

Original sponsor: Kerttula

Offered: 5/5/82  
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 525 (Finance) am H

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

9 \* Section 1. AS 38.05.057(c) is amended to read:

10 (c) The commissioner may adopt regulations under the Administra-  
11 tive Procedure Act (AS 44.62) which specify qualifications for lottery  
12 participants in addition to [DIFFERENT FROM] those specified in (b) of  
13 this section if

14 (1) an interest in land limited to agricultural purposes is  
15 to be sold under (a) of this section;

16 (2) the sale is a part of a program to develop agricultural  
17 land as a renewable resource of the state; and

18 (3) the regulations include residency, skill, experience, and  
19 financial requirements necessary to qualify persons who are competent  
20 and financially able to develop the land as a successful agricultural  
21 enterprise.

22 \* Sec. 2. AS 38.05 is amended by adding a new section to read:

23 Sec. 38.05.061. SALE FOR LESS THAN MARKET VALUE. If a bid is not  
24 received for or in excess of the advertised appraised market value at a  
25 public sale by auction of land, the director shall immediately solicit  
26 bids for less than the advertised appraised market value. The notice  
27 for the public sale by auction shall state that bids for less than  
28 advertised appraised market value will be solicited and may be accepted  
29 at the public sale by auction if a bid for or in excess of appraised

1 market value is not received. Subject to AS 38.05.060, a bid received  
2 for less than the advertised appraised market value under this section  
3 may be rejected only if the director makes a public determination that

4 (1) there was substantial difficulty in establishing fair  
5 market value for the land;

6 (2) there was a substantial lack of competitive offers for or  
7 public interest in the land; or

8 (3) the bid amount is less than the costs incurred by the  
9 department for the disposal of the parcel of land.

10 \* Sec. 3. AS 38.05.065(b) is amended to read:

11 (b) The contract of sale for land sold under AS 38.05.057 and under  
12 AS 38.05.078 shall require the remainder of the purchase price to be paid  
13 in monthly, quarterly, or annual installments over a period of not more  
14 than 20 years. Installment payments plus interest shall be set on the  
15 level-payment basis. The interest rate to be charged on installment  
16 payments is the prevailing rate for real estate mortgage loans made by  
17 the federal land bank for the farm credit district for Alaska at the  
18 time the contract is signed or nine percent, whichever is less.

19 \* Sec. 4. AS 38.05.310(a) is amended to read:

20 (a) Land [NO LAND] may not be sold or leased and [, OR] a renewal  
21 lease may not be issued, except in the case of an oil or gas or mineral  
22 lease, unless it has been appraised within one year [120 DAYS] before  
23 the date fixed for the sale or lease. When land is offered at public  
24 sale by auction but is not sold and is available at private sale, a [NO]  
25 reappraisal is not required unless the director considers that a change  
26 in value of the land [LANDS] may have occurred. A grazing lease may be  
27 granted to a lessee of federal grazing land [LANDS] without prior apprai  
28 sal, if his federal lease was cancelled to allow the state to select the  
29 land [LANDS] under lease. Land [NO LAND] may not be sold or leased for

1 less than the approved, appraised market value, except as provided in  
2 AS 38.05.315, 38.05.320, 38.05.075 - 38.05.080, [38.05.057, 38.05.075 -  
3 38.05.085 AND] 38.05.097, or 38.05.061.

4 \* Sec. 5. AS 38 is amended by adding a new chapter to read:

5 CHAPTER 09. HOMESTEAD ENTRY.

6 Sec. 38.09.010. HOMESTEAD ENTRY. (a) The director may designate  
7 and make available for homestead entry under this chapter state land  
8 available

9 (1) under AS 38.05.057; or

10 (2) under AS 38.05.077 unless the director determines that  
11 the land is more suitable for recreational or residential use.

12 (b) A homestead entry made under AS 38.05.057 may not exceed 320  
13 acres.

14 (c) A homestead entry made under AS 38.05.077 may not exceed 160  
15 acres.

16 (d) A person who has applied for or received state land under this  
17 chapter is not eligible for a loan under AS 03.10 for the habitable  
18 dwelling or the clearing of the land required under AS 38.09.040.

19 Sec. 38.09.020. QUALIFICATIONS FOR HOMESTEAD ENTRY. A person is  
20 qualified to apply for a homestead entry under this chapter if the  
21 person is

22 (1) qualified under AS 38.05.057 to participate in the dis-  
23 posal of land by lottery; or

24 (2) qualified under AS 38.05.077 to make an entry under the  
25 remote parcel disposal procedures.

26 Sec. 38.09.030. APPLICATION FOR HOMESTEAD ENTRY. (a) A person  
27 who has staked the exterior boundaries of a homestead entry under AS 38.  
28 05.077 and a person who has been selected to purchase land designated  
29 for homestead entry by lottery shall apply for the homestead entry on a

1 form prepared by the department.

2 (b) The department may charge a fee for filing an application  
3 under this chapter.

4 (c) A person who within the eight years immediately preceding the  
5 date of the application under (a) of this section has leased a remote  
6 parcel from the state or applied for a homestead entry under this chapter  
7 is not eligible for land under this chapter.

8 (d) A person who has obtained more than 15 acres of state land is  
9 not eligible for land under this chapter.

10 Sec. 38.09.040. PATENT FOR HOMESTEAD ENTRY. (a) A person who has  
11 made a homestead entry under this chapter and filed an application under  
12 AS 38.09.030(a) is entitled to a patent if, within seven years from the  
13 date of application, the applicant

14 (1) occupies the land for a total of 35 months;

15 (2) erects a habitable dwelling;

16 (3) clears and prepares for cultivation not less than one-  
17 fourth of the land entered if the land is limited to agricultural use  
18 except that the commissioner may substitute a development plan in place  
19 of the clearing requirement if the commissioner determines that clearing  
20 of the land is inappropriate;

21 (4) brushes the boundaries of the homestead entry and main-  
22 tains the brushed boundaries so that they are easily visible from the  
23 ground;

24 (5) causes a survey of the homestead entry to be made that is  
25 acceptable to the director.

26 (b) The director shall require an applicant for homestead entry to  
27 submit proof necessary to establish compliance with the requirements of  
28 (a) of this section. An applicant is not required to submit proof under  
29 (a)(4) or (5) of this section if the land comprising the homestead entry

1 has been surveyed.

2 (c) As used in this section, "habitable dwelling"

3 (1) means a permanent dwelling of not less than 400 square  
4 feet and its fixtures and facilities;

5 (2) does not include a mobile home unless it is permanently  
6 attached to a permanent foundation.

7 Sec. 38.09.050. HOMESTEAD APPLICATION VOID. An application for  
8 homestead entry and the interest of the applicant under the homestead  
9 entry is void if the applicant fails to comply with a requirement of  
10 AS 38.09.040(a). On the request of the director, the attorney general  
11 shall bring an action to declare the homestead entry void and, if neces-  
12 sary, to eject the homestead applicant.

13 \* Sec. 6. AS 38.04.020(g) (3) is amended to read:

14 (3) Land designated agricultural, commercial, industrial, or  
15 suitable for other disposal may [SHALL] be sold under AS 38.05.055 or  
16 38.05.057. Land designated agricultural or suitable for disposal other  
17 than as commercial or industrial may be sold under AS 38.05.077.

18 \* Sec. 7. AS 38.04.021(a) is amended to read:

19 Sec. 38.04.021. DISPOSAL OF MUNICIPAL [GRANT] LAND [ENTITLEMENTS].  
20 (a) A municipality may apply for financial assistance for the execution  
21 of a land disposal program [OF GENERAL GRANT LAND ENTITLEMENTS RECEIVED  
22 FROM THE STATE UNDER AS 29.18.201 - 29.18.213] by submitting a request  
23 to the commissioner for inclusion in the request submitted to the legis-  
24 lature under AS 38.04.020(e). A municipality may request financial  
25 assistance for expenses of surveying land, designing subdivision plats,  
26 installing improvements required by municipal ordinance or regulation of  
27 the local platting board, and other reasonable direct costs of land  
28 disposal.

29 \* Sec. 8. AS 38.05.057(a) is amended to read:

1 (a) The commissioner may dispose of land, including land limited  
2 to use for agricultural purposes, by lottery. The purchase price of  
3 land sold by lottery shall be the fair market value of the land as  
4 determined by the commissioner. The commissioner may sell land by  
5 lottery for less than the fair market value of the land if he determines  
6 that scarcity of land for private use in the area of the land to be sold  
7 has resulted in unrealistic land values. Before the commissioner deter-  
8 mines the purchase price for land which is located in a municipality and  
9 which is to be sold under this section, he shall consult with the  
10 assessor of the municipality. The lottery shall be conducted in public  
11 by the commissioner or his representative. An applicant may not be  
12 selected to purchase land unless he is present on the date and at the  
13 place that the lottery is conducted unless medical reasons, attendance  
14 at school, or military service [OUTSIDE THE STATE] prevent attendance.  
15 [AN APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE LOTTERY  
16 IF THE LAND OFFERED FOR SALE IS COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL  
17 LAND.] On the day of the lottery a purchaser selected by lot shall  
18 deposit an amount equal to five percent of the purchase price, or if the  
19 purchaser elects to use land discounts granted under AS 38.05.058, five  
20 percent of the purchase price after deduction of the discount. If the  
21 land is designated for homestead entry, the applicant selected by lottery  
22 for homestead entry must file an application under AS 38.09.030(a).

23 \* Sec. 9. AS 38.05.077(a) is amended to read:

24 (a) The commissioner shall designate remote parcel selection areas  
25 and shall dispose of remote parcels in accordance with AS 38.04.020.  
26 The commissioner may set the number of remote parcels that may be  
27 selected in each remote parcel selection area. A remote parcel may be  
28 purchased under AS 38.05.078 or an applicant may receive a patent to a  
29 remote parcel under AS 38.09. A remote parcel purchased under AS 38.05.-

1 078 may not exceed 40 acres. A remote parcel acquired under AS 38.09.-  
2 may not exceed 160 acres.

3 \* Sec. 10. AS 38.05.077(b) is amended to read:

4 (b) The commissioner may designate remote parcel selection areas  
5 where staking will be restricted to aliquot parts when parcels are 40  
6 acres or larger and shall prescribe parcel selection procedures for each  
7 remote parcel selection area designated under (a) of this section. The  
8 parcel selection procedures shall include

9 (1) the maximum size of a remote parcel that may be selected  
10 in the parcel selection area;

11 (2) (repealed)

12 (3) the minimum distance between remote parcels in the parcel  
13 selection area;

14 (4) parcel dimensions, configuration, orientation and other  
15 parcel design requirements;

16 (5) a description of land within the area that may not be  
17 included in a parcel;

18 (6) a requirement that landmarks, monuments or other points  
19 be used as points of reference for the measurement of distances within  
20 an area; and

21 (7) specification for the type of stakes to use to mark the  
22 corners of a parcel.

23 \* Sec. 11. AS 38.05.077(d) is amended to read:

24 (d) Not later than 15 days after staking the exterior boundaries  
25 of a remote parcel, the person who staked the parcel shall file a sketch  
26 plat with the department which shows the location of the remote parcel.  
27 At the time of filing the sketch plat, the person who staked the parcel  
28 shall apply to lease the land or apply for homestead entry under AS 38.-

29 09. An application [TO LEASE THE LAND] shall be on a standard form

1 prepared by the department. The annual rental payment for the first  
2 year of the lease shall be submitted to the department with the applica-  
3 tion. After the application to lease a remote parcel is approved, the  
4 commissioner shall offer to lease the land to the person who staked the  
5 remote parcel. A lease granted under this section shall contain the  
6 following terms:

7 (1) a remote parcel may be leased for five years;

8 (2) a remote parcel lease may be renewed at the option of the  
9 lessee for a second five-year period under the same terms as provided  
10 for the first five-year period of the remote parcel lease;

11 (3) a rental payment shall be paid annually and shall be \$10  
12 for each acre;

13 (4) unless the land is surveyed, the lessee shall, within one  
14 year of approval of the lease application and continuously for the lease  
15 period, physically delineate the boundaries of the parcel by brushing a  
16 line so that they are readily visible from the ground.

17 \* Sec. 12. AS 38.05.077(1)(3) is amended to read:

18 (3) certify that the applicant [THE] has not previously  
19 leased a remote parcel from the state nor made application for a home-  
20 stead entry on state land within eight years immediately preceding the  
21 date of staking a remote parcel.

22 \* Sec. 13. AS 38.05.082(a) is amended to read:

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

29 \* Sec. 14. AS 03.10.030 is amended by adding a new subsection to read:

1 (g) A person who has received state land under AS 38.09 is not  
2 eligible for a loan under this chapter for improvements to that land  
3 before patent to that land has been received.

4 \* Sec. 15. AS 38.05.180 is amended by adding new subsections to read:

5 (aa) In order to achieve the purpose of this chapter, the commis-  
6 sioner shall require a person conducting geophysical exploration for oil  
7 or gas resources or drilling a stratigraphic test well on unleased state  
8 land to provide the commissioner with access to and copies of all un-  
9 interpreted exploration data acquired from these activities. The com-  
10 missioner shall pay all reasonable costs of reproducing the data. The  
11 commissioner shall keep confidential all uninterpreted exploration data  
12 submitted to the department under this subsection and any reproduction,  
13 analysis, processing, or interpretation of the uninterpreted exploration  
14 data prepared by the department or by a third party on behalf of the  
15 department which is based in whole or in part upon the uninterpreted  
16 exploration data. An employee, agent or contractor of the state, who  
17 knowingly and wilfully reveals uninterpreted exploration data or informa-  
18 tion that is required to be kept confidential under this subsection is  
19 guilty of a class B felony upon conviction. Each agent or contractor of  
20 the department who has access to uninterpreted exploration data or  
21 information derived from uninterpreted exploration data submitted under  
22 this subsection shall execute and post a bond in an amount determined by  
23 the commissioner. The bond shall be to the benefit of the state and the  
24 permittee. As used in this subsection, "uninterpreted exploration data"

25 (1) means

26 (A) field data that has been initially processed and is  
27 ready for geologic and geophysical analysis;

28 (B) data that corresponds to the data that a geophysical  
29 contractor would provide participants in a group seismic survey; and

1 (2) includes associated material necessary to locate, identify,  
2 analyze, or interpret the field data.

3 (bb) Persons required to provide copies of uninterpreted exploration  
4 data under (aa) of this section are entitled to compensation not to  
5 exceed the state's pro rata share of the actual costs of acquisition,  
6 processing and reproduction of the data submitted. Persons entitled to  
7 compensation under this subsection shall provide the commissioner with  
8 documentation justifying these costs. The commissioner may provide for  
9 credits, in lieu of cash payments, which may be applied against (1) oil  
10 and gas royalty and rental payments payable to the state or (2) taxes  
11 payable under AS 43.55.011 - 43.55.150. Credits may be used during a  
12 limited period established by the commissioner and may be assigned  
13 during that period. No credit may exceed 50 percent of the payment  
14 toward which it is being applied. Amounts due the Alaska permanent fund  
15 (AS 37.10.065) and the Alaska renewable resources development fund  
16 (AS 37.11.020) shall be calculated before the application of credits  
17 under this subsection.

18 \* Sec. 16. AS 38.05.180(aa) added by sec. 15 of this Act applies to un-  
19 interpreted data acquired from geophysical surveys that were commenced on  
20 unleased state land on or after January 1, 1982.

21 \* Sec. 17. The purpose of secs. 17 - 21 of this Act is to provide for the  
22 settlement of certain claims and litigation and to transfer legal title and  
23 management of university-grant lands from the Department of Natural Resources  
24 to the Board of Regents of the University of Alaska.

25 \* Sec. 18. Nothing in secs. 17 - 21 of this Act precludes or prejudices  
26 negotiations between the Municipality of Anchorage and the University of  
27 Alaska to settle Case Number 3AN-79-2801 Civil, Third Judicial District, State  
28 of Alaska or prejudices or otherwise affects the pursuit or outcome of that  
29 litigation or diminishes or affects the rights or interests of the University

1 of Alaska or the Municipality of Anchorage in that pending litigation.

2 \* Sec. 19. The commissioner of natural resources is authorized and  
3 directed to convey to the Board of Regents of the University of Alaska all  
4 rights, title, and interest of the State of Alaska in and to those university-  
5 grant lands identified in Appendices E and N in the document entitled  
6 "Settlement Agreement Between the Department of Natural Resources, the  
7 Department of Revenue, and the Department of Administration and the University  
8 of Alaska and the Board of Regents, as Trustees for the University of Alaska,"  
9 which was submitted to the Alaska State Legislature on March 26, 1982 (the  
10 date of the introduction of Senate Bill No. 875 (Twelfth Legislature)), the  
11 terms of which are hereby ratified as to the duties and obligations of the  
12 State of Alaska and the Board of Regents of the University of Alaska. How-  
13 ever, the compensation due the university is subject to further appropriation  
14 by the 1983 legislature.

15 \* Sec. 20. AS 14.40.170(a)(4) is amended to read:

16 (4) have the care, control and management of all the real and  
17 personal property of the university, including the management of those  
18 university-grant lands conveyed to the Board of Regents of the University  
19 of Alaska under sec. 19 of House Committee Substitute for House Bill  
20 No. 525 (Finance) am H or bills passed by the Twelfth Legislature and  
21 enacted into law in accordance with the purposes provided for by the Act  
22 of March 4, 1915 (38 Stat. 1214), as amended, and the Act of January 21,  
23 1929 (45 Stat. 1091), as amended;

24 \* Sec. 21. AS 14.40.170(a) is amended by adding a new paragraph to read:

25 (7) adopt reasonable rules providing for prudent trust manage-  
26 ment and providing for adequate public notice of all sales, leases,  
27 exchanges or other dispositions of university-grant lands or interests  
28 in university-grant lands.

29 \* Sec. 22. The amendment to AS 38.05.065(b) made in sec. 3 of this Act

1 applies to land contracts issued after the effective date of this Act.

2 \* Sec. 23. Sections 5 - 14 of this Act take effect July 1, 1982.

3 \* Sec. 24. Sections 15 - 21 of this Act take effect immediately in accor-  
4 dance with AS 01.10.070(c).

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