

SENATE CS FOR CS FOR HOUSE BILL NO. 398(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 5/3/94

Referred: Rules

Sponsor(s): REPRESENTATIVES OLBERG, Mackle, Green

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) Unless the commissioner finds that the public interest in  
2 retaining state ownership of the land clearly outweighs the municipality's interest in  
3 obtaining the land, the commissioner shall convey to a municipality tide or submerged  
4 land requested by the municipality that is occupied or suitable for occupation and  
5 development if

6                           (1) the use of the land would not unreasonably interfere with navigation  
7 or public access;

8                           (2) the municipality has applied to the commissioner for conveyance  
9 of the land under this section;

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

15                          (4) the land

16                                   (A) is required for the accomplishment of a public or private  
17 development approved by the municipality that is designed to provide jobs,  
18 enhance the local economy, and establish new commercial ventures;

19                                   (B) is the subject of a lease from the state to the municipality;

20                                   or

21                                   (C) has been approved for lease to the municipality.

22                          (b) The commissioner may not convey land under this section that has been  
23 designated by the legislature unless the commissioner determines that the proposed use  
24 is consistent or compatible with the purpose of the legislative designation. If land  
25 designated by the legislature is conveyed, uses of the land after conveyance shall be  
26 restricted to those uses determined by the commissioner to be consistent or compatible  
27 with the purpose of the designation.

28                          (c) Upon receipt of an application, the commissioner shall determine whether  
29 the requested conveyance meets the requirements of this section and issue a written  
30 decision regarding that determination. Upon a determination that the requirements  
31 have been met, the commissioner shall approve the conveyance of the land to the

1 municipality. After conveyance to the municipality is approved, the municipality has  
2 management authority of the land and may convey the land by lease or sale. The cost  
3 of the survey and all subdivision or other platting required for conveyance shall be  
4 borne by the municipality.

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

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

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