

Introduced: 4/29/81
Referred: Resources and
Finance

1 IN THE SENATE

BY FAHRENKAMP

2 SENATE BILL NO. 531

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 disposal and use of state and
7 municipal land; and providing for an effective date."

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

9 * Section 1. AS 29.18.204(c) is amended to read:

10 (c) Land may be selected or nominated for selection by a munici-
11 pality to satisfy a general grant land entitlement under AS 29.18.201
12 and 29.18.202 at any time before October 1, 1980. However, if a muni-
13 cipal selection or nomination or a part of a municipal selection or
14 nomination is rejected by the director, the municipality may, not later
15 than 90 days after receipt of the director's rejection, select addi-
16 tional state land of equal area to satisfy its entitlement.

17 * Sec. 2. AS 29.48.260 is amended by adding a new subsection to read:

18 (g) A municipality may lease municipal land for a term of not
19 more than 55 years to a nonprofit corporation, association, club or
20 society organized and operated exclusively for charitable, religious,
21 scientific, or educational purposes, or for the promotion of social
22 welfare. Municipal land leased under this subsection may not be used
23 for commercial development. Before municipal land may be leased under
24 this subsection, the proposed lessee shall demonstrate to the satisfac-
25 tion of the borough assembly or city council that it is exempt from
26 federal income taxation, that all of the land requested is to be used
27 for an established or proposed project, and that the applicant is
28 financially able to carry out the project. A lease may not be granted
29 under this subsection unless the project for which the municipal land

1 is leased is open for use by the public. The provisions of (c) of this
2 section do not apply to a lease under this subsection.

3 * Sec. 3. AS 38.04.005(b) is amended to read:

4 (b) In classifying state land for private use and settlement
5 purposes, the director shall make adequate provision for public open
6 space which is accessible to communities so that natural areas are
7 easily reached from all communities and settled areas. The amount of
8 that land shall be sufficient to meet existing and projected needs for
9 accessible public recreation land. Public access to navigable or pub-
10 lic waters of the state shall be preserved as provided in AS 38.05.127.
11 Special care shall be taken to preserve public access to public water
12 and to retain state ownership of sufficient land which combine high
13 value for recreation and other public purposes with accessibility to
14 settled areas. This classification for public purposes does not consti-
15 tute dedication to open space, but the division's management of land so
16 classified shall be in a manner to preserve the identified values.

17 * Sec. 4. AS 38.04.020 is repealed and reenacted to read:

18 Sec. 38.04.020. LAND DISPOSAL BANK. (a) The commissioner shall
19 establish a land disposal bank containing state land suitable for
20 disposal by fee simple title into private ownership.

21 (b) The land disposal bank does not include

22 (1) land nominated for selection or selected by a munici-
23 pality to satisfy a general grant land entitlement under AS 29.18.201 -
24 29.18.213;

25 (2) land retained in state ownership for multiple-use manage-
26 ment;

27 (3) land where less than a fee simple title has been con-
28 veyed;

29 (4) land retained in state ownership under an enactment of

1 the legislature or by the governor or a state agency under authority of
2 law.

3 (c) Land to be retained in state ownership may be classified by
4 the commissioner into multiple-use management categories under AS 38.-
5 05.300. Land within a municipality retained in state ownership consists
6 of land classified for retention in state ownership as of December 31,
7 1980. Land outside a municipality to be retained in state ownership
8 consists of land classified for retention in state ownership by the
9 commissioner by July 1, 1983. Land conveyed to the state by the federal
10 government which is to be retained in state ownership consists of land
11 classified by the commissioner within two years of receipt of tentative
12 approval or patent, whichever occurs first. State land not classified
13 for retention in state ownership under this section shall be classified
14 and included in the land disposal bank. The commissioner shall ensure
15 that the bank includes at least 500,000 acres.

16 (d) On January 15 of each year, the commissioner shall report to
17 the legislature on the status of land in the land disposal bank under
18 the following categories:

- 19 (1) land suitable for remote parcel disposal;
20 (2) land suitable for subdivision disposal; and
21 (3) land suitable for agricultural, commercial, or industrial
22 disposal.

23 (e) The commissioner shall annually submit to the governor an
24 appropriation request necessary for the disposal of state land in the
25 land disposal bank which shall be included in the budget submitted to
26 the legislature by the governor. The request shall include an estimate
27 of the amount necessary

- 28 (1) for survey and disposal of land proposed to be made
29 available for remote parcel staking for the succeeding fiscal year,

1 with the general location of the land;

2 (2) for survey and disposal of land to be offered as agri-
3 cultural, commercial, or industrial land under AS 38.05.055 or 38.-
4 05.057 during the succeeding fiscal year, with the general location of
5 the land;

6 (3) for the survey and disposal of land proposed to be
7 offered as subdivisions, with the general location of the land;

8 (4) for preliminary feasibility studies, engineering design
9 work, and construction of access roads and capital improvements required
10 by municipal subdivision ordinance or regulation of the platting board
11 under AS 29.33.150; if an accurate determination of the amounts neces-
12 sary for access roads or capital improvements cannot be made at the
13 time the estimate is submitted, a schedule for obtaining the estimates,
14 constructing the access roads or capital improvements, and disposing of
15 the land shall be submitted;

16 (5) for identification of land which will be proposed for
17 disposal under this subsection in future fiscal years.

18 (f) The request of the commissioner under (e) of this section
19 shall be based on an assessment by the commissioner of the current
20 needs and anticipated uses of state land in the different regions of
21 the state and developed in consultation with municipalities. The
22 assessment must be completed each year in writing. It must identify
23 areas where land values are artificially inflated and include a survey
24 of the supply of land in private ownership currently on the market,
25 plans for the disposal of municipal land, and the amount of federal
26 land available for disposal through sales, leases, or permits for
27 specific activities. The assessment of needs and anticipated uses for
28 state land shall be based on an analysis of demand for land offered for
29 a variety of purposes under terms equivalent to those available under

1 comparable state land disposal programs. The assessment must include
2 findings regarding the amount of state land which is necessary to meet
3 the statewide demand for three fiscal years immediately after the year
4 in which the assessment is made. The assessment must also include the
5 general location of land to be disposed of and recommendations for the
6 methods of disposal and terms under which the land will be offered to
7 the public.

8 (g) After July 1 of each year, the commissioner shall direct the
9 expenditure of money appropriated for the disposal of land in response
10 to requests made under (f) of this section for the following:

11 (1) land designated as suitable for remote parcel disposal
12 shall be classified and surveyed under this chapter and AS 38.05 and
13 made available for staking and lease under AS 38.05.077;

14 (2) land designated as suitable for subdivision disposal
15 shall be surveyed, subdivided, classified, and disposed of as follows:

16 (A) up to 80 percent of the parcels shall be sold under
17 the lottery sale procedures established in AS 38.05.057 and 38.05.-
18 065;

19 (B) at least 10 percent of the parcels shall be disposed
20 of as homesites under AS 38.08; and

21 (C) at least an additional 10 percent of the parcels
22 shall be disposed of as homesites under AS 38.08 except that,
23 notwithstanding AS 38.08.040(b), parcels offered under this sub-
24 paragraph shall be offered by lottery under AS 38.05.057;

25 (3) land designated agricultural, commercial, or industrial
26 shall be sold under AS 38.05.055 or 38.05.057.

27 (h) Individual parcels disposed of in subdivisions may not exceed
28 five acres unless the commissioner determines that a larger size is
29 necessary to permit the design of a viable subdivision because of

1 topographical features, soil conditions, on-site sewage disposal re-
2 quirements, or water drainage or supply considerations that are unique
3 to the subdivision.

4 (i) Nothing in this section prevents the sale of other land by
5 the commissioner in accordance with AS 38.05.055, 38.05.057, or other
6 law, or the issuance of remote cabin permits under AS 38.05.079.

7 (j) A person or an agency of the state may nominate land retained
8 in state ownership for inclusion in the land disposal bank or may nomi-
9 nate land in the land disposal bank for retention in state ownership.
10 The commissioner shall hold public hearings semiannually to take nomina-
11 tions under this subsection. A transfer of land from retention in
12 state ownership to the land disposal bank or from the land disposal
13 bank to retention in state ownership shall be accomplished through a
14 classification order under AS 38.05.300 and notice under AS 38.05.345.
15 The commissioner shall make a written determination within six months
16 after receipt of a nomination if he determines that land nominated will
17 not be classified or reclassified as requested.

18 * Sec. 5. AS 38.04 is amended by adding a new section 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 estimate submitted to the
24 legislature 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
27 of the local platting board, and other reasonable direct costs of land
28 disposal.

29 (b) A request by a municipality under this section must be accom-

1 panied by

2 (1) a schedule for the disposal of municipal land for the
3 next five years; the schedule shall be based on an assessment of the
4 demand for private land within the municipality;

5 (2) an estimate of the number of acres of municipal land
6 which the municipality plans to dispose of during each fiscal year of
7 the five-year period;

8 (3) a description of the methods to be used for the disposal
9 of municipal land and the terms under which it will be offered to the
10 public; and

11 (4) a description of the municipal land which the municipal-
12 ity plans to dispose of each fiscal year during the five-year period.

13 (c) The commissioner shall determine that a request by a munici-
14 pality meets the requirements of this section before it is submitted to
15 the legislature. The commissioner shall administer money appropriated
16 by the legislature for financial assistance to a municipality under
17 this section. Money spent under this section constitutes a grant
18 unless otherwise provided by the legislature.

19 (d) A grant made under this section to a first class city or to a
20 first or second class borough may not exceed five times the amount of
21 money appropriated by the city or borough for the disposal of municipal
22 land unless the commissioner exempts the city or borough from this
23 subsection.

24 (e) A grant made under this section to a second class city or to
25 a first class city or a first or second class borough exempted by the
26 commissioner under (d) of this section may not exceed seven times the
27 amount of money appropriated by the city or borough for disposal of
28 municipal land.

29 * Sec. 6. AS 38.04.040 is amended to read:

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

7 * Sec. 7. AS 38.04.055 is amended to read:

8 Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director
9 shall reserve easements and rights-of-way on and across land which is
10 made available for private use as necessary to reach or use public
11 water and public and private land. An easement or right-of-way re-
12 reserved under this section may include established trails traditionally
13 used for commerce, recreation, or transportation.

14 * Sec. 8. AS 38.05.035(a)(14) is amended to read:

15 (14) when he makes a written finding that the interests of
16 the state will be best served, he may, with the consent of the commis-
17 sioner, approve contracts for the sale, lease, or other disposal of
18 available lands, resources, property or interests in them, and, in ad-
19 dition to the conditions and limitations imposed by law, he may impose
20 additional conditions or limitations in the contracts as he, with the
21 consent of the commissioner, determines will best serve the interests
22 of the state; and no contract for the sale, lease, or other disposal of
23 available lands or interests in them, is legally binding on the state
24 until the commissioner formally records his consent to the contract;
25 but if the appraised value is not greater than \$50,000 [\$10,000] in the
26 case of the sale of land or an interest in land, or \$5,000 [\$1,000] in
27 the case of the annual rental of land or interest in land, the director
28 may approve and issue the contract without the consent or approval of
29 the commissioner; the [. THE] written finding shall be available to

1 the public upon request; before [. BEFORE] a public hearing, if held,
2 or in any case no less than 21 days before the sale, lease, or other
3 disposal of available land, property, resources, or interests in them,
4 the director shall make available to the public a written decision in
5 which he sets out the facts and applicable law upon which he based his
6 determination that the sale, lease, or other disposal will best serve
7 the interests of the state; a written finding is not required before
8 the approval of

9 (A) a contract for a negotiated sale authorized by
10 AS 38.05.115;

11 (B) issuance of a permit under AS 38.05.330; or

12 (C) the lease of land for a shore fishery site under
13 AS 38.05.082;

14 (D) unitization of oil and gas leases;

15 (E) a permit or other authorization revocable by the
16 department.

17 * Sec. 9. AS 38.05.035(b)(3) is amended to read:

18 (3) grant a preference right to a claimant who shows bona
19 fide improvement of state land, or federal land subsequently acquired
20 by the state, and who has in good faith sought to obtain title to the
21 land but who, through error or omission of others, has been denied
22 title to it; upon a showing satisfactory to the commissioner, the
23 claimant may lease or purchase the land at the price set on the date of
24 original entry on the land or, if a price was not set at that time at a
25 price determined by the division to fairly represent the value of
26 unimproved land at the time the claim was established, but in no event
27 less than the cost of administration including survey; the error or
28 omission of a predecessor in interest or an agent, administrator, or
29 executor which has clearly prejudiced the claimant may be the basis for

1 granting a preference right;

2 * Sec. 10. 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
9 land [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. 11. AS 38.05.035(b) is amended by adding new paragraphs to read:

13 (7) dispose of 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. 12. 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 as provided in AS 38.-
3 05.310. Nothing in this subsection prevents the sale of land to a
4 person not qualifying as an adjoining landowner if the adjoining land-
5 owner declines to purchase under (b)(7) of this section.

6 * Sec. 13. AS 38.05.050 is repealed and reenacted to read:

7 Sec. 38.05.050. DETERMINATIONS BEFORE DISPOSAL OF LAND FOR
8 PRIVATE OWNERSHIP. The commissioner, upon recommendation of the
9 director, shall determine the land to be disposed of for private use.
10 The director shall determine the time and place of disposal. An
11 auction sale, a lottery sale, or a disposal of land for homesites under
12 AS 38.08 must be held in the municipality that is closest to the land
13 to be sold or disposed of and in which regular sessions of a court of
14 the state are held.

15 * Sec. 14. AS 38.05.055 is amended to read:

16 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method
17 of sale is required under this chapter, under AS 38.07, or under
18 [EXCEPT AS PROVIDED IN AS 38.05.057, 38.05.315(d), AND] AS 38.08, the
19 sale of state land shall be made at public auction to the highest
20 qualified bidder as determined by the director. A bidder must appear
21 in person at the auction unless medical reasons or military service
22 outside the state prevent attendance. A bidder may be represented by
23 an attorney or agent at the auction if the land offered for disposal
24 is commercial, industrial, or agricultural land. An aggrieved bidder
25 may appeal to the commissioner within five days after the sale for a
26 review of the director's determination. The sale shall be conducted by
27 the director or his representative, and at the time of sale the
28 successful bidder shall deposit an amount equal to five percent [ONE-
29 TENTH] of the purchase price, or if the purchaser elects to use land

1 discounts granted under AS 38.05.058, five percent of the amount bid
2 after deduction of the discount. The director or his representative
3 shall immediately issue a receipt containing a description of the land
4 or property purchased, the price bid, the amount deposited, and the
5 amount of any discount allowed [TERMS OF SALE], which receipt shall be
6 acknowledged in writing by the bidder. [A CONTRACT OF SALE ON A FORM
7 APPROVED BY THE ATTORNEY GENERAL SHALL BE SIGNED BY THE PURCHASER AND,
8 AFTER APPROVAL OF THE COMMISSIONER, THE CONTRACT SHALL ALSO BE SIGNED
9 BY THE DIRECTOR ON BEHALF OF THE STATE.]

10 * Sec. 15. AS 38.05.057(a) is amended to read:

11 (a) The commissioner may dispose of land, including land limited
12 to use for agricultural purposes, by lottery. The purchase price of
13 land sold by lottery shall be the fair market value of the land as
14 determined by the commissioner [BUT MAY NOT BE LESS THAN \$400 PER ACRE,
15 OR, IF THE LAND IS LIMITED TO USE FOR AGRICULTURAL PURPOSES, THE PUR-
16 CHASE PRICE MAY NOT BE LESS THAN \$100 PER ACRE]. The commissioner may
17 sell land by lottery for less than the fair market value of the land if
18 he determines that scarcity of land for private use in the area of the
19 land to be sold has resulted in unrealistic land values. Before the
20 commissioner determines the purchase price for land which is located in
21 a municipality and which is to be sold under this section, he shall
22 consult with the assessor of the municipality. The lottery shall be
23 conducted in public by the commissioner or his representative and an
24 applicant may not be selected to purchase land unless he is present on
25 the date and at the place that the lottery is conducted unless medical
26 reasons or military service outside the state prevent attendance. An
27 applicant may be represented by an agent on the day of the lottery if
28 the land offered for sale is commercial, industrial, or agricultural
29 land. On [, AND AT] the day of the lottery [TIME OF SIGNING A CONTRACT

1 OF SALE] a purchaser selected by lot shall deposit an amount equal to
2 five percent of the purchase price, or if the purchaser elects to use
3 land discounts granted under AS 38.05.058, five percent of the [DIS-
4 COUNT] purchase price after deduction of the discount.

5 * Sec. 16. AS 38.05 is amended by adding a new section to read:

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

7 (a) An individual who has established a mining claim on state land
8 before January 1, 1980, is entitled to a preference right to acquire
9 the surface estate to a parcel of land within the boundaries of his
10 mining claim if (1) the surface estate to the land is offered for
11 disposal to the public under AS 38.05.045 - 38.05.069, 38.05.077, or
12 AS 38.08; (2) he satisfies the eligibility requirements of the land
13 disposal program under which the land is offered; and (3) he submits
14 proof satisfactory to the commissioner that the mining claim is valid.

15 A parcel acquired under this section may only include the amount of
16 land that the individual has actually used in connection with his
17 mining claim before January 1, 1980, and may not exceed 10 acres.

18 (b) After the director determines that state land will be offered
19 for disposal to the public under AS 38.05.045 - 38.05.069, 38.05.077,
20 or AS 38.08, he shall determine if there is an individual who holds a
21 preference right to that land as provided by (a) of this section by
22 notifying by certified mail each individual who holds a recorded mining
23 claim of his right to acquire the surface estate to land within the
24 boundaries of his mining claim. The notice required by this subsection
25 shall be sent not later than 60 days before public notice of a proposed
26 land disposal is given under AS 38.05.345 and must include

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

29 (2) a description of the parcels within the boundaries of

1 the mining claim that will be offered to the public; and

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

4 (c) An individual who claims a preference right under this
5 section shall provide the necessary proof to assert his preference
6 right not later than 90 days after the notice under (b) of this section
7 is sent to him by the department.

8 (d) Not later than 15 days before the date set for disposal of
9 the land to the public, the director shall either grant or reject a
10 preference right claimed under this section. If the preference right
11 is granted, the holder of the preference right may purchase the parcel
12 for either the high bid received by the department at the public auc-
13 tion, or under the terms and conditions to be offered to the public if
14 the land is disposed of by a method other than by public auction. If a
15 deposit is required, the claimant shall deposit five percent of the
16 appraised fair market value of the parcel, and if the holder of the
17 preference right fails to sign the contract of sale within 30 days
18 after it is sent to him by the department the deposit shall be for-
19 feited.

20 (e) If a mining claim is held jointly by two or more individuals,
21 the individuals may not exercise the preference right provided in this
22 section unless they either jointly exercise the preference right or
23 agree in writing which of them is entitled to exercise the preference
24 right.

25 (f) An individual may only exercise the preference right provided
26 in this section one time during his lifetime.

27 (g) In this section,

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

29 (2) "mining claim" means a mining property established under

1 AS 38.05.185 - 38.05.280 and does not include a mineral lease or permit
2 for the extraction of minerals or resources under AS 38.05.135 -
3 38.05.184.

4 * Sec. 17. AS 38.05.069(c) is amended by adding a new paragraph to read:

5 (6) the holder of a grazing lease on state land has a pre-
6 ference to purchase an interest in that land for agricultural purposes
7 offered under this subsection for the amount of the high bid received
8 at public auction; the preference allowed under this paragraph extends
9 only to an amount of the land leased for grazing purposes that is no
10 larger than the largest parcel offered for disposal by the director
11 within the boundaries of the grazing lease.

12 * Sec. 18. AS 38.05.077(a) is repealed and reenacted to read:

13 (a) The commissioner shall specify the number of remote parcels
14 that may be selected in each remote parcel selection area and shall
15 dispose of remote parcels in accordance with AS 38.04.020. A remote
16 parcel may not exceed 40 acres.

17 * Sec. 19. AS 38.05.077(c) is amended to read:

18 (c) A person who qualifies under (g) of this section may apply
19 [UNDER THE PROCEDURES SET OUT IN AS 38.05.057] to lease a remote parcel
20 in a parcel selection area designated by the commissioner under (a) of
21 this section if he has staked the exterior boundaries of the remote
22 parcel in accordance with the parcel selection procedures established
23 under (b) of this section during an entry period established by the
24 commissioner. A [EACH] person [WHO IS ENTITLED TO SELECT A REMOTE
25 PARCEL] may enter a remote parcel selection [THE] area [FOR WHICH HE
26 APPLIED] to stake the boundaries of a remote parcel. A person shall
27 select a remote parcel in person and may not be represented by an
28 attorney or agent.

29 * Sec. 20. AS 38.05.077(d) is amended to read:

1 (d) Not later than 15 days after [SELECTION AND] staking the
2 exterior boundaries of a remote parcel, the person who staked [SELECTED]
3 the parcel shall file a sketch plat with the department which shows the
4 location of the remote parcel [AND THE LOCATION OF THE LAND IN THE
5 PARCEL THAT HE INTENDS TO USE FOR RESIDENTIAL PURPOSES]. At the time
6 of filing the sketch plat, the person who staked [SELECTED] the parcel
7 shall apply to lease the land. An application to lease the land shall
8 be on a standard form prepared by the department. The annual rental
9 payment for the first year of the lease shall be submitted to the
10 department with the application. After the application to lease a
11 remote parcel is approved, the commissioner shall offer to lease the
12 land to the person who staked [SELECTED] the remote parcel. A lease
13 granted under this section shall contain the following terms:

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

15 (2) a remote parcel lease may be renewed at the option of
16 the lessee for a second five-year period under the same terms as pro-
17 vided for the first five-year period of the remote parcel lease; [AND]

18 (3) a rental payment shall be paid annually and shall be
19 \$10 for each acre; [\$150 A YEAR FOR FIVE ACRES OR LESS PLUS \$50 FOR
20 EACH ACRE BY WHICH THE REMOTE PARCEL EXCEEDS FIVE ACRES.]

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

25 * Sec. 21. AS 38.05.077 is amended by adding a new subsection to read:

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

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

29 (2) submit proof, as required by regulation, that he is a

1 resident of the state; and

2 (3) certify that he has not leased or purchased land, except
3 agricultural, commercial, or industrial land from the land disposal
4 bank within 10 years after July 1, 1978.

5 * Sec. 22. AS 38.05.078(a) is repealed and reenacted to read:

6 (a) A lessee of a remote parcel may purchase the land if, before
7 expiration of the lease or a renewal of the lease, he surveys the land.

8 * Sec. 23. AS 38.05.078(c) is repealed and reenacted to read:

9 (c) Upon payment to the commissioner of an amount equal to five
10 percent of the fair market value, a lessee of a remote parcel may
11 purchase land in a remote parcel area under the terms specified in
12 AS 38.05.065(b). The purchase price shall be the fair market value of
13 the remote parcel as determined by the commissioner at the time of
14 lease. Rental payments made under the lease shall be applied to the
15 purchase price.

16 * Sec. 24. AS 38.05.078 is amended by adding new subsections to read:

17 (g) If a person selects a remote parcel in good faith but includes
18 land in his parcel which was previously claimed by another person eli-
19 gible to select a remote parcel, the director shall approve that part
20 of the later selection which does not conflict with the earlier selec-
21 tion and allow the person to select additional land in the remote
22 parcel selection area.

23 (h) If a person selects a remote parcel in good faith but includes
24 land in his parcel which is outside the remote parcel selection area,
25 the director shall either disapprove the selection of land outside the
26 remote parcel selection area and allow the person to select additional
27 land in the remote parcel selection area or he may approve the selec-
28 tion of the land outside the remote parcel selection area.

29 * Sec. 25. AS 38.05.082(a) is amended to read:

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

7 * Sec. 26. AS 38.05.095(a) is amended to read:

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

13 * Sec. 27. AS 38.05.097(a) is amended to read:

14 (a) A nonprofit organization using state land leased by it under
15 AS 38.05.070 - 38.05.105 and 38.05.315 for a youth encampment or similar
16 recreational purpose is exempt from lease rental payments on that land.
17 The nonprofit organization shall meet all other terms and conditions of
18 the lease specified under AS 38.05.070 - 38.05.105.

19 * Sec. 28. AS 38.05 is amended by adding a new section to read:

20 Sec. 38.05.101. RENEWAL OF GRAZING LEASE. At the expiration of a
21 grazing lease under AS 38.05.070 - 38.05.100 the commissioner shall
22 review the classification of the land in the leasehold. If the commis-
23 sioner determines that the land should remain available for lease for
24 grazing, the lessee has an option to renew the lease for at least 10
25 years if he has complied with the terms of the original lease.

26 * Sec. 29. AS 38.05.127 is amended by adding new subsections to read:

27 (d) Notwithstanding the requirements of (a) and (b) of this sec-
28 tion, the director may, at the request of a municipality having platting
29 powers, patent land to the municipality to satisfy a general grant land

1 entitlement under AS 29.18 without reserving public access to navigable
2 or public waters if, before the municipality sells, leases, grants, or
3 otherwise disposes of an interest in the land, the municipality

4 (1) determines whether the land to be offered for disposal
5 contains navigable or public waters; and

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

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

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

1 is approved by the commissioner.

2 (g) Management authority over navigable waters, public waters,
3 easements and rights-of-way reserved or designated by the department in
4 a conveyance to a municipality, including the power to vacate or other-
5 wise modify those easements or rights-of-way, remains with the depart-
6 ment unless exercise of all or a part of that authority has been
7 offered to and accepted by the municipality to which the land is
8 conveyed.

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

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

18 * Sec. 30. AS 38.05.305 is repealed and reenacted to read:

19 Sec. 38.05.305. LAND DISPOSAL IN THE UNORGANIZED BOROUGH. Before
20 a sale, lease under AS 38.05.070 - 38.05.105, or other disposal of
21 state land in the unorganized borough, the commissioner shall consider
22 the effect that the sale, lease, or other disposal may be expected to
23 have on the density of the population in the vicinity of the land, and
24 any potential for conflicts with the traditional uses of the land which
25 could result from the sale, lease or disposal. If he finds it neces-
26 sary, the commissioner shall develop a plan to resolve or mitigate the
27 conflicts in a manner consistent with the public interest and the
28 provisions of this chapter.

29 * Sec. 31. AS 38.05.315(b) is amended to read:

1 (b) Notwithstanding AS 38.05.070 - 38.05.080 and [,] 38.05.095,
2 [AND AS 38.05.100] the director, upon application filed by an applicant
3 eligible under (b) - (d) of this section, may, by negotiation and
4 without public auction in the manner prescribed in (b) - (d) of this
5 section, lease state land for a term of not more than 55 years. Before
6 leasing, the director shall prepare a land use plan and a land classi-
7 fication to insure that the proposed use is compatible with area utili-
8 zation. Before the land may be leased under (b) - (d) of this section,
9 it must be shown to the satisfaction of the director that the land is
10 to be used for an established or definitely proposed project, and that
11 the eligible applicant has the financial ability to carry out the
12 project. The commissioner may establish limitations on the acreage
13 which may be leased under (b) - (d) of this section to an applicant.

14 * Sec. 32. AS 38.05.315(d) is amended to read:

15 (d) The director may lease the land to an eligible applicant at a
16 reasonable annual rental, taking into consideration the purposes for
17 which the land is to be used and the financial resources of the appli-
18 cant. The [, BUT IN NO CASE MAY THE] rental may not be less than one
19 percent of the fair market value on lands acquired primarily for
20 development, or less than five percent of the fair market value on
21 [SCHOOL,] university [, MENTAL HEALTH,] or acquired lands, except that
22 an eligible applicant is exempt from the payment of annual rent on
23 state land leased for a youth encampment as defined by the commissioner
24 by regulation. Renewal leases may be issued at the discretion of the
25 director upon the expiration of a primary or renewal term. Each lease
26 shall contain a provision for its termination as to all or part of the
27 lands upon a finding by the director that the land or a part of it has
28 not been used by the lessee for the purpose specified in the lease for
29 a period of two years. No lease may be assigned or subleased except

1 with the consent of the director, and in any case may only be trans-
2 ferred to an applicant eligible under (b) - (d) of this section. A
3 lessee may not change the use specified in the lease to another or
4 additional use except with the consent of the director. If, at any
5 time after the land is leased, the lessee attempts to assign the lease
6 or transfer control over the land to another, or if the land is devoted
7 to a use other than that for which the land was leased without the
8 consent of the director, the lease automatically terminates.

9 * Sec. 33. AS 38.05.345 is repealed and reenacted to read:

10 Sec. 38.05.345. NOTICE. (a) This section establishes the re-
11 quirements for notice given by the department for the following actions:

12 (1) classification or reclassification of state land under
13 AS 38.05.300 and the closing of land to mineral leasing or entry under
14 AS 38.05.185;

15 (2) zoning of land under applicable law;

16 (3) a decision under AS 38.05.035(a)(14) regarding the sale,
17 lease, or other disposal of an interest in state land or resources; and

18 (4) a competitive disposal of an interest in state land or
19 resources after final decision under AS 38.05.035(a)(14).

20 (b) Notice of an action described in (a) of this section shall be
21 given at least 30 days before the action by (1) publication in a news-
22 paper of general circulation in the vicinity of the proposed action,
23 (2) publication through public service announcements on the electronic
24 media serving the area affected by the action, (3) posting in a con-
25 spicuous location in the vicinity of the action, (4) notification of
26 parties known or likely to be affected by the action, or (5) another
27 method calculated to reach affected persons. A notice shall contain
28 sufficient information to inform the public of the nature of the action
29 and the opportunity of the public to comment on the action.

1 (c) Notice at least 30 days before action under (a)(2) and (3) of
2 this section shall also be given to the following:

3 (1) to a municipality if the land is within the boundaries
4 of the municipality;

5 (2) to a regional corporation if the boundaries of the
6 corporation as established by sec. 7(a) of the Alaska Native Claims
7 Settlement Act encompass the land and the land is outside a municipal-
8 ity;

9 (3) to a village corporation organized under sec. 8(a) of
10 the Alaska Native Claims Settlement Act if the land is within six miles
11 of the village for which the corporation was established and the land
12 is located outside a municipality;

13 (4) to the postmaster of a permanent settlement of more than
14 25 persons located within six miles of the land if the land is located
15 outside a municipality, with a request that the notice be posted in a
16 conspicuous location.

17 (d) A municipality or a corporation entitled to receive notice
18 under (c) of this section may hold a hearing within 30 days after
19 receipt of the notice. If a hearing is held, the commissioner shall
20 attend the hearing. The commissioner may hold a public hearing at his
21 own discretion.

22 (e) For purposes of this section an "interest in state land or
23 resources" does not include

24 (1) a permit or other authorization revocable by the depart-
25 ment;

26 (2) negotiated sales under AS 38.05.115; or

27 (3) unitization of oil and gas leases.

28 * Sec. 34. AS 38.08.040(b) is amended to read:

29 (b) If the number of applicants qualified for homesite entry

1 exceeds the number of available homesites offered, or if several appli-
2 cants apply and qualify for the same homesite, priority in award of an
3 entry permit shall be accorded to that applicant showing proof of the
4 longest residency in the state. An applicant shall present his proof
5 of residency to the department in person at the time and place desig-
6 nated by the director.

7 * Sec. 35. AS 38.05.065(a), 38.05.077(b)(2), 38.05.078(b) and (d)(1);
8 and AS 41.01.100 are repealed.

9 * Sec. 36. AS 38.05.095(b) is repealed.

10 * Sec. 37. 11 AAC.53.450(c) is annulled.

11 * Sec. 38. A person who selected a remote parcel or acquired a right to
12 select a remote parcel before July 1, 1981, is entitled to convert his
13 remote parcel lease agreement to a new lease agreement which contains terms
14 and conditions consistent with AS 38.05.077(a) and (d), 38.05.078(a) and (c)
15 and the repeal of AS 38.05.078(b) and (d)(1) enacted in secs. 18, 20, 22,
16 23, and 35 of this Act. The director of the division of lands, Department
17 of Natural Resources, shall prepare and distribute new lease forms to
18 persons described in this section.

19 * Sec. 39. This Act takes effect July 1, 1981.
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