

HOUSE BILL NO. 305

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE MARTIN

Introduced: 1/10/94

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the disposal of state land."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

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

4 **CHAPTER 14. ALASKA FAMILY LAND ENTITLEMENT ACT.**

5 **Sec. 38.14.010. SALE AND LEASE OF STATE LAND; EXEMPTION. (a)**

6 Notwithstanding any other provision of this title, the commissioner shall sell and lease
7 state land as provided in this chapter until at least 25 percent of all land in state
8 ownership as of the effective date of this Act has been sold or leased under this
9 chapter.

10 (b) Land may not be selected by the department for auction under
11 AS 38.14.050 or otherwise sold or leased under this chapter unless it is unclassified
12 under AS 38.05.300 or, if classified, it is classified as agricultural, forest, grazing,
13 resource management, settlement, or wildlife habitat land.

14 (c) The selection of land by the department for auction under AS 38.14.050

1 and the disposal of land by sale or lease under this chapter is exempt from the
2 requirements of AS 38.04 and AS 38.05. The department shall provide prior public
3 notice as required under the state constitution for disposals or leases of state land.

4 **Sec. 38.14.020. SALES AND LEASES SUBJECT TO EXISTING LEASES;**
5 **COMMISSIONER MAY NOT CONVEY MINERAL OR RESOURCE RIGHTS.** (a)
6 A sale or lease of land under this chapter is subject to an existing lease entered into
7 by the department before the sale or lease of the land. A lease affecting land sold or
8 leased by the state under this chapter is subject to renewal or extension as provided
9 in the terms of the lease or the law under which the lease was issued.

10 (b) In a sale or lease of land under this chapter, the commissioner may not
11 convey a mineral or resource right that the state is required to maintain under a law
12 of this state or of the United States. A sale or lease of land under this chapter must
13 provide for access to these minerals or resources by the state or a lessee or other
14 designee of the state.

15 **Sec. 38.14.030. ELIGIBILITY TO PURCHASE OR LEASE LAND.** A person
16 may not purchase or lease land under this chapter unless the person

17 (1) is a resident of the state under AS 01.10.055 and has been a
18 resident of the state for one year;

19 (2) is an individual who is at least 18 years of age at the time of the
20 purchase or lease;

21 (3) at the time of purchase or lease, on a form provided by the
22 department that bears a notification that a false statement is punishable under
23 AS 11.56.210, the person certifies that the person

24 (A) meets the eligibility requirements of this section and
25 AS 38.14.040;

26 (B) understands that the state or a political subdivision of the
27 state is not required to provide on-site schools for the land to be acquired and
28 that the person may not require the state to provide on-site schools;

29 (C) understands that the state is not required to construct or
30 maintain roads to the land to be acquired and that the person may not require
31 the state to construct or maintain roads to the land to be acquired; and

1 (D) will take good care of the property and of the environment
2 to the best of the person's ability.

3 **Sec. 38.14.040. MAXIMUM ENTITLEMENT TO PURCHASES OR LEASES.**

4 (a) During the person's lifetime, a person may purchase or lease a cumulative
5 maximum of 160 acres from the state under this chapter. Except as provided in (b)
6 of this section, the 160 acre limit applies whether or not the person retains ownership
7 of or a leasehold interest in the land originally purchased or leased.

8 (b) Notwithstanding the 160 acre limit under (a) of this section, if a person
9 returns the land to the state, terminates a lease of land from the state, or otherwise
10 provides clear title to the state of land purchased or leased under this chapter, the
11 acreage returned, formerly leased, or otherwise relinquished to the state may be
12 replaced, in whole or in part, by purchase or lease under this chapter.

13 (c) Under regulations adopted by the department, the commissioner may reduce
14 the acreage credit allowed under (b) of this section to compensate the state for
15 diminution in value of the land returned to the state that is caused by the person
16 seeking the credit.

17 **Sec. 38.14.050. SALE OF LAND BY PUBLIC AUCTION.** (a) Within 60
18 days of the effective date of this Act, the department shall select not more than
19 2,000,000 acres of state land to be sold at public auction as provided in this section.
20 The department shall include in the initial selection all land that the department has,
21 before the effective date of this Act, identified for disposal and included in the land
22 disposal bank. After the initial 2,000,000 acres have been sold, the department shall
23 select additional land for sale under this section until the requirement of
24 AS 38.14.010(a) has been met. Not more than 1,000,000 acres of state land may be
25 included in any one subsequent selection under this subsection.

26 (b) At least once every 90 days until the land is disposed of, the department
27 shall offer for sale by public auction not less than 100,000 acres of land selected under
28 (a) of this section. Except as provided in AS 38.14.130 and 38.14.140, the land shall
29 be in parcels of not less than 40 acres nor more than 160 acres, more or less. Upon
30 payment in full of the purchase price and the security required by AS 38.14.190 by
31 cash, certified check, or money order, a successful bidder at the auction shall receive

1 fee simple title to the land. A minimum bid of not less than \$100 per acre shall be
2 required by the department for purchase at public auction.

3 (c) The land offered for sale under (b) of this section may be offered based
4 upon an aliquot parts description. The state is not required to provide a survey by a
5 licensed surveyor.

6 (d) A parcel of land offered for sale at public auction under (b) of this section
7 that is not sold at the auction may be purchased after the sale for not less than \$100
8 per acre.

9 (e) The department shall offer a purchaser of land under this section the option
10 of paying in full at time of purchase or on terms, requiring a 10 percent down payment
11 and payment of the balance of the purchase price over the next 15 years at an annual
12 interest rate of not more than six percent.

13 (f) A purchase of land under this chapter that is made in violation of
14 AS 38.14.030 - 38.14.040 is void as of the date of sale and does not give the
15 purchaser, a subsequent purchaser, a lessee, a devisee, or other person a right to the
16 land, an interest in the land, or the return of the purchase price paid to the state for the
17 land.

18 Sec. 38.14.060. LEASES OF LAND. (a) Beginning 60 days after the
19 effective date of this Act, a person may lease a parcel of land that has not been
20 selected for auction by the state under AS 38.14.050 of not less than 40 acres nor more
21 than 160 acres, except as provided in AS 38.14.130 and 38.14.140, by marking the
22 location of the parcel of land on the ground under (b) of this section and by filing with
23 the department the certification required under AS 38.14.030, the legal description of
24 the land sought to be acquired by lease, a statement of the length of lease, not greater
25 than 55 years, desired by the person, and payment by cash, certified check, or money
26 order of the (1) first year's lease fee of \$10 per acre, but not less than \$400 per parcel,
27 and (2) security deposit required by AS 38.14.190. Within 30 days of the filing, the
28 department shall notify the person if the land selected is available for lease. If the
29 land is available for lease, the department shall at the time of notification issue to the
30 person a lease that complies with the requirements of this chapter. If the land is not
31 available for lease, the department shall refund the first year's lease fee to the person.

1 (b) A person leasing a parcel of land under (a) of this section shall mark the
2 location of the parcel on the ground by

3 (1) posting at the northeast corner of the parcel of land plain sign or
4 notice containing

5 (A) the name of the person;

6 (B) the date of the location; and

7 (C) the approximate bearing of corners and angle posts of the
8 parcel and the distances between them; and

9 (2) erecting at each corner or angle of the parcel substantial monuments
10 of stone or setting posts, not less than three feet in height nor less than three inches
11 in diameter hewn and marked with the name of the person, the position or number of
12 the monument, and the direction of the boundary lines, and by cutting out, blazing, or
13 marking the boundary lines so that they can be readily traced. Where it is
14 impracticable to place a monument at its true position, a witness monument shall be
15 erected and marked to indicate the true position of the corner or angle.

16 (c) A lease issued by the department under this chapter must contain a
17 provision permitting the lessee to purchase the land subject to the lease anytime after
18 one year has elapsed since the issuance of the lease. A purchase of leased land under
19 this section shall be at the fair market value of the land, but not less than \$100 per
20 acre.

21 (d) A lease acquired under this section is freely transferable and may be sold
22 or subleased and is not terminated by the death of the lessee.

23 (e) A lease of land acquired by a person in violation of AS 38.14.030 -
24 38.14.040 is void as if the lease had never been entered into by the state and does not
25 give the lessee or a subsequent purchaser, sublessee, or devisee, any right to the land,
26 the purchase of the land, or the refund of payments made under the lease.

27 (f) Before issuing a lease under this section, the department may require the
28 preparation of an appraisal of the land sought to be leased. An applicant for a lease
29 may provide and pay for the appraisal.

30 Sec. 38.14.070. RESTRICTIONS ON REMOVAL OF SURFACE
31 RESOURCES. (a) A person purchasing land under this chapter, for the first three

1 years immediately following the purchase of the land, or a person leasing land under
2 this chapter during the term of the lease, may not remove timber, gravel, or other
3 surface materials from the land except for

- 4 (1) personal use on the land; or
5 (2) exchanges with adjoining landowners for personal use on the
6 adjoining land.

7 (b) After three years following the purchase of land under this chapter, a
8 person may remove timber, gravel, or other surface materials for any purpose, except
9 that if it is for a commercial purpose other than as provided in (a)(1) - (2) of this
10 section, the person shall pay the state a royalty fee equal to 20 percent of the proceeds
11 received from the removal.

12 Sec. 38.14.080. SCHOOLS. The state, a municipality, or a rural educational
13 attendance area does not have a duty to provide on-site schools for a parcel of land
14 purchased or leased by a person under this chapter.

15 Sec. 38.14.090. RIGHTS-OF-WAY AND EASEMENTS. The state shall retain
16 a 100 foot right-of-way along each section line of land sold or leased under this
17 chapter and shall reserve other rights-of-way and easements as are necessary to reach
18 and use public water and public and private land.

19 Sec. 38.14.100. ROADS; ACQUISITION BY STATE. (a) The state does not
20 have a duty to construct or maintain roads to a parcel of land purchased or leased by
21 a person under this chapter. A person acquiring land by purchase or lease under this
22 chapter may construct a road from an existing state or municipal road to the land if
23 the proposed route is approved by the department or a municipality and the road is
24 constructed to standards set by the Department of Transportation and Public Facilities.

25 (b) A road constructed by a person who purchases or leases land under this
26 chapter that is built on the state's section line right-of-way is open to the public and
27 the purchaser or lessee of the land may not exclude the public from its use.

28 (c) A road constructed by a person who purchases or leases land under this
29 chapter becomes a public road, without compensation to the builder of the road, if the
30 state or a municipality agrees to accept the road and undertake responsibility for the
31 maintenance of the road.

1 **Sec. 38.14.110. APPLICABILITY OF MUNICIPAL ZONING LAWS AND**
2 **THE ALASKA COASTAL MANAGEMENT PROGRAM. Notwithstanding any other**
3 **provision of law, land available for disposal under this section is not subject to**
4 **municipal zoning laws or regulations or AS 46.40 (Alaska Coastal Management**
5 **Program).**

6 **Sec. 38.14.120. LAND NOT SUBJECT TO SALE OR LEASE. The following**
7 **land is not subject to sale or lease under this chapter:**

8 (1) land identified under AS 16.20, AS 41.15.300 - 41.15.330,
9 AS 41.17, AS 41.21, and AS 41.23;

10 (2) land used as an administrative site by the state.

11 **Sec. 38.14.130. LIMITATION ON ACQUISITION OF LAND NEAR**
12 **WILLOW. The department shall identify an area of not more than 66,000 acres near**
13 **Willow within which area a person may not acquire by purchase or lease under this**
14 **chapter more than 40 acres of land, more or less.**

15 **Sec. 38.14.140. SOUTHEAST ALASKA LAND SOUTH OF 60 DEGREES**
16 **NORTH LATITUDE. (a) A person may not purchase or lease more than one acre of**
17 **land, more or less, under this chapter in Southeast Alaska south of 60 degrees north**
18 **latitude.**

19 (b) Notwithstanding AS 38.14.050 and 38.14.060, the department shall offer
20 **land for sale under AS 38.14.050 and a person may lease land under AS 38.14.060 in**
21 **one acre parcels, more or less, in the area described in (a) of this section.**

22 **Sec. 38.14.150. SURVEYS. A person who acquires land by purchase or lease**
23 **under this chapter shall, within 10 years of acquiring the land, have the land surveyed**
24 **at the person's expense. The survey shall be conducted as provided in regulations**
25 **adopted by the department. The person shall provide a copy of the survey to the state**
26 **without charge.**

27 **Sec. 38.14.160. AGRICULTURAL LAND. Notwithstanding AS 38.14.050 and**
28 **38.14.060, land that has been previously classified as agricultural by the department**
29 **and that has been previously sold or leased as agricultural land, shall be first offered**
30 **to the current lessees of the land, if any, subject to the requirements of AS 38.14.030**
31 **and 38.14.040, for purchase or lease under this chapter.**

1 **Sec. 38.14.170. LAND SUBJECT TO EXISTING LEASES. (a)**
2 **Notwithstanding AS 38.14.050 and 38.14.060, land that is subject to an existing**
3 **surface estate lease or subsurface or mining lease shall be first offered to the current**
4 **lessee of the land, if any, subject to the requirements of AS 38.14.030 and 38.14.040**
5 **for purchase or lease under this chapter.**

6 **(b) To accept an offer under (a) of this section, the lessee shall purchase or**
7 **lease the land within 180 days of the offer at the fair market value of the land, but not**
8 **less than \$100 per acre. The department may require the preparation of an appraisal**
9 **at the lessee's expense.**

10 **Sec. 38.14.180. NO LIABILITY FOR CONTAMINATION OF SOIL OR**
11 **WATER BEFORE PURCHASE OR LEASE. Notwithstanding any other provision of**
12 **law, a person who purchases or leases land under this chapter is not liable under state**
13 **law for contamination of soil or water occurring before the person's purchase or lease.**

14 **Sec. 38.14.190. SECURITY DEPOSIT. A person who purchases or leases**
15 **land under this title shall at the time of the purchase or lease pay to the state a**
16 **nonrefundable security deposit in the amount of \$100 for each 40 acres or less**
17 **purchased or leased to ensure the person's compliance with the requirements of this**
18 **chapter and other laws. The payment of this security deposit does not immunize the**
19 **person from liability for violations of this chapter or other laws nor limit the ability**
20 **or authority of the state to require compliance with and to enforce the laws of the**
21 **state.**

22 **Sec. 38.14.200. ADDITIONAL TERMS AND CONDITIONS. The department**
23 **may not impose terms and conditions in excess of those provided in this chapter or by**
24 **the constitution.**

25 **Sec. 38.14.210. APPROPRIATION OF MONEY RECEIVED. The legislature**
26 **may appropriate money received from sales or leases of state land under this chapter**
27 **to the Alaska Permanent Fund.**

28 **Sec. 38.14.300. DEFINITIONS. In this chapter,**

- 29 **(1) "commissioner" means the commissioner of natural resources;**
30 **(2) "department" means the Department of Natural Resources;**
31 **(3) "recorder" and "recording district" have the meanings given in**

1 AS 40.17.900.

2 * Sec. 2. AS 29.65 is amended by adding a new section to read:

3 Sec. 29.65.075. DISPOSAL OF LAND CONVEYED; REVERSION TO
4 STATE OF UNDISPOSED LAND. A municipality that has received or receives land
5 from the state under this title shall, within five years of the effective date of this Act,
6 sell 50 percent of the land received to private parties, and within 10 years of the
7 effective date of this Act shall sell 66 percent of the land received to private parties.
8 If a municipality fails to sell land as required by this section, all of the land the
9 municipality has received from the state that has not been sold reverts to state
10 ownership and is available for sale or lease as provided in AS 38.14.

11 * Sec. 3. If two or more persons file for a lease on the same parcel of land under
12 AS 38.14.060 within the first seven days after 60 days after the effective date of this Act, the
13 department shall conduct a lottery for those filing within 30 days. The winner of the lottery
14 shall be entitled to lease the land if the person otherwise meets the requirements of
15 AS 38.14.030 and 38.14.040.