

Introduced: 4/11/79
Referred: Resources

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 HOUSE BILL NO. 458

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 the disposal of state land."

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

8 * Section 1. AS 38 is amended by adding a new chapter to read:

9 CHAPTER 9. OPEN-TO-ENTRY AND HOMESTEAD LAND.

10 ARTICLE I. CLASSIFICATION AND DISPOSAL.

11 Sec. 38.09.010. CLASSIFICATION AND DISPOSAL OF OPEN-TO-ENTRY AND
12 HOMESTEAD LAND. (a) The commissioner shall classify state
13 land as open-to-entry or homestead land under the procedures required by
14 AS 38.05.300 and 38.05.305.

15 (b) Before open-to-entry or homestead land may be offered for
16 disposal, the commissioner shall

17 (1) divide the land into surveyed parcels of not more than 40
18 acres each;

19 (2) divide the land into areas of unsurveyed land which
20 contain sufficient land for further subdivision into a determined number
21 of parcels of not more than 40 acres each and which include sufficient
22 land for dedication for access and utility corridors which may be re-
23 quired by the commissioner or by a municipality before approval of a
24 survey or plat of the land under AS 38.09.100(a); or

25 (3) divide the land into a combination of surveyed parcels as
26 described in (1) of this subsection and areas of unsurveyed land as
27 described in (2) of this subsection.

28 (c) The commissioner shall publish the availability of open-to-
29 entry or homestead land in the same manner as provided in AS 38.05.345.

1 Sec. 38.09.020. APPLICATIONS. (a) Applications to acquire open-
2 to-entry or homestead land shall be submitted to the commissioner on
3 forms prepared by the department. An applicant may not submit more than
4 one application for an available parcel but may submit any number of
5 applications.

6 (b) To apply to acquire open-to-entry or homestead land under this
7 chapter, an applicant shall

8 (1) be at least 18 years of age at the time of application;

9 (2) submit proof, as required by regulations adopted by the
10 commissioner, that the applicant has been a resident of the state for
11 one year immediately before the date of application;

12 (3) certify under penalty of perjury that, if he is applying
13 for homestead land, he has not previously acquired homestead land under
14 this chapter or, if he is applying for open-to-entry land he has not
15 previously acquired open-to-entry land under this chapter;

16 (4) describe the land for which the application is made; and

17 (5) pay a nonrefundable application fee of \$25.

18 (c) The commissioner shall promptly review the applications sub-
19 mitted and determine the eligibility of each applicant. The commis-
20 sioner shall notify the applicant if the original application is in-
21 sufficient. The commissioner shall specify the reason for insufficiency
22 and shall grant a reasonable period of time for the applicant to remedy
23 the insufficiency. If the application is received before the end of the
24 application period and is made sufficient within the time set by the
25 commissioner, the applicant is eligible to receive an offer of open-to-
26 entry or homestead land. The applicant shall be promptly notified if
27 the application has been rejected.

28 Sec. 38.09.030. SELECTION OF APPLICANT. (a) The application
29 period for an offering of open-to-entry or homestead land may not be

1 less than 45 days and open-to-entry or homestead land may not be offered
2 for disposal earlier than 45 days after the end of the application
3 period. If only one application for a parcel is received, the commis-
4 sioner shall offer the parcel to the applicant who applied for the
5 parcel if the applicant is eligible to receive the offer. If more than
6 one application is received for a surveyed parcel, or if more applica-
7 tions are received for an area of unsurveyed open-to-entry or homestead
8 land than the number of parcels authorized in the area, the commissioner
9 shall select the applicant who is entitled to receive an offer of land
10 by drawing lots. The selection of applicants shall be conducted in
11 public and shall include the name of each applicant who has applied for
12 the parcel and who is eligible to receive an offer of the parcel. If an
13 applicant is selected by the commissioner, other applications submitted
14 by that applicant for open-to-entry or homestead land shall be cancelled
15 by the commissioner.

16 (b) The commissioner shall send an offer of open-to-entry or
17 homestead land not later than 45 days after the date of selection of
18 applicants. The offer shall contain a statement of the terms for dispo-
19 sal of the land offered and shall be accompanied by a standard form
20 contract which contains the applicable terms required by AS 38.09.040 -
21 38.09.060 and which is ready for signing by the offeree. Not later than
22 45 days after receipt of an offer of open-to-entry or homestead land,
23 the offeree shall sign and return to the commissioner the applicable
24 standard form contract.

25 (c) If the commissioner does not receive an application for home-
26 stead or open-to-entry land or if an offeree fails to sign and return
27 the applicable standard form contract in the time required by (b) of
28 this section, the commissioner may offer the homestead or open-to-entry
29 land for disposal under a land availability program authorized by this

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ARTICLE 2. TERMS FOR DISPOSAL.

Sec. 38.09.040. TERMS OF PURCHASE OF OPEN-TO-ENTRY LAND. (a) An offeree who receives an offer of open-to-entry land may purchase the land offered if he contracts with the commissioner to pay the purchase price of the land under the terms of an open-to-entry purchase contract. The purchase price for land offered under this subsection shall be the appraised fair market value of the land or, if the land is unsurveyed, the estimated fair market value of the land. An open-to-entry purchase contract must contain the following terms:

(1) the offeree shall pay five per cent of the purchase price of the land at the time that he signs the open-to-entry purchase contract;

(2) the offeree shall pay the balance of the purchase price in monthly, quarterly or annual installments set on the level-payment basis for a term of 20 years;

(3) the offeree shall pay interest on the unpaid balance of the purchase price at the rate of six per cent a year; and

(4) the offeree may accelerate payment without penalty.

(b) In addition to the terms required by (a) of this section, an open-to-entry purchase contract for the sale of land which is unsurveyed at the time the open-to-entry purchase contract is signed by the offeree must

(1) describe the land by aliquot parts or by metes and bounds and must provide that the offeree will survey the land at his expense not later than five years after approval of entry, according to instructions issued by the commissioner; and

(2) provide that the contract description of the land will be amended to conform to the survey when it is completed and approved by

1 the authority having jurisdiction as prescribed by AS 40.15.

2 (c) An open-to-entry purchase contract must be on a standard form
3 prepared by the department and approved by the attorney general.

4 Sec. 38.09.050. TERMS OF PURCHASE OF HOMESTEAD LAND. (a) An
5 offeree who receives an offer of homestead land may purchase the land
6 offered under the terms of a homestead contract. The purchase price for
7 land offered under this section may not be less than the appraised or,
8 if the land is unsurveyed, the estimated fair market value of the land.

9 (b) A homestead contract must contain the following terms:

10 (1) the offeree shall pay five per cent of the purchase price
11 before entry upon the homestead land;

12 (2) the offeree shall pay the balance of the purchase price

13 (A) in annual installments set on the level-payment
14 basis for a term of 20 years; or

15 (B) in improvement credits granted by the commissioner
16 under regulations adopted under the Administrative Procedure Act
17 (AS 44.62);

18 (3) the offeree shall pay interest on the unpaid balance of
19 the purchase price at the rate of six per cent a year; and

20 (4) the offeree may accelerate payment without penalty.

21 (c) In addition to the terms required by (b) of this section, a
22 homestead contract for the sale of land which is unsurveyed at the time
23 the homestead contract is signed by the offeree must

24 (1) describe the land by aliquot parts or by metes and bounds
25 and must provide that the offeree will survey the land at his expense
26 not later than five years after he signs the homestead contract,
27 according to instructions issued by the commissioner; and

28 (2) provide that the contract description of the land will be
29 amended to conform to the survey when it is completed and approved by

1 the authority having jurisdiction as prescribed in AS 40.15.

2 (d) A homestead contract must be on a standard form prepared by
3 the department and approved by the attorney general.

4 Sec. 38.09.060. LEASE WITH OPTION TO PURCHASE OPEN-TO-ENTRY OR
5 HOMESTEAD LAND. (a) An offeree who receives an offer of a parcel of
6 open-to-entry or homestead land which is located in an area of unsur-
7 veyed land may lease the land offered with an option to purchase that
8 land. A lease granted under this subsection shall contain the following
9 terms:

10 (1) the land may be leased for five years;

11 (2) the land may be leased for a second five-year period
12 under the same terms as provided for the first five-year period of the
13 lease if the survey and plat of the parcel is not approved as required
14 by AS 38.09.100(a) on the expiration date of the leasehold;

15 (3) the rental payment shall be paid monthly, quarterly or
16 annually and shall equal three per cent of the appraised fair market
17 value of the land a year, or \$150 a year, whichever is greater.

18 (b) The lease agreement must include an option to purchase agree-
19 ment on a standard form approved by the attorney general which, if
20 signed by the offeree, entitles the offeree to purchase the open-to-
21 entry or homestead land at any time before expiration of the lease at
22 the appraised fair market value of the land determined for the first
23 five-year period of the lease. The terms of purchase after exercise of
24 an option to purchase shall be those set out in AS 38.09.040(a) if the
25 land is classified as open-to-entry land, or those terms set out in
26 AS 38.09.050(b) if the land is classified as homestead entry land.

27 (c) If a lease of open-to-entry or homestead land is terminated,
28 improvements or personal property on the land shall be managed, and
29 subsequent renewal of the lease shall be conditioned, in the same manner

1 as provided in AS 38.05.090 for removal or reversion of improvements
2 after termination of leases of state land.

3 ARTICLE 3. GENERAL PROVISIONS.

4 Sec. 38.09.070. SELECTION OF PARCELS IN UNSURVEYED AREAS. The
5 commissioner shall grant a right of entry to each offeree who is en-
6 titled to a parcel in an area of unsurveyed open-to-entry or homestead
7 land. The right of entry must

8 (1) grant an exclusive right to enter the area of unsurveyed
9 land to survey or to stake a parcel;

10 (2) specify the period during which entry is granted; and

11 (3) contain other conditions imposed by the commissioner
12 which he determines are in the best interest of the state.

13 Sec. 38.09.080. STAKING. (a) The commissioner may designate an
14 area of unsurveyed open-to-entry or homestead land in which an offeree
15 may stake the corners of a parcel in the area under procedures estab-
16 lished by the commissioner.

17 (b) The commissioner shall adopt staking procedures for each area
18 of unsurveyed open-to-entry or homestead land designated under (a) of
19 this section. The staking procedures adopted may include

20 (1) minimum distance between parcels in the area;

21 (2) parcel dimensions, configuration, orientation and other
22 parcel design requirements;

23 (3) a description of land within the area that may not be
24 included in a staked parcel;

25 (4) a requirement that landmarks, monuments, or other points
26 be used as points of reference for the measurement of distances within
27 an area; and

28 (5) specifications for the type of stakes to use to mark the
29 corners of a parcel.

1 (c) Title to land staked as provided in this section may not be
2 conveyed until the offeree has complied with the survey and platting
3 provisions of AS 38.09.100.

4 Sec. 38.09.090. IMPROVEMENTS. (a) An offeree may not construct
5 improvements on open-to-entry or homestead land located in a municipality
6 with planning and zoning powers under AS 29 before approval of the
7 survey and plat as required by AS 40.15.200.

8 (b) An offeree may not construct improvements on open-to-entry or
9 homestead land located outside a municipality which exercises planning
10 and zoning authority under AS 29 before approval of the survey and plat
11 by the director unless

12 (1) the offeree submits to the director a signed, notarized
13 statement from a person licensed under AS 08.48 that describes the
14 proposed location of the improvements and states that the proposed
15 location is on the offeree's land; or

16 (2) the offeree's land is inspected by an employee of the
17 department who certifies that the improvements are on the offeree's
18 land; or

19 (3) the offeree files a bond with the division including
20 approved sureties to cover the cost of removing the improvements if they
21 are incorrectly located.

22 Sec. 38.09.100. SURVEY AND PLATTING. (a) Before title to open-
23 to-entry or homestead land is conveyed, the survey and plat of the land
24 must be approved by the authority having jurisdiction as prescribed in
25 AS 40.15. A survey may be performed by the department or by the offeree
26 if made by a person licensed to make land surveys under AS 08.48.

27 (b) The cost of survey and platting performed by the department
28 shall be paid by the offeree before title to the open-to-entry or home-
29 stead land is conveyed to him. If the parcel is in an area of unsur-

1 veyed open-to-entry or homestead land or a subdivision of open-to-entry
2 or homestead land which has been surveyed by the department, the cost of
3 survey and platting of the land shall be apportioned among the offerees
4 for the land on the basis of acreage in each parcel.

5 Sec. 38.09.110. PAYMENT OF COSTS. If the cost of appraisal,
6 platting, and survey of open-to-entry or homestead land payable to the
7 state exceeds \$500, an offeree may contract with the director to pay the
8 appraisal, survey and platting costs by installment payments. The in-
9 stallment payments may not be less than \$150 a calendar quarter with in-
10 terest on the unpaid principal balance at six per cent a year.

11 Sec. 38.09.120. DEFINITIONS. In this chapter,

12 (1) "commissioner" means the commissioner of natural re-
13 sources;

14 (2) "department" means the Department of Natural Resources;

15 (3) "director" means the director of the division of lands,
16 Department of Natural Resources;

17 (4) "offeree" means a person who receives an offer of open-
18 to-entry or homestead land from the commissioner;

19 (5) "improvements" means a dwelling, access road, land
20 clearing and draining, land excavation, or the construction of other
21 structures, which become fixtures of the land.

22 * Sec. 2. AS 29.33.190 is amended by adding a new subsection to read:

23 (c) This section does not apply to the disposal of state land
24 under AS 38.

25 * Sec. 3. AS 29.63.090(a) is amended to read:

26 (a) Service areas to provide special services within a borough may
27 be established, operated, altered or abolished by the assembly by ordi-
28 nance. Special services include services not provided on an areawide
29 basis within the borough or the borough area outside cities or a higher

1 or different level of service than that provided on an areawide basis or
2 in the borough area outside cities. In a first class borough the
3 assembly may exercise within a service area any power granted a first
4 class city by general law. Except as provided in (f) of this section, a
5 [; IN A] second class borough may [AN] exercise [OF] the powers granted
6 a first class city by general law but the exercise of the powers must be
7 approved by a majority of the qualified voters residing within the ser-
8 vice area and voting on the question at a regular or special election.

9 * Sec. 4. AS 29.63.090 is amended by adding a new subsection to read:

10 (f) A second class borough may establish a service area by ordi-
11 nance for the development of vacant, unappropriated and unreserved land
12 owned by the municipality. A second class borough may establish a
13 service area with the concurrence of the commissioner of natural re-
14 sources, for the development of vacant, unappropriated and unreserved
15 land owned by the state and classified for disposal to individuals. A
16 second class borough may provide those services in a service area
17 established under this subsection necessary to develop state or munici-
18 pal land as required by AS 40.15.200. Exercise of the powers authorized
19 by this subsection shall be by ordinance. Approval by the qualified
20 voters residing in the service area is not required for the establish-
21 ment of a service area under this subsection.

22 * Sec. 5. AS 38.04.020 is repealed and re-enacted to read:

23 Sec. 38.04.020. TIMING AND AMOUNT. (a) Each fiscal year the
24 commissioner shall make available for private use state land suitable
25 for various uses. The commissioner shall annually submit to the gover-
26 nor three alternative financing requests for the state land availability
27 program established by this chapter. The alternative requests for each
28 fiscal year shall be submitted with the budget submitted to the legisla-
29 ture by the governor. The alternate requests must specify the amount of

1 land to be offered for private use under each alternative, the location
2 of the land, the disposal program under which the land will be offered.
3 The alternatives submitted shall include

4 (1) an estimate of the appropriations required to finance the
5 disposal of the land recommended for disposal during the fiscal year;

6 (2) an estimate of the appropriations required to finance the
7 disposal of one-half the land recommended for disposal during the fiscal
8 year; and

9 (3) an estimate of the appropriations required to finance the
10 disposal of 50 per cent more land than recommended for disposal during
11 the fiscal year.

12 (b) Before state land is recommended for disposal for private use
13 as a part of the state land availability program, the commissioner shall
14 hold public hearings in the vicinity of the land. A hearing required by
15 this subsection is in addition to a hearing which has been requested
16 before the land is classified as permitted by AS 38.05.305(c).

17 * Sec. 6. AS 38.05.045 is amended to read:

18 Sec. 38.05.045. GENERALLY. All lands owned in fee by the state or
19 to which the state may become entitled, excepting tide, submerged or
20 shorelands, and timber or grazing lands, may be sold as provided in
21 AS 38.05.045 - 38.05.069. However, this section does not prevent the
22 disposition of lands as provided in AS 38.05.300 - 38.05.348, AS 38.08,
23 and AS 38.09.

24 * Sec. 7. AS 38.05.055 is amended to read:

25 Sec. 38.05.055. SALE PROCEDURES. Except as provided in AS 38.05.-
26 057, [AND] 38.05.315(d), AS 38.08, and AS 38.09, the sale shall be made
27 at public auction to the highest qualified bidder as determined by the
28 director. An aggrieved bidder may appeal to the commissioner within
29 five days after the sale for a review of the director's determination.

1 The sale shall be conducted by the director or his representative, and
2 at the time of sale the successful bidder shall deposit an amount equal
3 to one-tenth of the purchase price. The director or his representative
4 shall immediately issue a receipt containing a description of the land
5 or property purchased, the price bid, and the terms of sale, which
6 receipt shall be acknowledged in writing by the bidder. A contract of
7 sale on a form approved by the attorney general shall be signed by the
8 purchaser and, after approval of the commissioner, the contract shall
9 also be signed by the director on behalf of the state.

10 * Sec. 8. AS 38.05.058(a) is amended to read:

11 (a) The director shall grant to eligible persons a discount on the
12 purchase price of land sold for any use other than commercial or indus-
13 trial [RESIDENTIAL USE] under this chapter at the rate of five per cent
14 of the purchase price of the land purchased for each full year that the
15 purchaser is a resident of the state. A discount granted under this
16 section may not exceed 50 per cent of the total purchase price of the
17 land or a value of \$25,000, whichever amount is less. A discount may be
18 used by an eligible veteran to purchase land offered at a restricted
19 sale under AS 38.05.067.

20 * Sec. 9. AS 38.05.058(d) is amended to read:

21 (d) A person is entitled to not more than one discount on the
22 purchase price of land under this section in his lifetime. A discount
23 granted under this section may be applied only to the acquisition of
24 surface rights to state land. A discount may not be applied to costs
25 such as survey costs, road development costs, utility assessments, or
26 other costs as determined by the director which are reimbursable to the
27 state. A discount may be applied to pay a cash deposit or down payment
28 [IN ALL CASES, A CASH DOWN PAYMENT OF AT LEAST FIVE PER CENT OF THE
29 PRICE OF THE LAND SHALL BE MADE AT THE TIME OF ACQUISITION].

1 * Sec. 10. AS 38.05.345(b) is amended to read:
2 (b) Notice shall be published once a week for four [THREE] con-
3 secutive weeks preceding the time of sale by public auction stated in
4 the notice, in newspapers [AT LEAST ONE NEWSPAPER] of general circula-
5 tion in the state and by the electronic media covering the region of the
6 state in which the land is located [VICINITY IN WHICH THE LAND, PROPERTY
7 OR INTEREST IN IT IS TO BE SOLD, LEASED OR DISPOSED OF]. If [WHERE]
8 there is no newspaper of general circulation in the vicinity of the land
9 offered for disposal, notices shall be posted not later than four weeks
10 before the public auction is to be held in three public places near the
11 land to be sold, leased or otherwise disposed of. The public auction
12 [SALE, LEASE OR DISPOSAL OF LANDS] shall be held not less than 45 [30]
13 days after publication of the first notice and not more than five weeks
14 following the last appearance of the published notice. The notice shall
15 contain a description of the land and interest to be sold, leased or
16 disposed of and the time, place, and general terms of the sale, lease or
17 disposal.

18 * Sec. 11. AS 38.05.345 is amended by adding new subsections to read:
19 (e) The director shall publish a public notice of each offering of
20 open-to-entry or homestead entry land under AS 38.09 in newspapers of
21 general circulation in the state and by the electronic media covering
22 the region of the state in which the land is located. The notice shall
23 be published once each week for four consecutive weeks before the begin-
24 ning date of an application period and once each week during the applica-
25 tion period. The notice shall contain
26 (1) a description of the land sufficient for identification
27 by the public; and
28 (2) the date of the beginning of the application period.
29 (f) If there is no newspaper of general circulation in the general

1 vicinity of homestead entry land offered for disposal, notices required
2 by (e) of this section shall be posted not later than four weeks before
3 the homestead entry land is offered in three public places near the
4 homestead entry land.

5 * Sec. 12. AS 38.08.020 is amended to read:

6 Sec. 38.08.020. PUBLIC NOTICE [OFFERING OF LAND FOR HOMESITE
7 ENTRY]. The director shall publish notice of the availability of the
8 land in the same manner as provided in AS 38.05.345 [FOR AT LEAST THREE
9 CONSECUTIVE WEEKS THROUGH THE ELECTRONIC MEDIA AND IN AT LEAST THREE
10 NEWSPAPERS OF GENERAL CIRCULATION IN THE STATE, AT LEAST ONE OF WHICH,
11 IF POSSIBLE, SHALL BE A NEWSPAPER OF GENERAL CIRCULATION IN THE VICINITY
12 OF THE AVAILABLE LAND].

13 * Sec. 13. AS 38.08.030(a) is repealed and re-enacted to read:

14 (a) To qualify for a homesite an applicant shall

15 (1) be 18 years of age at the time of application; and

16 (2) submit proof acceptable to the commissioner that

17 (A) he is a resident of the state at the time of appli-
18 cation;

19 (B) he has been a resident of the state for not less
20 than three years immediately before the date his application was
21 submitted; and

22 (C) he has not received patent or an entry permit to
23 homesite land under this chapter before the date his application
24 was submitted.

25 * Sec. 14. AS 38.08.030(b) is amended to read:

26 (b) Fees for filing an application may not exceed \$25 [\$10].

27 * Sec. 15. AS 38.08.040 is repealed and re-enacted to read:

28 Sec. 38.08.040. SELECTION OF PERSON TO RECEIVE PATENT. (a) The
29 commissioner shall grant a patent to a person who applies for a homesite

1 and who is qualified under AS 38.08.030. If the number of qualified
2 persons who submit applications for homesites exceeds the number of
3 available homesites offered, or if several qualified persons apply for
4 the same homesite, the commissioner shall grant a patent to the homesite
5 to the person who submits proof acceptable to the commissioner of the
6 longest residency in the state.

7 * Sec. 16. AS 38.08.060 is repealed and re-enacted to read:

8 Sec. 38.08.060. GRANT OF PATENT. (a) A patent to homesite land
9 must contain the following conditions:

10 (1) the grantee of the patent shall occupy the homesite for a
11 cumulative total of 35 months within the five-year period immediately
12 after conveyance of the patent; and

13 (2) the grantee of the patent shall erect a permanent, habit-
14 able dwelling on the homesite which meets all applicable state and local
15 regulations before five years after the conveyance of the patent.

16 (b) If a grantee fails to comply with the conditions of a homesite
17 patent, the grantee shall forfeit title to the homesite land. The
18 commissioner shall request the attorney general to bring an action to
19 eject the grantee from the homesite land and to declare the right of
20 reentry of the state.

21 * Sec. 17. AS 38.08 is amended by adding a new section to read:

22 Sec. 38.08.065. SURVEY AND PLATTING COSTS. The grantee of a
23 homesite patent shall reimburse the state for the survey and platting of
24 the homesite. The commissioner may adopt regulations which allow a
25 grantee of a homesite patent to pay in monthly, quarterly or annual
26 installments the cost of survey and platting required by this chapter.

27 * Sec. 18. AS 38.08.120(2) is amended to read:

28 (2) "habitable dwelling" means a single-family dwelling [OF A
29 PERMANENT NATURE], together with fixtures and facilities, including

1 sanitary facilities, required or customary in the vicinity of the home-
2 site land and does not include a mobile home unless it is placed on a
3 permanent foundation [MADE AVAILABLE FOR HOMESITE ENTRY];

4 * Sec. 19. AS 29.33.090(d), AS 38.05.077 and 38.05.325, AS 38.08.010(c),
5 38.08.050, 38.08.070, 38.08.080 and 38.08.100 are repealed.

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