

Introduced: 3/22/77  
Referred: Resources

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 383

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state land; and providing for an  
7 effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 38.05.030 is amended by adding a new subsection to  
10 read:

11 (f) Each trust for which the director exercises land management  
12 functions shall be assessed the cost of that management which shall be  
13 negotiated annually between the division and the respective trust  
14 boards.

15 \* Sec. 2. AS 38.05.055 is amended to read:

16 Sec. 38.05.055. SALE PROCEDURES. Except as provided in sec.  
17 315(d) of this chapter, the sale shall be made at public auction to  
18 the highest qualified bidder as determined by the director. An  
19 aggrieved bidder may appeal to the commissioner within five days after  
20 the sale for a review of the director's determination. The sale shall  
21 be conducted by the director or his representative, and at the time of  
22 sale the successful bidder shall deposit an amount determined by the  
23 director but not less than five per cent [EQUAL TO ONETENTH] of the  
24 purchase price. The director or his representative shall immediately  
25 issue a receipt containing a description of the land or property  
26 purchased, the price bid, and the terms of sale, which receipt shall  
27 be acknowledged in writing by the bidder. A contract of sale on a  
28 form approved by the attorney general shall be signed by the purchaser  
29 and, after approval of the commissioner, the contract shall also be

1 signed by the director on behalf of the state.

2 \* Sec. 3. AS 38.05.065 is amended to read:

3 Sec. 38.05.065. TERMS OF CONTRACT OF SALE. The contract of sale  
4 shall require the remainder of the purchase price to be paid over a  
5 period of not more than 20 years, to be set for each sale by the  
6 director. Installment payments plus interest must be set on the  
7 level-payment basis. The interest rate to be charged on installment  
8 payments is the prevailing rate on similar land transactions at the  
9 time the contract is signed, as determined by the director, but in no  
10 case may it be below five per cent per year or above the current usury  
11 rate as set by AS 45.45.010(b) and (d) [IN ANNUAL INSTALLMENTS OF NOT  
12 LESS THAN 10 PER CENT OF THE PURCHASE PRICE, WITH INTEREST AT THE RATE  
13 OF NOT LESS THAN FIVE PER CENT A YEAR]. The director, with the con-  
14 sent of the commissioner, may also impose conditions, limitations and  
15 terms which he considers necessary and proper to protect the interest  
16 of the state. Violations of any provision of this chapter or the  
17 terms of the contract of sale subject the purchaser to appropriate  
18 administrative and legal action, including but not limited to specific  
19 performance, foreclosure, ejection, or other legal remedies in accord-  
20 ance with applicable state law [LEGAL ACTION, INCLUDING A FORECLOSURE  
21 ACTION IN ACCORDANCE WITH APPLICABLE STATE LAW].

22 \* Sec. 4. AS 38.05.067(b) is amended to read:

23 (b) The director shall not sell the lands under this section at  
24 less than their fair [APPRAISED] market value. The director shall  
25 make regulations necessary to ensure that lands sold under this section  
26 are for bona fide residential use and not for speculation.

27 \* Sec. 5. AS 38.05.068(a) is amended to read:

28 (a) Before offering to the public any land which is subject to a  
29 valid existing United States Forest Service permit in effect in a

1 state-selected area at the time the area was patented to the state, or  
2 which is subject to a lease issued under sec. 87 of this chapter, the  
3 director shall offer the land for sale to the permittee or his suc-  
4 cessor in title, if he can be found, at not less than its fair [APPRAISED]  
5 market value before offering to the general public.

6 \* Sec. 6. AS 38.05.070(c) is amended to read:

7 (c) A lease may be issued for a period up to 55 years, if it  
8 appears to be in the best interest of the state and if the commis-  
9 sioner approves. A lease for a period in excess of 25 years must  
10 grant the lessee an option entitling him to extend the term of the  
11 lease for up to three consecutive five-year periods in addition to the  
12 original term. If the commissioner determines that the land or a part  
13 of it which is the subject of a grazing lease is not being used for  
14 the purpose issued, the lease may be declared void. [HOWEVER, A NON-  
15 RENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO  
16 EXCEED 99 YEARS.]

17 \* Sec. 7. AS 38.05.087(a) is amended to read:

18 (a) Before offering to the public any land for lease which is  
19 subject to a valid existing United States Forest Service permit in  
20 effect in a state-selected area at the time the area was patented to  
21 the state, the director shall offer the land for leasing to the per-  
22 mittee at not less than its fair [APPRAISED] market value before  
23 offering it to the general public.

24 \* Sec. 8. AS 38.05.105 is amended to read:

25 Sec. 38.05.105. PERIODIC RENTAL ADJUSTMENTS. (a) Each lease  
26 shall stipulate that the annual rental payment is subject to adjust-  
27 ment at five-year intervals and changes or adjustments shall be based  
28 [PRIMARILY] on a reappraised annual rental value. Any increase due to  
29 reappraisal may not exceed 100 per cent of the annual rental for the

1 preceding five-year period. However, if the director of the division  
2 of lands determines that residential development is the best use for  
3 the land, the reappraisal period may be lengthened or the readjustment  
4 waived in accordance with regulations adopted by the commissioner.  
5 Before a waiver of rental readjustment is issued, the land shall have  
6 a current reappraisal. A waiver is valid only if residential develop-  
7 ment actually occurs, and only if it is necessary for obtaining primary  
8 long-term financing. The regulations adopted under this section shall  
9 ensure that the state receives a fair return from the land.

10 (b) The 100 per cent limit on increases in annual rental applies  
11 only to leases executed after the effective date of this Act and to  
12 leases converted under sec. 106 of this chapter.

13 \* Sec. 9. AS 38.05 is amended by adding new sections to article 3 to  
14 read:

15 Sec. 38.05.106. CONVERSION OF LEASES. (a) Any person holding a  
16 valid lease under secs. 70 - 106 of this chapter, or who is an approved  
17 assignee of such a lessee under the terms of the lease, may convert  
18 his lease to obtain the benefits described in (b) of this section,  
19 which were not available to him at the time his lease was originally  
20 entered, if he makes all payments due under the lease as computed  
21 according to this section and is not in violation of any other lease  
22 provision.

23 (b) Those lease benefits which must be made available to a  
24 lessee qualifying under (a) of this section are all of those lease  
25 provisions authorized to be included in new leases executed by the  
26 state after the effective date of this Act.

27 (c) The effective annual rental value at conversion shall be  
28 based on the most recent reappraisal if reappraisal was within two  
29 years after the effective date of this Act. In all other cases, the

1 annual rental value at conversion shall be based on the next reappraisal  
2 after conversion.

3 (d) The rate which is applied to the fair market value of lease  
4 property to compute annual rental value shall be the current market  
5 rate except the director may reduce it to not less than six per cent.

6 (e) Any lease conversion as to trust lands is effective only if  
7 approved by the appropriate board of trustees.

8 (f) Applications for conversion must be made within three years  
9 after the effective date of this Act.

10 Sec. 38.05.108. STATE BOARD OF LAND APPEALS; REGULATIONS. (a)  
11 There is created in the department a Board of Land Lease Appeals of  
12 five members, one of whom is the commissioner or his designated  
13 representative. The other members of the board are to be appointed by  
14 the governor from the general public, after consideration of the  
15 desirability of legal, natural resource, or real estate training and  
16 experience as criteria.

17 (b) The director shall provide administrative support for the  
18 board.

19 (c) The terms of the public members are three years each, except  
20 that the initial terms of one of the members first appointed under  
21 this chapter shall be for one year and one member for two years. The  
22 public members are entitled to compensation in the amount of \$50 a day  
23 for each day or portion of a day spent in actual meeting or on authorized  
24 official business incident to their duties, and to all transportation  
25 and per diem allowances authorized by AS 39.20.180.

26 (d) Jurisdiction of the board extends to matters arising under  
27 secs. 70 - 106 of this chapter related to the leasing of state land  
28 other than for the extraction of natural resources from which an  
29 appeal may be taken under statute or regulation to the commissioner

1 from a decision of the director. The board in all those appeals filed  
2 after the effective date of this Act has the authority to hear evidence  
3 and recommend decisions to the commissioner when the director's decision  
4 is appealed to the commissioner. The commissioner,, after consultation  
5 with the board, shall adopt regulations governing the procedures of  
6 the board.

7 \* Sec. 10. AS 38.05.310 is amended to read:

8 Sec. 38.05.310. NOTICE AND APPRAISAL. (a) No land may be sold  
9 or leased, or a renewal lease issued [WITHOUT PUBLIC NOTICE,] except  
10 in the case of an oil or gas or mineral lease, unless it has been  
11 appraised within 120 [90] days before the date of [FIXED FOR THE] sale  
12 or lease. For over-the-counter sale under (b) of this section, an  
13 appraisal [WHEN LAND IS OFFERED AT PUBLIC SALE BUT IS NOT SOLD AND IS  
14 AVAILABLE AT PRIVATE SALE, NO REAPPRAISAL] is required unless the  
15 director finds [CONSIDERS] that a change in value of the lands has not  
16 [MAY HAVE] occurred. A grazing lease may be granted to a lessee of  
17 federal grazing lands without prior appraisal, if his federal lease  
18 was cancelled to allow the state to select the lands under lease. No  
19 land may be sold or leased for less than fair [THE APPROVED, APPRAISED]  
20 market value, except as provided in secs. 315 and 320 of this chapter  
21 and secs. 75 - 85 of this chapter. No land or interest in land may be  
22 sold, leased, or otherwise disposed of without public notice.

23 (b) When land is offered at public sale but is not sold, it may  
24 be available for sale over the counter. The director shall review the  
25 list of parcels of land available on a quarterly basis and shall  
26 certify that there has been no change in value since the last reapprai-  
27 sal. If an increase in value occurs in any parcel, the director shall  
28 withdraw that parcel from sale over the counter.

29 \* Sec. 11. AS 38.05.345(a) is amended to read:

1 (a) Public notice of an auction sale [, LEASE OR OTHER DISPOSAL]  
2 of land or interest in it shall be substantially as follows.

3 \* Sec. 12. AS 38.05.345 is amended by adding a new subsection to read:

4 (e) Public notice of a sale, lease, or other disposal of land or  
5 an interest in it other than by auction, or notice of a classification  
6 or other action concerning land, shall conform to the requirements of  
7 sec. 305 of this chapter and of this subsection. That notice must  
8 comply with the provisions of (b) and (d) of this section, except that  
9 the disposal may be made more than five weeks following the last  
10 appearance of the published notice.

11 \* Sec. 13. AS 38.05.365 is amended by adding a new paragraph to read:

12 (24) "market value" or "fair market value" means the price,  
13 estimated in terms of money, which the property would bring if exposed  
14 for a sale for a reasonable time in the open market, with a seller,  
15 willing but not forced to sell, and a buyer, willing but not forced to  
16 buy, both being fully informed of all the purposes for which the  
17 property is best adapted or could be used.