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1 IN THE HOUSE

2 HOUSE BILL NO. 398

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state control of certain land  
7 within state boundaries; and providing for an effective  
8 date."

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

10 \* Section 1. AS 38.05 is amended by adding new sections to read:

11 ARTICLE 15. STATE CONTROL OF CERTAIN LAND.

12 Sec. 38.05.500. LEGISLATIVE DETERMINATIONS. The legislature  
13 determines

14 (1) the intent of the framers of the Constitution of the  
15 United States was to guarantee to each of the states sovereignty over  
16 all matters within its boundaries except for those powers specifically  
17 granted to the United States as agent of the states;

18 (2) the attempted imposition upon the State of Alaska by the  
19 Congress of the United States of a requirement in the Statehood Act that  
20 the State of Alaska and its people "disclaim all right and title to any  
21 lands or other property not granted or confirmed to the state or its  
22 political subdivisions by or under the authority of this Act, the right  
23 or title to which is held by the United States or is subject to disposi-  
24 tion by the United States," as a condition precedent to acceptance of  
25 Alaska into the Union, was an act beyond the power of the Congress of  
26 the United States and is thus void;

27 (3) the purported right of ownership and control of the  
28 public land in the State of Alaska by the United States is without  
29 foundation and violates the clear intent of the Constitution of the

1 United States; and

2 (4) the exercise of that dominion and control of the public  
3 land in the State of Alaska by the United States works a severe, con-  
4 tinuous and debilitating hardship upon the people of the State of  
5 Alaska.

6 Sec. 38.05.510. MANAGEMENT. (a) The Department of Natural  
7 Resources shall manage the land which is the subject of AS 38.05.500 -  
8 38.05.590. The department will use the provisions of this chapter for  
9 the management of the land except to the extent that the provisions of  
10 AS 38.05.500 - 38.05.590 provide to the contrary.

11 (b) The department shall manage the land in an orderly and bene-  
12 ficial manner.

13 (c) The department may adopt regulations for the management of the  
14 land. No regulation which imposes a limitation upon the people of the  
15 state is effective until approved by the legislature.

16 (d) The department may sell, lease, exchange, or encumber the land  
17 when specifically authorized to do so by law and under the terms and  
18 conditions established by the law.

19 (e) Land may not be disposed of before July 1, 1981 except for  
20 sales or exchanges pending on July 1, 1979 or rights-of-way for public  
21 purposes.

22 Sec. 38.05.520. PROPERTY OF THE STATE. Subject to valid existing  
23 rights of applicants for land, after June 30, 1979, all land in the  
24 state and all minerals not previously appropriated are the exclusive  
25 property of the state.

26 Sec. 38.05.530. EXISTING RIGHTS UNDER FEDERAL LAW. Until equiva-  
27 lent measures are enacted by the legislature, the rights and privileges  
28 of the people of this state granted under the provisions of existing  
29 federal law are preserved under administration by the department.

1           Sec. 38.05.540. TREATIES AND COMPACTS. Land in the state which  
2 has been administered by the United States under international treaties  
3 and interstate compacts will continue to be administered by the state in  
4 conformity with those treaties and compacts.

5           Sec. 38.05.550. MULTIPLE USE. The land shall be used to the  
6 greatest extent possible for recreation, wildlife habitat, agriculture,  
7 mineral and timber production, and for the development, production, and  
8 transmission of energy and other public and private services under the  
9 principles of multiple use to provide maximum benefit to the people of  
10 the state.

11           Sec. 38.05.560. PROCEEDS TO THE GENERAL FUND. The proceeds of  
12 sales, fees, rents, royalties or other receipts from the land paid to  
13 the state under the provisions of AS 38.05.500 - 38.05.590 shall be  
14 deposited in the general fund.

15           Sec. 38.05.570. EXCLUSIVE ENFORCEMENT. (a) The state has exclu-  
16 sive jurisdiction to enforce the provisions of AS 38.05.500 -38.05.590.

17           (b) An individual may institute a civil action to recover damages  
18 for injury or loss sustained as the result of a violation of the pro-  
19 visions of AS 38.05.500 - 38.05.590.

20           (c) An individual who attempts to exercise jurisdiction over land  
21 in a manner not permitted by the laws of the state is guilty of a felony  
22 and is punishable by imprisonment for not less than two years nor more  
23 than 10 years.

24           (d) A corporation or other person which attempts to exercise  
25 jurisdiction over the land in a manner not permitted by the laws of the  
26 state, is guilty of a felony and is punishable by a fine of not more  
27 than \$5,000.

28           Sec. 38.05.580. SURVEY. (a) The department shall study the land  
29 to determine

- 1 (1) land which should be made available for disposition;  
2 (2) land which should be retained by the state as habitat for  
3 wildlife or for recreational or other public purposes; and  
4 (3) land which should be made available for selection by a  
5 municipality.

6 (b) The department shall consider the views of municipalities on  
7 the management of land within or near municipalities.

8 (c) The department shall report to the First Session of the  
9 Twelfth Legislature its findings and recommendations under this section.

10 Sec. 38.05.590. DEFINITION. In AS 38.05.500 - 38.05.590, "land"  
11 means all land and water within the exterior boundaries of the State of  
12 Alaska except land and water

- 13 (1) to which title was held by a private person or entity;  
14 (2) to which title was held by the state or a municipality in  
15 the state before July 1, 1979;  
16 (3) which is controlled by the United States Department of  
17 Defense or the Alaska Power Administration on June 30, 1979;  
18 (4) which is within the Annette Islands Reserve;  
19 (5) which has been selected by a regional or village corpora-  
20 tion under the Alaska Native Claims Settlement Act of 1971;  
21 (6) which is located within Mt. McKinley National Park and  
22 national monuments established before January 1, 1977.

23 \* Sec. 2. This Act takes effect July 1, 1979.  
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