

CS FOR HOUSE BILL NO. 319(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/9/04

Referred: Finance

Sponsor(s): REPRESENTATIVES FATE, Wolf, Foster

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the disposal of state land by lottery; relating to the reservation of**
2 **rights by the state in land contracts and deeds; and relating to the disposal, including**
3 **sale or lease, of remote recreational cabin sites."**

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

5 *** Section 1.** 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 on
10 a determination that scarcity of land for private use in the area of the land to be sold
11 has resulted in unrealistic land values. The lottery shall be conducted in public by the
12 commissioner. A purchaser selected by lot shall deposit an amount equal to **10** [FIVE]
13 percent of the purchase price within 30 days after receiving notification of the
14 selection.

1 * **Sec. 2.** AS 38.05.125(a) is amended to read:

2 (a) Each contract for the sale, lease, or grant of state land, and each deed to
 3 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
 4 38.05.321, **38.05.600**, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50, except as
 5 provided in AS 38.50.050, is subject to the following reservations: "The party of the
 6 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
 7 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
 8 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
 9 or description, and which may be in or upon said land above described, or any part
 10 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
 11 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
 12 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
 13 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
 14 servants upon said land, or any part or parts thereof, at any and all times for the
 15 purpose of opening, developing, drilling, and working mines or wells on these or other
 16 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
 17 fissionable materials, geothermal resources, and fossils, and to that end it further
 18 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
 19 assigns forever, the right by its or their agents, servants, and attorneys at any and all
 20 times to erect, construct, maintain, and use all such buildings, machinery, roads,
 21 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such
 22 soil, and to remain on said land or any part thereof for the foregoing purposes and to
 23 occupy as much of said land as may be necessary or convenient for such purposes
 24 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
 25 generally all rights and power in, to, and over said land, whether herein expressed or
 26 not, reasonably necessary or convenient to render beneficial and efficient the complete
 27 enjoyment of the property and rights hereby expressly reserved. **Filing of a claim for**
 28 **relief by an owner against the state or a person entering, opening, developing,**
 29 **drilling, and working mines or wells on these or other lands, not based on**
 30 **physical damage to the owner's land, that hampers these reservations constitutes**
 31 **a breach of this contract and will result in an immediate assessment against the**

1 **owner for a penalty equal to 150 percent of the current appraised value of the**
 2 **land, including the value of improvements. Failure to pay this assessment will**
 3 **result in foreclosure proceedings by the state."**

4 * **Sec. 3.** AS 38.05.125 is amended by adding a new subsection to read:

5 (d) The owner of land subject to the reservation under (a) of this section, who
 6 brings suit against a person, including the state, for entering the land for the purpose of
 7 opening, developing, drilling, and working mines or wells on the land or adjacent
 8 lands, is subject to a penalty for breach of contract equal to 150 percent of the
 9 appraised value of the land. The penalty does not apply if the suit is based solely on
 10 physical damage to the owner's land. The penalty is a lien in favor of the state upon
 11 the property of the owner subject to the reservation under (a) of this section and arises
 12 at the time suit is filed. The commissioner may bring a foreclosure proceeding if the
 13 penalty is not paid within 60 days after the owner files suit. In this subsection,
 14 "appraised value of the land" means the current appraised value, including the value of
 15 improvements.

16 * **Sec. 4.** AS 38.05.600(a) is amended to read:

17 (a) The commissioner may provide for the sale or lease of state land for
 18 remote recreational cabin sites. Sales under this section shall be at fair market value
 19 determined as of the time of entry **by the department or by an appraiser from the**
 20 **list of appraisers approved by the department. Land to be sold under this section**
 21 **shall be surveyed before sale by the department or by a surveyor registered**
 22 **under AS 08.48. The appraisal and survey shall be completed within 24 months**
 23 **of entry. The** [, AND THE] purchaser shall **pay for the appraisal and survey or**
 24 reimburse the state for the appraisal, survey, and platting costs for the recreational
 25 cabin site. **Sales under this section may be at public or private sale under (g) of**
 26 **this section.**

27 * **Sec. 5.** AS 38.05.600 is amended by adding new subsections to read:

28 (d) Each year, subject to appropriation from the state land disposal income
 29 fund under AS 38.04.022, to implement this section, the commissioner shall
 30 (1) prepare a schedule of land offerings under this section and identify
 31 the parcels for disposal each year; the land offerings may not include mineral land

1 selected by the state or lands identified by the department as having a high mineral
 2 potential; the department's identification of land having a high mineral potential shall
 3 be based on standards adopted by the department in regulations and shall include
 4 consideration of a geophysical survey or geological evaluation, if any, that was
 5 conducted within 15 calendar years before the year for which the schedule is prepared;
 6 and

7 (2) provide public notice of the proposed land offerings.

8 (e) The space between remote recreational cabin sites offered under this
 9 section may not be less than 660 feet in any direction.

10 (f) The commissioner may solicit nominations each year from the public for
 11 areas to be offered for disposal under this program. The commissioner may add areas
 12 nominated by the public to the schedule prepared under (d) of this section if the land is
 13 classified for disposal or the disposal is consistent with other requirements of
 14 AS 38.04 and this chapter.

15 (g) A person may nominate a parcel for disposal under this section and request
 16 a right of first refusal. If the commissioner accepts the nomination of a parcel for
 17 disposal, the commissioner may also provide for disposal of additional parcels in the
 18 surrounding area, subject to (d)(1) and (f) of this section.

19 (h) A parcel sold under this section may not exceed five acres. A parcel sold
 20 under this section may include lake, river, or other navigable water frontage, subject to
 21 the following limitations:

22 (1) the lake, river, or other navigable water frontage must be at least
 23 300 feet and may not exceed 400 feet;

24 (2) only one parcel with frontage on a lake may be sold under this
 25 section for each five acres of water of that lake unless, in the public interest, the
 26 commissioner adopts a regulation indicating a different ratio of water to each parcel
 27 with frontage;

28 (3) a parcel sold under this section with frontage on a river must be
 29 located at least one-quarter of a meander mile from any other parcel with river
 30 frontage sold under this section; and

31 (4) a parcel sold under this section is subject to 16 U.S.C. 3101(d) and

1 16 U.S.C. 3213 (Alaska National Interest Lands Conservation Act).

2 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 **APPLICABILITY.** Sections 2 and 3 of this Act apply to contracts entered into on or
5 after the effective date of this Act.