganized borough listed on the Department of Community and
29 Economic Development map entitled "Borough Boundaries Map, Organized Boroughs
30 and Model Unorganized Boroughs," dated March 1999.

31 (c) Each advisory board consists of five residents of the borough, unified

1 municipality, or model borough, three appointed by the president of the senate and two
2 appointed by the speaker of the house.

3 (d) Advisory board members serve staggered three-year terms.

4 (e) Members of the advisory boards serve without compensation and are not
5 entitled to per diem and travel expenses.

6 (f) The advisory boards shall meet annually.

7 (g) Each advisory board shall keep minutes of each of its meetings and
8 forward a copy of those minutes to the commission.

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

10 (a) The commissioner shall establish a land disposal bank containing state land
11 classified for disposal into private ownership. **From this land disposal bank, a**
12 **minimum of 250,000 acres each year shall be disposed of by the State Land**
13 **Commission created under AS 38.04.016.**

14 * **Sec. 4.** AS 38.04.020(d) is amended to read:

15 (d) **The 250,000 acres of land in the land bank to be disposed of annually**
16 **shall be identified as follows:**

17 **(1) each land disposal advisory board established under**
18 **AS 38.04.018 shall identify state land within its borough or region that should be**
19 **offered for sale; each land disposal advisory board shall annually provide to the**
20 **State Land Commission a list of land identified as appropriate for sale; parcels**
21 **identified as appropriate for sale must consist of 160 acres or more, except that**
22 **parcels identified by an advisory board as suitable for recreation and homesites**
23 **must consist of 40 acres or more, individual parcels in subdivisions intended for**
24 **private residential or recreational use may not exceed five acres unless a larger**
25 **parcel is required under (h) of this section, and parcels identified by an advisory**
26 **board as suitable for remote cabins or for any part of which a remote cabin**
27 **permit has been issued must consist of approximately five acres; the list shall be**
28 **divided into** [BY JANUARY 15 OF THE SECOND SESSION OF EACH
29 LEGISLATURE, THE COMMISSIONER SHALL NOTIFY THE LEGISLATURE
30 THAT THE COMMISSIONER HAS AVAILABLE A REPORT ON THE STATUS
31 OF LAND IN THE LAND DISPOSAL BANK UNDER] the following categories:

- 1 (A) [(1)] land suitable for homestead disposal;
 2 (B) [(2)] land suitable for subdivision disposal;
 3 (C) [(3)] land suitable for agricultural, commercial, or industrial
 4 disposal; and
 5 (D) [(4)] land suitable for other purposes;

6 **(2) the State Land Commission shall review and compile the lists**
 7 **submitted by the land disposal advisory boards; the commission may identify**
 8 **additional lands suitable for disposal; the commission shall submit to the**
 9 **legislature before the beginning of each regular legislative session a categorized**
 10 **list of all of the parcels identified as appropriate for sale; the list must include**
 11 **parcels from each of the categories under (1)(A) - (D) of this subsection and must**
 12 **include five-acre and 40-acre parcels, and the total acreage of the parcels on the**
 13 **list submitted under this paragraph must be at least 250,000 acres;**

14 **(3) the legislature may change the classification or categorization**
 15 **of parcels identified for disposal, or remove parcels from the list; the remaining**
 16 **land on the list submitted to the legislature by the State Land Commission shall**
 17 **be offered for sale by the State Land Commission at auction under AS 38.05.055,**
 18 **except land classified for homesite entry, which will be disposed of according to**
 19 **AS 38.08.010 - 38.08.120; land offered at auction but not sold may be advertised**
 20 **by the State Land Commission on the Internet and offered at sealed-bid auction**
 21 **in accordance with department regulations; in no case shall land be sold by the**
 22 **State Land Commission for less than appraised fair market value.**

23 * **Sec. 5.** AS 38.04.020(e) is amended to read:

24 (e) The **commission** [COMMISSIONER] shall annually submit to the governor
 25 an appropriation request for funding estimated to be necessary for the next two years
 26 to allow

27 (1) survey and disposal of land proposed to be made available for
 28 homestead staking, with the general location of the land;

29 (2) survey and disposal of land to be offered as **subdivision**,
 30 agricultural, commercial, industrial, or other uses under AS 38.05.055 or 38.05.057,
 31 with the general location of the land;

1 (3) [THE SURVEY AND DISPOSAL OF LAND PROPOSED TO BE
2 OFFERED AS SUBDIVISIONS, WITH THE GENERAL LOCATION OF THE
3 LAND;

4 (4) PRELIMINARY FEASIBILITY STUDIES, ENGINEERING
5 DESIGN WORK, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION OF
6 ACCESS ROADS AND CAPITAL IMPROVEMENTS REQUIRED BY MUNICIPAL
7 SUBDIVISION ORDINANCE OR REGULATION OF THE PLATTING
8 AUTHORITY;

9 (5)] identification of land that will be proposed for disposal under this
10 subsection in future fiscal years.

11 * **Sec. 6.** AS 38.04.020(f) is amended to read:

12 (f) The request of the **commission** [COMMISSIONER] under (e) of this
13 section **must** [SHALL] include an analysis and an assessment of the market demand
14 for the land proposed for disposal.

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

16 (g) After July 1 of each year, the **commission** [COMMISSIONER] shall direct
17 the expenditure of money appropriated for the disposal of land in response to requests
18 made under (e) and (f) of this section [FOR THE FOLLOWING:

19 (1) LAND DESIGNATED AS SUITABLE FOR HOMESTEAD
20 DISPOSAL SHALL BE CLASSIFIED AND SURVEYED UNDER THIS CHAPTER
21 AND AS 38.05 AND MADE AVAILABLE FOR STAKING AND LEASE UNDER
22 AS 38.09.

23 (2) LAND DESIGNATED AS SUITABLE FOR SUBDIVISION AND
24 HOMESITE DISPOSAL SHALL BE SURVEYED, SUBDIVIDED, CLASSIFIED,
25 AND DISPOSED OF UNDER THIS CHAPTER, AS 38.05, AND AS 38.08.

26 (3) LAND DESIGNATED AGRICULTURAL, COMMERCIAL,
27 INDUSTRIAL, OR SUITABLE FOR OTHER DISPOSAL SHALL BE SOLD UNDER
28 AS 38.05.055 OR 38.05.057].

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

30 (h) Individual parcels disposed of in subdivisions intended for private
31 residential or recreational use may not exceed five acres unless the **commission**

1 [COMMISSIONER] determines that a larger size is necessary to comply with
 2 municipal ordinances; to permit the design of a viable subdivision because of
 3 topographical features, soil conditions, on-site sewage disposal requirements, or water
 4 drainage or supply considerations that are unique to the subdivision; to increase the
 5 return to the state from the sale of the parcels; to minimize adverse effect on wildlife,
 6 fishery, public recreation, timber, or other significant resources in the area; or to
 7 minimize adverse effect on other residential uses in the area.

8 * **Sec. 9.** AS 38.04.022(a) is amended to read:

9 (a) The revenue from the sale of state land shall be deposited in a special state
 10 land disposal income account in the state general fund. The legislature may
 11 appropriate money from the special state land disposal income account for expenditure
 12 by the Department of Natural Resources for necessary costs incurred by the **State**
 13 **Land Commission** [COMMISSIONER] in the implementation of state land disposal
 14 programs authorized under this title.

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

16 **Sec. 38.04.030. Land availability programs.** Programs that may be used by
 17 the **State Land Commission** [DIRECTOR] to make the state's land surface available
 18 for private use under AS 38.04.020 - 38.04.055 include sale of whole or partial rights
 19 to the fee simple estate, including conveyance of agricultural use rights. **Programs**
 20 **that may be used by the director to make the state's land surface available for**
 21 **private use under AS 38.04.020 - 38.04.055 include** [;] leasing, [;] open-to-entry, [;]
 22 homesiting, [;] homesteading, [;] permitting for construction and occupation of cabins
 23 in isolated locations on land retained in state ownership, [;] and other methods as
 24 provided by law.

25 * **Sec. 11.** AS 38.04.060(a) is amended to read:

26 (a) The **State Land Commission** [COMMISSIONER] shall prepare and
 27 maintain on a continuing basis an inventory of all state land and water and their
 28 resource and other values, giving priority to areas of potential settlement, economic
 29 development, and critical environmental concern. **The inventory must identify the**
 30 **land that is in the land disposal bank established under AS 38.04.020.** This
 31 inventory shall be kept current so as to reflect changes in conditions and to identify

1 new and emerging resource and other values.

2 * **Sec. 12.** AS 38.04.910 is amended by adding a new paragraph to read:

3 (14) "commission" means the State Land Commission created under
4 AS 38.04.016.

5 * **Sec. 13.** AS 38.05.030 is amended by adding a new subsection to read:

6 (h) The provisions of AS 38.05.005 - 38.05.037, 38.05.045 - 38.05.069, and
7 38.05.600 do not apply to the State Land Commission or to the land disposal bank,
8 except as specified in AS 38.04.

9 * **Sec. 14.** AS 38.05.055 is amended to read:

10 **Sec. 38.05.055. Auction sale procedures.** Unless another method of sale is
11 required under this chapter, AS 38.08, or AS 38.09, the sale of state land shall be
12 made at public auction to the highest qualified bidder as determined by the director **or**
13 **the State Land Commission**. The director may accept bids and sell state land under
14 this section at no less than 70 percent of the appraised fair market value of the land.
15 To qualify to participate under this section in a public auction of state land that is
16 other than commercial, industrial, or agricultural land, a bidder shall **meet the**
17 **residency criteria for eligibility for a permanent fund dividend in the calendar**
18 **year** [HAVE BEEN A RESIDENT OF THE STATE FOR AT LEAST ONE YEAR
19 IMMEDIATELY PRECEDING THE DATE] of the auction and submit proof of that
20 fact as the commissioner requires by regulation. A bidder may be represented by an
21 attorney or agent at the auction. An aggrieved bidder may appeal to the commissioner
22 within five days after the sale for a review of the director's **or the State Land**
23 **Commission's** determination. The sale shall be conducted by the director **or the State**
24 **Land Commission**, and, at the time of sale, the successful bidder shall deposit an
25 amount equal to five percent of the purchase price. The director shall immediately
26 issue a receipt containing a description of the land or property purchased, the price bid,
27 and the amount deposited. The receipt shall be acknowledged in writing by the bidder.

28 * **Sec. 15.** AS 38.05.057(f) is amended to read:

29 (f) If only one application for a parcel is received, the commissioner shall offer
30 the parcel to the applicant who applied for the parcel if the applicant is qualified to
31 participate in the lottery. If more than one application is received for a parcel, the

1 commissioner shall select the applicant who is entitled to receive a conveyance of the
 2 land by lottery. If the commissioner does not receive an application for a parcel of
 3 state land or if a purchaser fails to sign **or defaults on** a [LEASE AGREEMENT OR]
 4 contract of sale, the parcel **may** [SHALL] be offered to the first eligible person to
 5 apply for the parcel. If the **director considers that a change in value may have**
 6 **occurred since the parcel's last appraisal, the commissioner may require the**
 7 **applicant to post a deposit under AS 38.05.860 to pay for an updated appraisal**
 8 **under AS 38.05.840, or the applicant may provide the appraisal at the applicant's**
 9 **expense following instructions provided by the department** [PARCEL WAS
 10 DESIGNATED AS A HOMESITE AND OFFERED TO THE PUBLIC UNDER
 11 FORMER AS 38.05.047(f), THE PARCEL SHALL BE DISPOSED OF UNDER THE
 12 TERMS REQUIRED BY AS 38.08].

13 * **Sec. 16.** AS 38.05.060 is amended to read:

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

24 * **Sec. 17.** AS 38.05 is amended by adding a new section to read:

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

27 (1) provide at the purchaser's expense

28 (A) an appraisal of the land completed in the manner directed
 29 by the commissioner;

30 (B) a survey of the land completed in the manner directed by
 31 the commissioner;

- 1 (2) reimburse the state for the cost of
 2 (A) an appraisal of the land completed by the state;
 3 (B) a survey of the land completed by the state.

4 * **Sec. 18.** AS 38.05.840(a) is amended to read:

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

16 * **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section
 17 to read:

18 TRANSITIONAL PROVISIONS. The commissioner of natural resources shall identify
 19 and provide the State Land Commission with a list of the land in the land disposal bank on
 20 the effective date of this section. The list must identify each parcel as specifically as possible,
 21 providing legal descriptions where available. The list must include all land not classified for
 22 retention in state ownership or selected by a municipality.

23 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section
 24 to read:

25 INITIAL TERMS. (a) The initial terms of the members of the State Land
 26 Commission appointed under AS 38.04.016 shall be set by the governor so that one member
 27 serves a one-year term, two members serve two-year terms, and two members serve three-year
 28 terms.

29 (b) The initial terms of the members of the land advisory boards appointed under
 30 AS 38.04.018 by the president of the senate shall be set by the president, with one initial
 31 member of each board serving a one-year term, one serving a two-year term, and one serving

1 a three-year term. The initial terms of members of the land advisory boards appointed under
2 AS 38.04.018 by the speaker of the house shall be set by the speaker, with one initial member
3 serving a two-year term, and one serving a three-year term.

4 * **Sec. 21.** This Act takes effect immediately under AS 01.10.070(c).