

CS FOR SENATE BILL NO. 357(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/9/02

Referred: Resources, Finance

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

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

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

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

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

1 made up of major land holdings owned by federal, state, and local governments with
 2 relatively minor portions held privately by ANCSA corporations and individuals. There is
 3 little that can be done to foster a private economy without sufficient privately held land
 4 capital. Private ownership of land has historically benefited people and assisted in promoting
 5 the economic development of our country. The legislature therefore finds that the distribution
 6 of land to citizens annually will stimulate economic development and benefit residents today
 7 and in the future.

8 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
 9 read:

10 INTENT. (a) It is the intent of the legislature that the Department of Natural
 11 Resources shall receive annual appropriations under AS 37.05.144 amounting to 10 percent of
 12 the receipts accounted for from the program under AS 37.05.142 to implement the
 13 requirements of sec. 6 of this Act.

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

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

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

22 (f) If only one application for a parcel is received, the commissioner shall
 23 offer the parcel to the applicant who applied for the parcel if the applicant is qualified
 24 to participate in the lottery. If more than one application is received for a parcel, the
 25 commissioner shall select the applicant who is entitled to receive a conveyance of the
 26 land by lottery. If the commissioner does not receive an application for a parcel of
 27 state land or if a purchaser fails to sign **or defaults on** a [LEASE AGREEMENT OR]
 28 contract of sale, the parcel **may** [SHALL] be offered to the first eligible person to
 29 apply for the parcel. If the **director considers that a change in value may have**
 30 **occurred since the parcel's last appraisal, the commissioner may require the**
 31 **applicant to post a deposit under AS 38.05.860 to pay for an updated appraisal**

1 under AS 38.05.840, or the applicant may provide the appraisal at the applicant's
 2 expense following instructions provided by the department [PARCEL WAS
 3 DESIGNATED AS A HOMESITE AND OFFERED TO THE PUBLIC UNDER
 4 FORMER AS 38.05.047(f), THE PARCEL SHALL BE DISPOSED OF UNDER
 5 THE TERMS REQUIRED BY AS 38.08].

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

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

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

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

20 (1) provide at the purchaser's expense

21 (A) an appraisal of the land completed in the manner directed
 22 by the commissioner;

23 (B) a survey of the land completed in the manner directed by
 24 the commissioner;

25 (2) reimburse the state for the cost of

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

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

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

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

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

1 chapter.

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

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

8 (2) land subject to a grazing lease;

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

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

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

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

28 (b) A sale of land under this chapter to a person other than the lessee is subject
29 to an existing lease entered into by the department before the sale of the land. The
30 state shall retain the lease and the payments due under the lease affecting land sold to
31 a person other than the lessee under this section. A lease affecting land sold by the

1 state under this chapter to a person other than the lessee is subject to renewal or
 2 extension as provided in the terms of the lease or the law under which the lease was
 3 issued.

4 (c) In a sale of land under this chapter, the commissioner may not convey a
 5 mineral or resource right that the state is required to maintain under a law of this state
 6 or of the United States. A sale of land under this chapter must provide for access to
 7 those minerals or resources by the state or a lessee or other designee of the state.

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

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

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

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

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

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

21 (C) understands that the state is not required to construct or
 22 maintain roads to the land to be acquired and that the person may not require
 23 the state to construct or maintain roads to the land to be acquired.

24 **Sec. 38.14.040. Selection of land for sale; over-the-counter land sales.** (a)
 25 By October 1, 2002, the department shall select not less than 15,000 acres of state land
 26 that the department has previously identified for disposal and offer that land for sale as
 27 provided in this section. Not more than 180 days thereafter, the department shall
 28 select an additional 15,000 acres for sale under this section. Not more than 180 days
 29 thereafter, the department shall select an additional 20,000 acres for sale under this
 30 section.

31 (b) The department shall sell the land selected for sale under this section to the

1 first person eligible under AS 38.14.030 to purchase land under this chapter. The sale
 2 price of the land shall be the fair market value of the land as determined by an
 3 appraiser selected from the list of appraisers approved by the department under
 4 AS 38.14.160. The prospective purchaser shall pay for the appraisal.

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

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

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

19 (c) To purchase land under this section, a prospective purchaser shall
 20 personally stake the exterior boundaries of the land in accordance with the regulations
 21 adopted by the department. A prospective purchaser may stake a parcel of land that is
 22 not less than five acres and that does not exceed 640 acres. A prospective purchaser
 23 may not stake within 100 yards of private land or previously staked land unless the
 24 purchaser has received written consent from the other property owner or person who
 25 has previously staked land. The parcel of land staked may not include usable
 26 waterfront in excess of one-third of the total exterior boundary of the parcel. The
 27 parcel of land staked shall be compact in form with its length not exceeding
 28 approximately four times its width unless the commissioner finds that the land use,
 29 terrain, or effect of the form on access to it and other parcels requires another form.
 30 Not later than 15 days after selection and staking the exterior boundaries of land, the
 31 prospective purchaser shall file a sketch plat with the department which shows the

1 location of the land and shall pay a nonrefundable filing fee to the department of \$100.
 2 The fair market value of the land shall be determined by an appraiser selected by the
 3 purchaser from the list approved by the department under AS 38.14.160. Upon
 4 payment in full of the purchase price by cash, certified check, or money order, and the
 5 completion of the survey required under AS 38.14.120, the purchaser shall receive
 6 appropriate title to the land. The department shall require the appraisal and survey to
 7 be completed within a period of time set by regulation. Land classified as agricultural
 8 land is subject to the provisions of AS 38.14.060.

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

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

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

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

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

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

1 **Sec. 38.14.100. Roads; acquisition by state.** (a) The state does not have a
2 duty to construct or maintain roads to a parcel of land purchased by a person under
3 this chapter. A person acquiring land by purchase under this chapter may construct a
4 road from an existing state or municipal road to the land if the proposed route is
5 approved by the department or a municipality and the road is constructed to standards
6 set by the Department of Transportation and Public Facilities.

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

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

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

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

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

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

1 deposit to cover costs incurred by the state, damage to the land, or a diminution in the
 2 value of the land caused by the person's violation of the requirements of this chapter or
 3 other laws. The department shall refund the deposit to the person after the person pays
 4 the purchase price in full to the state.

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

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

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

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

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

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

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