

Introduced: 2/4/81  
Referred: Resources and  
Finance

1 IN THE HOUSE

BY FREEMAN, GARDINER AND  
HALFORD

2 HOUSE BILL NO. 31

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the management and use of state,  
7 municipal, and private land; annulling 11 AAC 53.-  
8 450(c); and providing for an effective date."

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

10 \* Section 1. By March 15, 1982, each municipality with a land entitle-  
11 ment under AS 29.18.201 shall prepare and submit to the Second Session of  
12 the Twelfth Legislature a plan for the disposal of municipal land for the  
13 period beginning July 1, 1982, through June 30, 1987. The plan shall contain

14 (1) an estimate of the number of acres of municipal land to be  
15 disposed of by the municipality each fiscal year during the period beginning  
16 July 1, 1982, through June 30, 1987;

17 (2) a description of the method to be used for the disposal of  
18 the municipal land;

19 (3) a description of the municipal land to be disposed of; and

20 (4) a statement of the terms under which the municipal land will  
21 be offered to the public.

22 \* Sec. 2. AS 29.18.204(c) is amended to read:

23 (c) Land may be selected or nominated for selection by a munici-  
24 pality to satisfy a general grant land entitlement under AS 29.18.201  
25 and 29.18.202 at any time before October 1, 1980. If a municipal  
26 selection or nomination or a part of a municipal selection or nomination  
27 is rejected by the director, the municipality may select additional  
28 state land of equal area to satisfy its entitlement not later than 90  
29 days after receipt of the director's rejection.

1 \* Sec. 3. AS 29.48.260 is amended by adding a new subsection to read:

2 (g) A municipality may lease municipal land for a term of not  
3 more than 55 years to a nonprofit corporation, association, club or  
4 society organized and operated exclusively for charitable, religious,  
5 scientific, or educational purposes, or for the promotion of social  
6 welfare. Municipal land leased under this subsection may not be used  
7 for commercial development. Before municipal land may be leased under  
8 this subsection, the proposed lessee shall demonstrate to the satis-  
9 faction of the assembly or council that it is exempt from federal  
10 income taxation, that all of the land requested is to be used for an  
11 established or proposed project, and that the applicant is financially  
12 able to carry out the project. A lease may not be granted under this  
13 subsection unless the project for which the municipal land is leased is  
14 open for use by the public. The provisions of (c) of this section do  
15 not apply to a lease under this subsection.

16 \* Sec. 4. AS 38.04.005(b) is amended to read:

17 (b) In classifying state land for private use and settlement  
18 purposes, the director shall make adequate provision for public open  
19 space which is accessible to communities so that natural areas are  
20 easily reached from all communities and settled areas. The amount of  
21 that land shall be sufficient to meet existing and projected needs for  
22 accessible public recreation land. Public access to navigable or pub-  
23 lic waters of the state shall be preserved under AS 38.05.127. Special  
24 care shall be taken to preserve public access to public water and to  
25 retain state ownership of sufficient land which combine high value for  
26 recreation and other public purposes with accessibility to settled  
27 areas. This classification for public purposes does not constitute  
28 dedication to open space, but the division's management of land so  
29 classified shall be in a manner to preserve the identified values.

1 \* Sec. 5. AS 38.04.020(a) is amended to read:

2       Sec. 38.04.020. LAND DISPOSAL BANK. (a) The commissioner shall  
3 establish a land disposal bank which contains state land that is avail-  
4 able for disposal for private ownership. The [BY JULY 1, 1979, THE]  
5 land disposal bank shall contain [AT LEAST 250,000 ACRES OF] state land  
6 which is available for

- 7               (1) use as remote cabin sites under AS 38.05.079;  
8               (2) disposal for recreational and residential use;  
9               (3) disposal for commercial use; [AND]  
10              (4) disposal for industrial use; and  
11              (5) disposal for agricultural use.

12 \* Sec. 6. AS 38.04.020(d) is amended to read:

13       (d) During the fiscal year ending June 30, 1981, [AND DURING EACH  
14 FISCAL YEAR THEREAFTER,] the commissioner shall make available for  
15 private ownership at least 100,000 acres of state land contained in the  
16 land disposal bank which is suitable for the uses listed in AS 38.04.-  
17 020(a)(1) - (4) [A VARIETY OF USES]. During the fiscal year ending  
18 June 30, 1982, and during each following fiscal year, the commissioner  
19 of natural resources shall make available for private ownership at least  
20 60,000 acres of state land contained in the land disposal bank estab-  
21 lished in AS 38.04.020 which is suitable for the uses listed in AS 38.-  
22 04.020(a)(1) - (4). However, the amount of land offered for private  
23 ownership by municipalities under AS 29.48.260 made after January 1,  
24 1980, may be added to disposals from the land disposal bank in order to  
25 meet the annual quota for the disposal of land imposed by this section.  
26 If, after January 1, 1981, the land disposal bank contains less than  
27 500,000 acres of land which is available for the purposes listed in  
28 (a)(1) - (4) of this section, the commissioner shall classify state  
29 land located outside municipalities until at least 500,000 acres are

1 available for those purposes.

2 \* Sec. 7. AS 38.04.020(f) is amended to read:

3 (f) The commissioner shall annually submit to the governor three  
4 alternative financing requests for the disposal of state land in the  
5 land disposal bank. The alternate requests for each fiscal year shall  
6 be submitted with the budget submitted to the legislature by the gover-  
7 nor. The alternate requests must specify the amount of land to be  
8 offered for private ownership under each alternative, the location of  
9 the land, and the disposal program under which the land will be offered  
10 The alternatives submitted shall include

11 (1) an estimate of the appropriations required to finance  
12 the disposal of the land identified for disposal during the fiscal  
13 year;

14 (2) an estimate of the appropriations required to finance  
15 the disposal of 50 percent of [ONE-HALF] the land identified for dis-  
16 posal during the fiscal year; and

17 (3) an estimate of the appropriations required to finance  
18 the disposal of twice the amount of [50 PERCENT MORE] land [THAN]  
19 identified for disposal during the fiscal year.

20 \* Sec. 8. AS 38.04.040 is amended to read:

21 Sec. 38.04.040. AVAILABILITY OF [SCHOOL LAND AND] UNIVERSITY  
22 LAND. University [SCHOOL LAND AND UNIVERSITY] land may be made avail-  
23 able at fair market value for private use under the purposes of this  
24 chapter; however, any action to do so shall be in accordance with  
25 statutes pertaining to these lands and the authority of [THE BOARD OF  
26 EDUCATION AND] the Board of Regents of the University of Alaska.

27 \* Sec. 9. AS 38.04.055 is amended to read:

28 Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director  
29 shall reserve easements and rights-of-way on and across land which is

1 made available for private use as necessary to reach or use public  
2 water and public and private land. An easement or right-of-way reserved  
3 under this section may include established trails traditionally used  
4 for commerce, recreation, or transportation.

5 \* Sec. 10. AS 38.05.035(a)(14) is amended to read:

6 (14) when he makes a written finding that the interests of  
7 the state will be best served, he may, with the consent of the commis-  
8 sioner, approve contracts for the sale, lease, or other disposal of  
9 available lands, resources, property or interests in them, and, in ad-  
10 dition to the conditions and limitations imposed by law, he may impose  
11 additional conditions or limitations in the contracts as he, with the  
12 consent of the commissioner, determines will best serve the interests  
13 of the state; and no contract for the sale, lease, or other disposal of  
14 available lands or interests in them, is legally binding on the state  
15 until the commissioner formally records his consent to the contract;  
16 but if the appraised value is not greater than \$50,000 [\$10,000] in the  
17 case of the sale of land or an interest in land, or \$5,000 [\$1,000] in  
18 the case of the annual rental of land or interest in land, the director  
19 may approve and issue the contract without the consent or approval of  
20 the commissioner; the [. THE] written finding shall be available to  
21 the public upon request; before [. BEFORE] a public hearing, if held,  
22 or in any case no less than 21 days before the sale, lease, or other  
23 disposal of available land, property, resources, or interests in them,  
24 the director shall make available to the public a written decision in  
25 which he sets out the facts and applicable law upon which he based his  
26 determination that the sale, lease, or other disposal will best serve  
27 the interests of the state; a written finding is not required before the  
28 approval of (A) a contract for a negotiated sale authorized by AS 38.-  
29 05.115, (B) issuance of a permit under AS 38.05.330, or (C) the lease of

1 land for a shore fishery site under AS 38.05.082.

2 \* Sec. 11. AS 38.05.035(b)(5) is amended to read:

3 (5) When he determines it is in the best interest of the  
4 state and will avoid injustice to a person or his heirs or devisees,  
5 dispose of land, by direct negotiation to that person who presently  
6 uses and who used and made improvements to that land before January 3,  
7 1959 or his heirs or devisees; the amount paid for the land shall be  
8 its fair market value on the date that the person first entered the land  
9 [AS OF THAT DATE], as determined by the director; a parcel of land  
10 disposed of under this paragraph shall be of a size consistent with the  
11 person's prior use, but may not exceed five acres; [.]

12 \* Sec. 12. AS 38.05.035(b) is amended by adding new paragraphs to read:

13 (7) convey to an adjoining land owner a parcel of land  
14 created by a highway right-of-way alignment or realignment or a parcel  
15 created by the vacation of a state-owned right-of-way if

16 (A) he determines that it is in the interests of the  
17 state;

18 (B) the parcel does not exceed one acre; and

19 (C) the director and the platting authority having land  
20 use planning jurisdiction agree that conveyance of the parcel to  
21 the adjoining land owner will result in boundaries which are con-  
22 venient for the use of the land by the landowner and compatible  
23 with municipal land use plans.

24 (8) for good cause extend the time for rental or installment  
25 payments by a lessee or purchaser of state land under this chapter if  
26 reasonable penalties and interest set by the director are paid.

27 \* Sec. 13. AS 38.05.035 is amended by adding a new subsection to read:

28 (c) a parcel of land may be conveyed under (b)(7) of this section  
29 without classification or reclassification under AS 38.05.300 but the

1 parcel must be sold at its fair market value as determined by the  
2 director on the basis of an appraisal completed under AS 38.05.310.

3 \* Sec. 14. AS 38.05.047(e) is amended to read:

4 (e) If the land is suitable for residential use, the department  
5 shall survey and subdivide the land in a survey district established  
6 under (c) of this section into parcels which may not exceed five acres;  
7 the department may survey and subdivide the land into parcels which  
8 exceed five acres if a municipal ordinance or a regulation adopted by  
9 the Department of Environmental Conservation requires larger parcels  
10 to prevent water pollution. The commissioner shall give priority to  
11 surveying those survey districts which contain land that is in the  
12 vicinity of existing access roads and may be developed immediately for  
13 residential use at the least cost to the state and potential purchasers.  
14 The commissioner shall issue a written finding which describes land in  
15 a survey district which he determines is not suitable for residential  
16 use. The written finding shall include the reasons for the commis-  
17 sioner's determination and shall be kept on file in the office of the  
18 commissioner and in the district office of the department located  
19 nearest to the municipality in which the land is located.

20 \* Sec. 15. AS 38.05.050 is repealed and reenacted to read:

21 Sec. 38.05.050. DETERMINATIONS BEFORE DISPOSAL OF LAND FOR PRIVATE  
22 OWNERSHIP. The commissioner, upon recommendation of the director,  
23 shall determine the land to be disposed of for private use. The  
24 director shall determine the time and place of disposal. An auction  
25 sale, a lottery sale, or a disposal of land for homesites under AS 38.08  
26 must be held in the municipality that is closest to the land to be sold  
27 or disposed of and in which regular sessions of the superior court are  
28 held.

29 \* Sec. 16. AS 38.05.055 is amended to read:

1           Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method  
2 of sale is required under this chapter, under AS 38.07, or under [EXCEPT  
3 AS PROVIDED IN AS 38.05.057, 38.05.315(d), AND] AS 38.08, the sale of  
4 state land shall be made at public auction to the highest qualified  
5 bidder as determined by the director. A bidder must appear in person  
6 at the auction. However, a bidder may be represented by an attorney or  
7 agent at the auction if the land offered for disposal is classified as  
8 commercial, industrial, or agricultural land. An aggrieved bidder may  
9 appeal to the commissioner within five days after the sale for a review  
10 of the director's determination. The sale shall be conducted by the  
11 director or his representative, and at the time of sale the successful  
12 bidder shall deposit an amount equal to five percent [ONE-TENTH] of the  
13 purchase price, or if the purchaser elects to use land discounts granted  
14 under AS 38.05.058, five percent of the amount bid after deduction of  
15 the discount. The director or his representative shall immediately  
16 issue a receipt containing a description of the land or property pur-  
17 chased, the price bid, the amount deposited, and the amount of any  
18 discount allowed [TERMS OF SALE], which receipt shall be acknowledged  
19 in writing by the bidder. [A CONTRACT OF SALE ON A FORM APPROVED BY  
20 THE ATTORNEY GENERAL SHALL BE SIGNED BY THE PURCHASER AND, AFTER  
21 APPROVAL OF THE COMMISSIONER, THE CONTRACT SHALL ALSO BE SIGNED BY THE  
22 DIRECTOR ON BEHALF OF THE STATE.]

23 \* Sec. 17. AS 38.05.057(a) is amended to read:

24           (a) The commissioner may dispose of land, including land limited  
25 to use for agricultural purposes, by lottery. The purchase price of  
26 land sold by lottery shall be the fair market value of the land as  
27 determined by the commissioner [BUT MAY NOT BE LESS THAN \$400 PER ACRE,  
28 OR, IF THE LAND IS LIMITED TO USE FOR AGRICULTURAL PURPOSES, THE PUR-  
29 CHASE PRICE MAY NOT BE LESS THAN \$100 PER ACRE]. The commissioner

1 shall [MAY] sell land by lottery for less than the fair market value of  
2 the land if he determines that scarcity of land for private use in the  
3 area of the land to be sold has resulted in unrealistic land values.  
4 Before the commissioner determines the purchase price for land which is  
5 located in a municipality and which is to be sold under this section,  
6 he shall consult with the assessor of the municipality. The lottery  
7 shall be conducted in public by the commissioner or his representative  
8 and an applicant may not be selected to purchase land unless he is  
9 present on the date and at the place that the lottery is conducted.  
10 However, an applicant may be represented by an agent on the day of the  
11 lottery if the land offered for sale is classified as commercial,  
12 industrial, or agricultural land. On [, AND AT] the day of the lottery  
13 [TIME OF SIGNING A CONTRACT OF SALE] a purchaser selected by lot shall  
14 deposit an amount equal to five percent of the purchase price, or if  
15 the purchaser elects to use land discounts granted under AS 38.05.058,  
16 five percent of the [DISCOUNT] purchase price after deduction of the  
17 discount.

18 \* Sec. 18. AS 38.05 is amended by adding a new section to read:

19 Sec. 38.05.064. SALES PREFERENCE TO HOLDERS OF MINING CLAIMS.

20 (a) An individual who has established a mining claim on state land  
21 before January 1, 1980, has a preference right to acquire the surface  
22 estate to a parcel of land within the boundaries of his mining claim if  
23 the surface estate to the land is offered for disposal to the public  
24 under AS 38.05.045 - 38.05.069, 38.05.077, or AS 38.08; he satisfies  
25 the eligibility requirements of the land disposal program under which  
26 the land is offered; and he submits proof satisfactory to the com-  
27 missioner that the mining claim is valid. A parcel acquired under this  
28 section may include only the amount of land that the individual has  
29 actually used in connection with his mining claim before January 1,

1 1980, and may not exceed 10 acres.

2 (b) After the director determines that state land will be offered  
3 for disposal to the public under AS 38.05.045 - 38.05.069, 38.05.077,  
4 or AS 38.08, he shall determine if an individual may be entitled to a  
5 preference right under (a) of this section to the land by notifying by  
6 certified mail each individual who holds a recorded mining claim of his  
7 right to acquire the surface estate to land within the boundaries of  
8 the mining claim. The notice required by this subsection shall be sent  
9 not later than 60 days before public notice of a proposed land disposal  
10 is given under AS 38.05.345 and must include

11 (1) a statement of the terms and conditions under which the  
12 surface estate to the land will be offered for disposal to the public;

13 (2) a description of the parcels within the boundaries of  
14 the mining claim that will be offered to the public; and

15 (3) the requirements imposed by (a) of this section for the  
16 grant of a preference right under this section.

17 (c) An individual who claims a preference right under this section  
18 shall provide the necessary proof to assert the preference right within  
19 90 days after the notice under (b) of this section is sent to him by  
20 the department.

21 (d) The director shall either grant or reject a preference right  
22 claimed under this section not later than 15 days before the date set  
23 for disposal of the land to the public. If the preference right is  
24 granted, the holder of the preference right may purchase the parcel for  
25 either the high bid received by the department at the public auction or  
26 under the terms and conditions to be offered to the public if the land  
27 is disposed of by a method other than by public auction. If a deposit  
28 is required, the claimant shall deposit five percent of the appraised  
29 fair market value of the parcel, and if the holder of the preference

1 right fails to sign the contract of sale within 30 days after it is  
2 sent to him by the department the deposit shall be forfeited.

3 (e) If a mining claim is held jointly by two or more individuals,  
4 the individuals may not exercise the preference right provided in this  
5 section unless they either jointly exercise the preference right or  
6 agree in writing which of them is entitled to exercise the preference  
7 right.

8 (f) An individual may exercise a preference right under this  
9 section only one time during his lifetime.

10 (g) In this section,

11 (1) "individual" means a natural person; and

12 (2) "mining claim" means a mining property established under  
13 AS 38.05.185 - 38.05.280 and does not include a mineral lease or permit  
14 for the extraction of minerals or resources under AS 38.05.135 -  
15 38.05.184.

16 \* Sec. 19. AS 38.05.065(b) is amended to read:

17 (b) The contract of sale for land sold under this chapter [THE  
18 PROCEDURES SPECIFIED IN AS 38.05.057 (LOTTERY DISPOSALS)] shall require  
19 the remainder of the purchase price be paid in monthly, quarterly, or  
20 annual installments over a period of not more than 20 years. The con-  
21 tract of sale must provide that the interest on the unpaid principal  
22 is calculated for payment of the installments in advance and that the  
23 interest accrues beginning 30 days after the purchaser receives the  
24 contract from the department for his execution. Installment payments  
25 plus interest shall be set on the level-payment basis. The interest  
26 rate to be charged on installment payments is the prevailing rate for  
27 real estate mortgage loans made by the federal land bank for the farm  
28 credit district for Alaska at the time the contract is signed.

29 \* Sec. 20. AS 38.05.065(c) is amended to read:

1 (c) The commissioner [DIRECTOR] shall, for contracts under [(a)  
2 OR] (b) of this section, set for each sale the period for the payment  
3 of installments and the total purchase price plus interest. The  
4 [DIRECTOR, WITH THE CONSENT OF THE] commissioner [,] may also include  
5 in contracts under this section conditions, limitations and terms which  
6 he considers necessary and proper to protect the interest of the state.  
7 The contract of sale shall be on a form approved by the attorney general  
8 and shall be signed by the purchaser and the commissioner on behalf of  
9 the state. The purchaser shall sign and return the contract of sale not  
10 later than 30 days after he receives the contract from the commissioner.  
11 The commissioner shall sign the contract within 30 days after receiving  
12 the contract from the purchaser. If the purchaser fails to sign a con-  
13 tract of sale containing the terms and conditions recited in the  
14 receipt, the deposit made by the purchaser shall be retained by the  
15 commissioner as liquidated damages to repay the state for the cost of  
16 selling the land to another purchaser. Violations of any provision of  
17 this chapter or the terms of the contract of sale subject the purchaser  
18 to appropriate administrative and legal action, including but not  
19 limited to specific performance, foreclosure, ejection, or other legal  
20 remedies in accordance with applicable state law.

21 \* Sec. 21. AS 38.05.069(c) is amended by adding a new paragraph to read:

22 (6) the holder of a grazing lease on state land has a  
23 preference to purchase an interest in that land for agricultural  
24 purposes offered under this subsection for the amount of the high bid  
25 received at public auction; the preference allowed under this paragraph  
26 extends only to an amount of the land leased for grazing purposes that  
27 is no larger than the largest parcel offered for disposal by the  
28 director within the boundaries of the grazing lease.

29 \* Sec. 22. AS 38.05.070 is amended by adding a new subsection to read:

1 (d) A grazing lease other than a negotiated grazing lease may not  
2 be issued for a period of less than 10 years.

3 \* Sec. 23. AS 38.05.070(b) is amended to read:

4 (b) The director, with the approval of the commissioner, shall  
5 determine the land to be leased and the limitations, conditions and  
6 terms of the lease. If the appraised value of the transaction is  
7 \$1,000 [\$250] a year or less the director may negotiate a lease without  
8 advertisement for a period not to exceed five years, and on the limita-  
9 tions, conditions and terms which he considers are in the best interests  
10 of the state.

11 \* Sec. 24. AS 38.05.077(a) is amended to read:

12 (a) The commissioner shall, under the procedures required by  
13 AS 38.05.300 and 38.05.305, classify state land which is suitable for  
14 disposal as remote parcels. The commissioner shall designate remote  
15 parcel selection areas consisting of land classified under this section.  
16 [THE COMMISSIONER SHALL SET THE NUMBER OF REMOTE PARCELS THAT MAY BE  
17 SELECTED IN EACH REMOTE PARCEL SELECTION AREA.] A remote parcel may  
18 not exceed 40 acres. [THE COMMISSIONER SHALL DETERMINE FOR EACH REMOTE  
19 PARCEL SELECTION AREA, THE AMOUNT OF LAND IN EACH REMOTE PARCEL THAT  
20 MAY BE USED FOR RESIDENTIAL PURPOSES. LAND WHICH MAY BE USED FOR  
21 RESIDENTIAL PURPOSES IN A REMOTE PARCEL MAY NOT BE LESS THAN TWO ACRES  
22 AND MAY NOT EXCEED FIVE ACRES.]

23 \* Sec. 25. AS 38.05.077(c) is amended to read:

24 (c) A person who qualifies under (g) of this section may apply  
25 [UNDER THE PROCEDURES SET OUT IN AS 38.05.057] to lease a remote parcel  
26 in a parcel selection area designated by the commissioner under (a) of  
27 this section if he has staked the exterior boundaries of the remote  
28 parcel in accordance with the parcel selection procedures established  
29 under (b) of this section during an entry period established by the

1 commissioner. A [EACH] person [WHO IS ENTITLED TO SELECT A REMOTE  
2 PARCEL] may enter a remote parcel selection [THE] area [FOR WHICH HE  
3 APPLIED] to stake the boundaries of a remote parcel. A person shall  
4 select a remote parcel in person and may not be represented by an  
5 attorney or agent.

6 \* Sec. 26. AS 38.05.077(d)(3) is amended to read:

7 (3) a rental payment shall be paid annually and shall be \$10  
8 for each acre in the remote parcel [\$150 A YEAR FOR FIVE ACRES OR LESS  
9 PLUS \$50 FOR EACH ACRE BY WHICH THE REMOTE PARCEL EXCEEDS FIVE ACRES].

10 \* Sec. 27. AS 38.05.077 is amended by adding a new subsection to read:

11 (g) To qualify to select a remote parcel under this section, a  
12 person shall

13 (1) at the time of application have attained the age of 18;

14 (2) submit proof, as required by regulation, that he has  
15 been a resident of the state for not less than one year immediately  
16 preceding the date his application was submitted; and

17 (3) certify that he has not leased a remote parcel in the  
18 state within eight years immediately preceding the date of selection of  
19 a remote parcel.

20 \* Sec. 28. AS 38.05.078(a) is amended to read:

21 (a) A lessee of a remote parcel may purchase [THE LAND USED FOR  
22 RESIDENTIAL PURPOSES IN] a remote parcel if, before the expiration of  
23 the lease or a renewal of the lease, he

24 (1) pays a deposit to the commissioner equal to five percent  
25 of the fair market value of the land as determined under (c) of this  
26 section;

27 (2) surveys the [RESIDENTIAL] land, and

28 (3) erects a habitable dwelling on the land.

29 \* Sec. 29. AS 38.05.078(c) is amended to read:

1 (c) A lessee of a remote parcel may purchase land in a remote  
2 parcel under the terms specified in AS 38.05.065(b). The purchase  
3 price of land sold under this section shall be its fair market value as  
4 determined by the commissioner. The valuation date for determining the  
5 fair market value of land sold under this section is the date that the  
6 remote parcel lease was first executed by the lessee who purchases the  
7 land [PLAT OF SURVEY IS APPROVED BY THE COMMISSIONER].

8 \* Sec. 30. AS 38.05.078 is amended by adding new subsections to read:

9 (g) If a person selects a remote parcel in good faith but includes  
10 land in his parcel which was previously claimed by another person eli-  
11 gible to select a remote parcel, the commissioner shall approve that  
12 part of the later selection which does not conflict with the earlier  
13 selection and allow the person to select additional land in the remote  
14 parcel selection area.

15 (h) If a person selects a remote parcel in good faith but in-  
16 cludes land in his parcel which is outside the remote parcel selection  
17 area, the commissioner shall either disapprove the selection of land  
18 outside the remote parcel selection area and allow the person to select  
19 additional land in the remote parcel selection area or he may approve  
20 the selection of the land outside the remote parcel selection area.

21 \* Sec. 31. AS 38.05.082(a) is amended to read:

22 (a) The director, with the approval of the commissioner, may  
23 lease riparian, tide, and submerged lands for fisheries development.  
24 Fisheries development includes the utilization of shore gill nets or  
25 set nets for the taking of fish. Each [EVERY] lease issued under this  
26 section shall reserve to the public a right-of-way for access to navi-  
27 gable waters and other tide and submerged lands.

28 \* Sec. 32. AS 38.05 is amended by adding new sections to read:

29 Sec. 38.05.083. CLASSIFICATION AND USE OF GRAZING LEASE LAND.

1 (a) The commissioner shall classify as grazing land all state land  
2 leased for grazing and all state land which has been inventoried under  
3 AS 38.04.060 and found most suitable for grazing.

4 (b) A lessee of state grazing land shall prepare and submit to  
5 the department for approval a range conservation and development plan.

6 (c) A lessee of state grazing land may grow and harvest crops on  
7 the leased land for his own needs. The commissioner may issue regu-  
8 lations authorizing the sale of crops grown on land in a grazing lease  
9 if the sale of the crops is incidental to the use of the land for  
10 grazing livestock.

11 Sec. 38.05.101. RENEWAL OF GRAZING LEASE. At the expiration of a  
12 grazing lease under AS 38.05.070 - 38.05.100 the commissioner shall  
13 review the classification of the land in the leasehold. If the com-  
14 missioner determines that the land should remain available for lease  
15 for grazing, the lessee may renew the lease for at least 10 years if he  
16 has complied with the terms of the original lease.

17 \* Sec. 33. AS 38.05.095(a) is amended to read:

18 (a) A [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, A] lessee may  
19 sublease or assign the land or portion of it upon which he has a lease  
20 if, after application to the director, the director issues a permit.  
21 The director may issue a permit if he finds that it is in the best  
22 interest of the state to do so.

23 \* Sec. 34. AS 38.05.127 is amended by adding new subsections to read:

24 (d) Notwithstanding the requirements of (a) and (b) of this sec-  
25 tion, the director may, at the request of a municipality having platting  
26 powers, patent land to the municipality to satisfy a general grant land  
27 entitlement under AS 29.18 without reserving public access to navigable  
28 or public waters if, before the municipality sells, leases, grants, or  
29 otherwise disposes of an interest in the land, the municipality

1 (1) determines whether the land to be offered for disposal  
2 contains navigable or public waters, and

3 (2) provides for reservation of easements or rights-of-way,  
4 or both, reasonably necessary to insure free access to and along a body  
5 of water determined to be navigable or public.

6 (e) A municipality may limit, vacate, or modify an easement for  
7 public access to navigable or public waters contained in municipal land  
8 conveyed to the municipality by the department under AS 29.18 if the  
9 municipality determines that the limitation, vacation, or modification  
10 of the easement for public access is necessary for the protection of  
11 other beneficial uses or public purposes.

12 (f) A determination or reservation under (d)(1) and (2) of this  
13 section or a limitation, vacation, or modification of an easement for  
14 public access under (e) of this section shall be made by the assembly,  
15 council, or other municipal agency or officer designated by the assembly  
16 or council to act on its behalf. Before the assembly, council, municipi-  
17 pal agency, or officer takes an action under (d)(1), (2), or (e) of  
18 this section, a public hearing shall be held. Notice of the hearing  
19 shall be delivered to the commissioner not less than two weeks before  
20 the hearing. The commissioner may overrule an action taken by a municipi-  
21 pality under (d)(1), (2), or (e) of this section by notifying the  
22 municipality of his decision within 30 days after the assembly, council,  
23 municipal agency, or officer makes a determination to reserve a right-  
24 of-way or limit or restrict public access to municipal land. If the  
25 commissioner fails to overrule the action of the municipality within  
26 the 30-day period, the action of the municipality is approved by the  
27 commissioner.

28 (g) Management authority over navigable waters, public waters,  
29 easements and rights-of-way reserved or designated by the department in

1 a conveyance to a municipality, including the power to vacate or other-  
2 wise modify those easements or rights-of-way, remains with the depart-  
3 ment unless exercise of all or a part of that authority has been offered  
4 to and accepted by the municipality to which the land is conveyed.

5 (h) Management authority over easements and rights-of-way reserved  
6 by a municipality under this section remains with the municipality.

7 (i) Upon application by a municipality, the department may vacate  
8 or release, under the procedures specified in (d) and (f) of this sec-  
9 tion, easements and rights-of-ways for public access to or along navi-  
10 gable or public waters reserved by the department in a patent issued  
11 under AS 29.18 before the effective date of this section or for which  
12 the first public notice of the proposed conveyance was given before the  
13 effective date of this section.

14 \* Sec. 35. AS 38.05.305(c) is repealed and reenacted to read:

15 (c) A public notice of an action for which notice or review is  
16 required under this section shall be published as provided in AS 38.05.  
17 345. The notice shall include the date and time of any public hearing  
18 and the closing date for the receipt of comments in writing from the  
19 public and the address to which the comments may be directed.

20 \* Sec. 36. AS 38.05.315(b) is amended to read:

21 (b) Notwithstanding AS 38.05.070 - 38.05.080 and [,] 38.05.095,  
22 [AND AS 38.05.100 OF THIS CHAPTER] the director, upon application filed  
23 by an applicant eligible under (b) - (d) of this section, may, by nego-  
24 tiation and without public auction in the manner prescribed in (b) -  
25 (d) of this section, lease state land for a term of not more than 55  
26 years. Before leasing, the director shall prepare a land use plan and  
27 a land classification to insure that the proposed use is compatible  
28 with area utilization. Before the land may be leased under (b) - (d)  
29 of this section, it must be shown to the satisfaction of the director

1 that the land is to be used for an established or definitely proposed  
2 project, and that the eligible applicant has the financial ability to  
3 carry out the project. The commissioner may establish limitations on  
4 the acreage which may be leased under (b) - (d) of this section to an  
5 applicant.

6 \* Sec. 37. AS 38.05.315(d) is amended to read:

7 (d) The director may lease the land to an eligible applicant at a  
8 reasonable annual rental, taking into consideration the purposes for  
9 which the land is to be used and the financial resources of the appli-  
10 cant. The [, BUT IN NO CASE MAY THE] rental may not be less than one  
11 percent of the fair market value on lands acquired primarily for  
12 development, or less than five percent of the fair market value on  
13 [SCHOOL,] university [, MENTAL HEALTH,] or acquired lands, except that  
14 an eligible applicant is exempt from the payment of annual rent on state  
15 land leased for a youth encampment as defined by the commissioner by  
16 regulation. Renewal leases may be issued at the discretion of the  
17 director upon the expiration of a primary or renewal term. Each lease  
18 shall contain a provision for its termination as to all or part of the  
19 lands upon a finding by the director that the land or a part of it has  
20 not been used by the lessee for the purpose specified in the lease for  
21 a period of two years. No lease may be assigned or subleased except  
22 with the consent of the director, and in any case may only be trans-  
23 ferred to an applicant eligible under (b) - (d) of this section. A  
24 lessee may not change the use specified in the lease to another or  
25 additional use except with the consent of the director. If, at any  
26 time after the land is leased, the lessee attempts to assign the lease  
27 or transfer control over the land to another, or if the land is devoted  
28 to a use other than that for which the land was leased without the  
29 consent of the director, the lease automatically terminates.

1 \* Sec. 38. AS 38.05.330(a) is amended to read:

2 (a) The director, without the prior approval of the commissioner,  
3 may issue permits, rights-of-way or easements on state land for solid  
4 waste disposal sites, grazing, roads, trails, ditches, field gathering  
5 lines or transmission and distribution pipelines not subject to AS 38.-  
6 35, telephone or electric transmission and distribution lines, log  
7 storage, oil well drilling sites and production facilities for the pur-  
8 poses of recovering minerals from adjacent lands under valid lease, and  
9 other similar uses or improvements, or for the limited personal use of  
10 timber or materials. The commissioner, upon recommendation of the  
11 director, shall establish a reasonable rate or fee schedule to be  
12 charged for these uses, subject to the exception for nonprofit coopera-  
13 tive associations specified in (b) of this section. In the granting,  
14 suspension or revocation of a permit or easement of lands, the director  
15 shall give preference to that use of the land which will be of greatest  
16 economic benefit to the state and the development of its resources.  
17 However, first preference shall be granted to the upland owner for the  
18 use of a tract of tideland, or tideland and contiguous submerged land,  
19 which is seaward of the upland property of the upland owner and which  
20 is needed by the upland owner for any of the purposes for which the use  
21 may be granted.

22 \* Sec. 39. AS 38.05.345(a) is amended to read:

23 Sec. 38.05.345. PUBLICATION OF NOTICES. (a) Publication of  
24 public [PUBLIC] notice of a sale, lease or other disposal of land or  
25 interest in it when required by statute shall be substantially as  
26 follows.

27 \* Sec. 40. AS 38.05.345(b) is amended to read:

28 (b) Notice of a public auction shall be published once a week for  
29 four consecutive weeks preceding the time of sale stated in the notice,

1 in newspapers of general circulation in the state and by the electronic  
2 media covering the region of the state in which the land is located.  
3 If there is no newspaper of general circulation in the vicinity of the  
4 land offered for sale, notices shall be posted not later than four  
5 weeks before the public auction is to be held in three public places  
6 near the land to be sold or leased. The public auction shall be held  
7 not less than 45 days after publication of the first notice and not  
8 more than five weeks following the last appearance of the published  
9 notice.

10 \* Sec. 41. AS 38.05.345 is amended by adding a new subsection to read:

11 (h) Notice of a disposal of land or interest in land other than a  
12 public auction under (b) of this section or a disposal under (e) of  
13 this section shall be by publication for three consecutive weeks in a  
14 newspaper of general circulation in the state or a newspaper circulated  
15 in the vicinity of the proposed land disposal.

16 \* Sec. 42. AS 38.08.010(b) is amended to read:

17 (b) Land classified as homesite entry land shall be divided into  
18 parcels not exceeding five acres in reasonably compact form, with  
19 boundaries conforming as nearly as practicable to natural geologic and  
20 topographic features. However, a parcel may exceed five acres if a  
21 municipal ordinance or a regulation adopted by the Department of  
22 Environmental Conservation requires larger parcels to prevent water  
23 pollution.

24 \* Sec. 43. AS 38.08.040(b) is amended to read:

25 (b) If the number of applicants qualified for homesite entry  
26 exceeds the number of available homesites offered, or if several appli-  
27 cants apply and qualify for the same homesite, priority in award of an  
28 entry permit shall be accorded to that applicant showing proof of the  
29 longest residency in the state. An applicant shall present his proof of

1 residency to the department in person at the time and place designated  
2 by the director.

3 \* Sec. 44. AS 41.10.040 is amended to read:

4 Sec. 41.10.040. SOIL CONSERVATION BOARD. The district is governed  
5 by the Alaska Soil Conservation Board composed of five [THREE] members.

6 \* Sec. 45. AS 41.10 is amended by adding a new section to read:

7 Sec. 41.10.115. DUTIES OF BOARD. The board shall

8 (1) receive and review reports concerning the use of soil  
9 resources in the state;

10 (2) hold public hearings and meetings to determine if land  
11 in the state is being used in a manner consistent with sound soil  
12 conservation practice;

13 (3) furnish the commissioner of natural resources with re-  
14 ports of findings and make recommendations for specific action necessary  
15 to provide for the effective and orderly development of farming and  
16 grazing land in the state; and

17 (4) meet at the request of the commissioner of natural re-  
18 sources to advise him in the exercise of his powers, duties and func-  
19 tions.

20 \* Sec. 46. AS 41.17 is amended by adding a new section to read:

21 Sec. 41.17.125. ACQUISITION OF TIMBER RIGHTS. (a) If requested  
22 by the commissioner of fish and game, the commissioner of natural re-  
23 sources may acquire for the state the right to cut and remove timber  
24 from private forest land if

25 (1) the timber is on land which is adjacent to a river,  
26 lake, or stream specified under AS 16.05.870 as important to the spawn-  
27 ing, rearing, or migration of anadromous fish;

28 (2) the commissioner of fish and game finds that the timber  
29 cutting would be hazardous to the spawning, rearing or migration of

1        anadromous fish; and

2                    (3) the owner of the timber agrees to convey to the state  
3 his right to cut and remove the timber for a term of not less than 30  
4 years or more than 150 years, which term shall be the period required  
5 for regrowth of the timber after cutting as determined by the commis-  
6 sioner of natural resources based on site and soil characteristics and  
7 comparable periods for regrowth of timber in adjacent areas or in other  
8 areas with similar geography and climate.

9                    (b) The consideration offered for timber cutting rights under  
10 this section shall equal the fair market value of the timber cutting  
11 rights as determined by the commissioner of natural resources and the  
12 owner of the timber, or if they cannot agree, then the fair market  
13 value shall be determined by a third person selected by both parties.

14                    (c) The commissioner of fish and game shall regularly, or when  
15 requested by the owner of the land or by the grantor of the timber  
16 cutting rights or his heirs, reevaluate the importance of the adjacent  
17 waters for, or the hazardous nature of cutting timber acquired under  
18 this section to, the spawning, rearing, or migration of anadromous  
19 fish. If, upon reevaluation, the commissioner of fish and game deter-  
20 mines that the timber cutting activity is no longer hazardous to the  
21 spawning, rearing, or migration of anadromous fish or that the adjacent  
22 waters are no longer important to the spawning, rearing or migration of  
23 anadromous fish, the former owner of the timber is entitled to re-  
24 purchase the timber cutting rights from the Department of Natural  
25 Resources for an amount equal to the value paid by the Department of  
26 Natural Resources for the timber cutting rights with annual interest at  
27 a reasonable rate as determined by the commissioner of natural re-  
28 sources.

29                    (d) The commissioner of natural resources may acquire privately

1 owned timber cutting rights under this section by

- 2 (1) paying money;
- 3 (2) exchanging state land or an interest in state land;
- 4 (3) purchasing private or public land to exchange that land  
5 for the timber rights; and
- 6 (4) using any combination of the methods described in (1) -  
7 (3) of this subsection.

8 (e) The commissioner of natural resources shall

- 9 (1) advise the commissioner of fish and game on the perfor-  
10 mance of his duties under this section;
- 11 (2) at least 120 days before the acquisition of timber cut-  
12 ting rights under this section, determine the consideration to be paid  
13 for those rights; and
- 14 (3) give public notice of the proposed exchange of state  
15 land in the manner specified in AS 38.05.345 for the sale of state land  
16 by public auction.

17 (f) AS 38.50 does not apply to an exchange of state land under  
18 this section.

19 (g) If the value of a proposed acquisition of privately owned  
20 timber cutting rights under (d) of this section exceeds \$1,000,000, the  
21 timber cutting rights may not be acquired until acquisition is approved  
22 by the legislature by concurrent resolution.

23 (h) This section does not authorize a state department or agency  
24 to exercise the power of eminent domain to acquire land or timber cut-  
25 ting rights for the protection of waters important to the spawning or  
26 migration of anadromous fish.

27 (i) In this section,

28 (1) "owner of the timber" means a person who owns the right  
29 to cut or harvest standing timber that may be acquired under this sec-

1 tion even if the person holds no other interest in the land on which  
2 the timber is located;

3 (2) "timber cutting rights" or "right to cut or harvest  
4 timber" means an assignable license together with an interest in the  
5 standing timber held by the owner of the timber which allows the owner  
6 of the timber or his assignee to enter upon the land on which the  
7 timber is located to cut and remove the timber of commercial value.

8 \* Sec. 47. AS 38.05.065(a), 38.05.077(b)(2), 38.05.078(b) and (d)(1);  
9 and AS 41.10.100 are repealed.

10 \* Sec. 48. AS 38.05.095(b) and 38.05.097 are repealed.

11 \* Sec. 49. 11 AAC.53.450(c) is annulled.

12 \* Sec. 50. A person who selected a remote parcel or acquired a right to  
13 select a remote parcel before July 1, 1980, is entitled to convert his  
14 remote parcel lease agreement to a new lease agreement which contains terms  
15 and conditions consistent with AS 38.05.077(a) and (d)(3), 38.05.078(a) and  
16 (c) and the repeal of AS 38.05.078(b) and (d)(1) enacted in secs. 24, 26,  
17 28, 29, and 47 of this Act. The commissioner of natural resources shall  
18 prepare and distribute new lease forms to persons described in this section.

19 \* Sec. 51. The governor is requested to appoint two additional members  
20 to the Alaska Soil Conservation Board by October 1, 1981. The initial terms  
21 of the additional members shall be two and three years respectively.

22 \* Sec. 52. (a) The commissioner of natural resources may not dispose of  
23 state land before July 1, 1981, if

24 (1) the land is occupied on the effective date of this section by  
25 a person who does not have the right to own or possess the land; and

26 (2) a permanent dwelling has been constructed on the state land  
27 which is the permanent and principal place of abode of a person described in  
28 (1) of this subsection who has continuously resided in the dwelling since  
29 January 1, 1978.

1 (b) The Department of Natural Resources shall, before January 15,  
2 1981, prepare and submit a report to the First Session of the Twelfth  
3 Legislature. The report shall describe state land which is occupied by  
4 persons who are doing so without the right to own or possess the land. The  
5 report shall include findings concerning the reasons for the initial un-  
6 authorized use of the state land and recommendations for legislation to  
7 resolve the problems in the best interest of the state and the persons who  
8 occupy the state land.

9 \* Sec. 53. Sections 33, 36, 37, and 48 of this Act are retroactive to  
10 July 1, 1978.

11 \* Sec. 54. Section 29 of this Act is retroactive to July 1, 1979.

12 \* Sec. 55. Sections 1, 3, 5 - 17, 19 - 28, 30, 31, 32, 35, 38 - 47, 50,  
13 and 51 of this Act take effect July 1, 1981.

14 \* Sec. 56. Sections 2, 4, 18, 29, 33, 34, 36, 37, 48, 49, and 52 - 54 of  
15 this Act take effect immediately in accordance with AS 01.10.070(c).  
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