

CS FOR HOUSE BILL NO. 398(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 2/15/94

Referred: Resources

Sponsor(s): REPRESENTATIVE OLBERG

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to conveyance of certain land to municipalities."**

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

3 *** Section 1. AS 38.05.035(b) is amended to read:**

4 **(b) The director may**

5 **(1) delegate the administrative duties, functions or powers imposed**
6 **upon the director to a responsible employee in the division;**

7 **(2) grant preference rights for the lease or purchase of state land**
8 **without competitive bid in order to correct errors or omissions of a state or federal**
9 **administrative agency when inequitable detriment would otherwise result to a diligent**
10 **claimant or applicant due to situations over which the claimant or applicant had no**
11 **control; the exercise of this discretionary power operates only to divest the state of its**
12 **title to or interests in land and may be exercised only**

13 **(A) with the express approval of the commissioner; and**

14 **(B) if the application for the preference right is filed with the**

1 director within three years from

2 (i) the occurrence of the error or omission;

3 (ii) the date of acquisition by the state of the land; or

4 (iii) the date of a court decision or settlement nullifying

5 a disposal of state land;

6 (3) grant a preference right to a claimant who shows bona fide
7 improvement of state land or of federal land subsequently acquired by the state and
8 who has in good faith sought to obtain title to the land but who, through error or
9 omission of others occurring within the three years before (A) the application for the
10 preference right, (B) the date of acquisition by the state of the land, or (C) the date of
11 a court decision or settlement nullifying a disposal of state land, has been denied title
12 to it; upon a showing satisfactory to the commissioner, the claimant may lease or
13 purchase the land at the price set on the date of original entry on the land or, if a price
14 was not set at that time at a price determined by the director to fairly represent the
15 value of unimproved land at the time the claim was established, but in no event less
16 than the cost of administration including survey; the error or omission of a predecessor
17 in interest or an agent, administrator, or executor which has clearly prejudiced the
18 claimant may be the basis for granting a preference right;

19 (4) sell land by lottery for less than the appraised value when, in the
20 judgment of the director, past scarcity of land suitable for private ownership in any
21 particular area has resulted in unrealistic land values;

22 (5) when the director determines it is in the best interest of the state
23 and will avoid injustice to a person or the heirs or devisees of a person, dispose of
24 land, by direct negotiation to that person who presently uses and who used and made
25 improvements to that land before January 3, 1959, or to the heirs or devisees of the
26 person; the amount paid for the land shall be its fair market value on the date that the
27 person first entered the land, as determined by the director; a parcel of land disposed
28 of under this paragraph shall be of a size consistent with the person's prior use, but
29 may not exceed five acres;

30 (6) dispose of an interest in land limited to use for agricultural purposes
31 by lottery;

1 (7) convey to an adjoining landowner for its fair market value a
2 remnant of land that the director considers unmanageable or a parcel of land created
3 by a highway right-of-way alignment or realignment, or a parcel created by the
4 vacation of a state-owned right-of-way if

5 (A) the director determines that it is in the best interests of the
6 state;

7 (B) the parcel does not exceed the minimum lot size under an
8 applicable zoning code; and

9 (C) the director and the platting authority having land use
10 planning jurisdiction agree that conveyance of the parcel to the adjoining
11 landowner will result in boundaries that are convenient for the use of the land
12 by the landowner and compatible with municipal land use plans;

13 (8) for good cause extend for up to 90 days the time for rental or
14 installment payments by a lessee or purchaser of state land under this chapter if
15 reasonable penalties and interest set by the director are paid;

16 (9) quitclaim land or an interest in land to the federal government on
17 a determination that the land or the interest in land was wrongfully or erroneously
18 conveyed by the federal government to the state;

19 (10) negotiate the sale or lease of state land at fair market value to a
20 person who acquired by contract, purchase, or lease rights to improvements on the land
21 from another state agency or who leased the land from another state agency;

22 (11) quitclaim land or an interest in land, including submerged or
23 shore land, to a municipality to correct errors or omissions of the municipality
24 when inequitable detriment would result to a person due to that person's reliance
25 on the errors or omissions of the municipality; the quitclaim shall be made on the
26 terms and conditions the director considers appropriate except that, if the
27 municipality has a remaining entitlement to land under AS 29.65, the land or
28 interest quitclaimed under this paragraph is counted against the municipality's
29 remaining entitlement.

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

31 Sec. 38.05.825. CONVEYANCE OF TIDE AND SUBMERGED LAND TO

1 **MUNICIPALITIES. (a) The director, with the concurrence of the commissioner, shall**
2 **convey to a municipality tide or submerged land requested by the municipality that is**
3 **occupied or suitable for occupation and development if**

4 **(1) the use of the land by the municipality would not unreasonably**
5 **interfere with navigation or public access;**

6 **(2) the municipality has applied to the director for conveyance of the**
7 **land under this section;**

8 **(3) the land is classified for waterfront development or for another use**
9 **that is consistent or compatible with the use proposed by the municipality, or the**
10 **proposed use of the land by the municipality is consistent or compatible with a land**
11 **use plan adopted by the municipality, the department, or the Alaska Coastal Policy**
12 **Council; and**

13 **(4) the land is required for the accomplishment of an improvement or**
14 **development approved by the municipality, is the subject of a lease from the state to**
15 **the municipality, or has been approved for lease to the municipality.**

16 **(b) The director may not convey land under this section that has been**
17 **designated by the legislature unless the director determines that the proposed municipal**
18 **use is consistent or compatible with the purpose of the legislative designation. If land**
19 **designated by the legislature is conveyed, uses of the land after conveyance shall be**
20 **restricted to those uses determined by the director to be consistent or compatible with**
21 **the purpose of the designation.**

22 **(c) Upon receipt of an application, the director shall determine whether the**
23 **requested conveyance meets the requirements of this section. The director shall issue**
24 **a written decision that sets out the facts relevant to the determination of whether the**
25 **requirements of this section have been met. Upon a determination by the director that**
26 **the requirements have been met, the director shall approve the conveyance of the land**
27 **to the municipality and request concurrence by the commissioner. After concurrence**
28 **by the commissioner for the conveyance, but before a patent to the municipality is**
29 **issued, the municipality has management authority of the land and may execute leases**
30 **of the land. The cost of the survey and all subdivision or other platting required for**
31 **conveyance shall be borne by the municipality.**

1 (d) A conveyance under this section may contain only those restrictions and
2 burdens specifically required by law, including AS 38.05.127. Land conveyed is
3 subject to the public trust doctrine that may be enforced by the state in a court of
4 competent jurisdiction. The municipality shall be required to ensure that reasonable
5 access to public waters is provided. Title to land conveyed under this section that is
6 retained by the municipality reverts to the state upon the dissolution of the
7 municipality.

8 (e) This section does not enlarge or diminish the general grant land entitlement
9 of a municipality under AS 29.65, nor is a conveyance under this section counted
10 against the municipality's general grant land entitlement.

11 * Sec. 3. AS 38.05.035(b)(11) is repealed January 1, 1998.