

SENATE CS FOR CS FOR HOUSE BILL NO. 319(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/11/04

Referred: Rules

Sponsor(s): REPRESENTATIVES FATE, Wolf, Foster, Ogg, Lynn

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; relating to the disposal, including sale or**
3 **lease, of remote recreational cabin sites; and providing for an effective date."**

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 38.05.057(a) is amended to read:

2 (a) The commissioner may dispose of land, including land limited to use for
3 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
4 the fair market value of the land as determined by the commissioner. The
5 commissioner may sell land by lottery for less than the fair market value of the land on
6 a determination that scarcity of land for private use in the area of the land to be sold
7 has resulted in unrealistic land values. The lottery shall be conducted in public by the
8 commissioner. A purchaser selected by lot shall deposit an amount equal to **five** [10]
9 percent of the purchase price within 30 days after receiving notification of the
10 selection.

11 * **Sec. 3.** AS 38.05.125(a) is amended to read:

12 (a) Each contract for the sale, lease, or grant of state land, and each deed to
13 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
14 38.05.321, **38.05.600**, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50, except as
15 provided in AS 38.50.050, is subject to the following reservations: "The party of the
16 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
17 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
18 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
19 or description, and which may be in or upon said land above described, or any part
20 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
21 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
22 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
23 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
24 servants upon said land, or any part or parts thereof, at any and all times for the
25 purpose of opening, developing, drilling, and working mines or wells on these or other
26 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
27 fissionable materials, geothermal resources, and fossils, and to that end it further
28 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
29 assigns forever, the right by its or their agents, servants, and attorneys at any and all
30 times to erect, construct, maintain, and use all such buildings, machinery, roads,
31 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such

1 soil, and to remain on said land or any part thereof for the foregoing purposes and to
 2 occupy as much of said land as may be necessary or convenient for such purposes
 3 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
 4 generally all rights and power in, to, and over said land, whether herein expressed or
 5 not, reasonably necessary or convenient to render beneficial and efficient the complete
 6 enjoyment of the property and rights hereby expressly reserved."

7 * **Sec. 4.** AS 38.05.125(a) is amended to read:

8 (a) Each contract for the sale, lease, or grant of state land, and each deed to
 9 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
 10 38.05.321, [38.05.600,] 38.05.810 - 38.05.825, AS 38.08, or AS 38.50, except as
 11 provided in AS 38.50.050, is subject to the following reservations: "The party of the
 12 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
 13 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
 14 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
 15 or description, and which may be in or upon said land above described, or any part
 16 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
 17 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
 18 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
 19 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
 20 servants upon said land, or any part or parts thereof, at any and all times for the
 21 purpose of opening, developing, drilling, and working mines or wells on these or other
 22 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
 23 fissionable materials, geothermal resources, and fossils, and to that end it further
 24 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
 25 assigns forever, the right by its or their agents, servants, and attorneys at any and all
 26 times to erect, construct, maintain, and use all such buildings, machinery, roads,
 27 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such
 28 soil, and to remain on said land or any part thereof for the foregoing purposes and to
 29 occupy as much of said land as may be necessary or convenient for such purposes
 30 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
 31 generally all rights and power in, to, and over said land, whether herein expressed or

1 not, reasonably necessary or convenient to render beneficial and efficient the complete
2 enjoyment of the property and rights hereby expressly reserved.

3 * **Sec. 5.** AS 38.05.600(a) is amended to read:

4 (a) The commissioner may provide for the sale or lease of state land for
5 remote recreational cabin sites. Sales under this section shall be at fair market value
6 determined as of the time of entry **by the department or by an appraiser from the**
7 **list of appraisers approved by the department. Land to be sold under this section**
8 **shall be surveyed before sale by the department or by a surveyor registered**
9 **under AS 08.48. The appraisal and survey shall be completed within 24 months**
10 **of lease issuance, unless an extension is found necessary by the commissioner.**
11 **The** [, AND THE] purchaser shall **pay for the appraisal and survey or** reimburse the
12 state for the appraisal, survey, and platting costs for the recreational cabin site.

13 * **Sec. 6.** AS 38.05.600(a) is amended to read:

14 (a) The commissioner may provide for the sale or lease of state land for
15 remote recreational cabin sites. Sales under this section shall be at fair market value
16 determined as of the time of entry, **and the** [BY THE DEPARTMENT OR BY AN
17 APPRAISER FROM THE LIST OF APPRAISERS APPROVED BY THE
18 DEPARTMENT. LAND TO BE SOLD UNDER THIS SECTION SHALL BE
19 SURVEYED BEFORE SALE BY THE DEPARTMENT OR BY A SURVEYOR
20 REGISTERED UNDER AS 08.48. THE APPRAISAL AND SURVEY SHALL BE
21 COMPLETED WITHIN 24 MONTHS OF LEASE ISSUANCE, UNLESS AN
22 EXTENSION IS FOUND NECESSARY BY THE COMMISSIONER. THE]
23 purchaser shall [PAY FOR THE APPRAISAL AND SURVEY OR] reimburse the
24 state for the appraisal, survey, and platting costs for the recreational cabin site.

25 * **Sec. 7.** AS 38.05.600 is amended by adding new subsections to read:

26 (d) Each year, subject to appropriation from the state land disposal income
27 fund under AS 38.04.022, to implement this section, the commissioner shall

28 (1) prepare a schedule of land offerings under this section and identify
29 the parcels for disposal each year; the land offerings may not include mineral land
30 selected by the state or lands identified by the department as having a high mineral
31 potential; the department's identification of land having a high mineral potential shall

1 be based on standards adopted by the department and shall include consideration of a
2 geophysical survey or geological evaluation, if any, that was conducted within 15
3 calendar years before the year for which the schedule is prepared;

4 (2) provide public notice of the proposed land offerings; and

5 (3) disclose all land offerings with mineral potential.

6 (e) The commissioner may solicit nominations each year from the residents of
7 the state for areas to be offered for disposal under this program. The commissioner
8 may add areas nominated by a resident to the schedule prepared under (d) of this
9 section if the land is classified for disposal or the disposal is consistent with other
10 requirements of AS 38.04 and this chapter.

11 (f) A resident may nominate a parcel for disposal under this section and, if the
12 resident has not leased or purchased land under this section during the three-year
13 period before the date of nomination, may apply for a right to stake the nominated
14 parcel with the intent to lease under (b) of this section. The commissioner shall
15 review the nomination and may

16 (1) offer the right to stake a parcel for lease through a sealed-bid or
17 outcry auction and subsequently purchase the parcel for fair market value;

18 (2) offer the parcel and additional parcels within the surrounding area
19 for sale in a simultaneous filing period in the manner provided for lottery parcels by
20 AS 38.05.057;

21 (3) offer already surveyed and platted parcels for sale at a sealed-bid or
22 outcry auction as provided under AS 38.05.055; or

23 (4) find that the parcel or area is not appropriate for disposal.

24 (g) A parcel sold under this section may not exceed 10 acres unless the
25 commissioner determines that a larger site is necessary to comply with municipal
26 ordinances, because of the unique physical and natural characteristics of the area, or to
27 increase the return to the state from the sale of the parcel. A parcel sold under this
28 section may include lake, river, or other navigable water frontage, subject to the
29 following limitations:

30 (1) the lake, river, or other navigable water frontage must be at least
31 300 feet and may not exceed 700 feet;

1 (2) only one parcel with frontage on a lake may be sold under this
 2 section for each five acres of water of that lake unless the commissioner finds that a
 3 different ratio of water to each parcel with frontage is in the public interest; and

4 (3) a parcel sold under this section is subject to 16 U.S.C. 3101(d) and
 5 16 U.S.C. 3213 (Alaska National Interest Lands Conservation Act).

6 (h) In this section, "resident" means a person who

7 (1) is physically present in the state with the intent to remain in the
 8 state indefinitely and to make a home in the state;

9 (2) has maintained the person's domicile in the state for the 12
 10 consecutive months immediately preceding the nomination of a parcel or area for
 11 disposal;

12 (3) is not claiming residency in another state, territory, or country; and

13 (4) is not obtaining benefits under a claim of residency in another state,
 14 territory, or country.

15 (i) Nothing in this section shall impede the state's authority under existing law
 16 to reserve a public easement allowing public access to, or along, a river, lake, or other
 17 water described in this section.

18 * **Sec. 8.** AS 38.05.600(d), 38.05.600(e), 38.05.600(f), 38.05.600(g), 38.05.600(h), and
 19 38.05.600(i) are repealed January 1, 2015.

20 * **Sec. 9.** Sections 2, 4, 6, and 8 of this Act take effect January 1, 2015.

21 * **Sec. 10.** AS 38.05.600(g), as enacted in sec. 7 of this Act, takes effect January 1, 2005.