

**HOUSE BILL NO. 515**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**EIGHTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 2/28/94**

**Referred: Community & Regional Affairs, Resources, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the management of state land and resources; relating to  
2 certain remote parcel and homestead entry land purchase contracts and patents;  
3 and providing for an effective date."

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

5 \* Section 1. AS 38.04.020(a) is amended to read:

6 (a) The state [COMMISSIONER SHALL ESTABLISH A] land disposal  
7 program consists of [BANK CONTAINING] state land identified and classified  
8 under adopted regional land use plans for disposal into private ownership.

9 \* Sec. 2. AS 38.04.020(b) is amended to read:

10 (b) The state land disposal program [BANK] does not include  
11 (1) land nominated for selection or selected by a municipality to satisfy  
12 a general grant land entitlement under AS 29.65 or former AS 29.18.201 - 29.18.213;  
13 (2) land retained in state ownership for multiple-use management;  
14 (3) land where less than a fee simple title has been conveyed;

1 (4) land retained in state ownership under an enactment of the  
2 legislature or by the governor or a state agency under authority of law.

3 \* Sec. 3. AS 38.04.020(d) is repealed and reenacted to read:

4 (d) In the annual classification report required by AS 38.05.300(b), the  
5 commissioner shall report to the legislature on the planned total acreage of land  
6 classified as suitable for disposal under AS 38 for

7 (1) settlement purposes, including homestead, commercial, or industrial  
8 disposal;

9 (2) agricultural disposal; and

10 (3) grazing leases.

11 \* Sec. 4. AS 38.04.020(e) is repealed and reenacted to read:

12 (e) The commissioner may annually submit to the governor an appropriation  
13 request for the entire amount of funding estimated to be necessary for each project  
14 proposal to allow survey and disposal of land proposed to be offered for (1) homestead  
15 staking under AS 38.09; (2) agricultural, commercial, industrial, or other uses under  
16 AS 38.05.055 or 38.05.057; or (3) other subdivisions. Each project proposal shall  
17 include the general location of the land and the estimated cost of preliminary feasibility  
18 studies, engineering design work, right-of-way acquisition, and construction of access  
19 roads and capital improvements required by municipal subdivision ordinance or  
20 regulation of the platting authority or otherwise necessary to develop and market the  
21 land.

22 \* Sec. 5. AS 38.04.020(g) is amended to read:

23 (g) The [AFTER JULY 1 OF EACH YEAR, THE] commissioner shall direct  
24 the expenditure of money appropriated for the disposal of land in response to requests  
25 made under (e) [AND (F)] of this section for the following:

26 (1) Land designated as suitable for homestead disposal shall be  
27 [CLASSIFIED AND] surveyed under this chapter and AS 38.05 and made available  
28 for staking and lease under AS 38.09.

29 (2) Land designated as suitable for subdivision and homesite disposal  
30 shall be surveyed, subdivided, [CLASSIFIED,] and disposed of under this chapter,  
31 AS 38.05, and AS 38.08.

1 (3) Land designated agricultural, commercial, industrial, or suitable for  
2 other disposal shall be sold under AS 38.05.055 or 38.05.057.

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

4 (h) Individual parcels disposed of in subdivisions intended for private  
5 residential or recreational use may not exceed five acres unless the commissioner  
6 determines that a larger size is necessary to comply with municipal ordinances; [,] to  
7 permit the design of a viable subdivision because of topographical features, soil  
8 conditions, on-site sewage disposal requirements, or water drainage or supply  
9 considerations that are unique to the subdivision; to increase the return to the state  
10 from the sale of the parcels; [,] to minimize adverse effect on wildlife, fishery, public  
11 recreation, timber, or other significant resources in the area; [,] or to minimize adverse  
12 effect on other residential uses in the area.

13 \* Sec. 7. AS 38.04.020(i) is amended to read:

14 (i) Nothing in this section prevents the disposal of other land by the  
15 commissioner in accordance with AS 38.05.055, 38.05.057, 38.05.070, the issuance of  
16 remote cabin permits under AS 38.05.079, AS 38.08, AS 38.09, or other law.

17 \* Sec. 8. AS 38.04.021(b) is amended to read:

18 (b) A request by a municipality under this section must be accompanied by  
19 (1) a schedule for the disposal of municipal land for the next five years;  
20 the schedule shall be based on an assessment of the demand for private land within the  
21 municipality [AND INCLUDED IN THE ASSESSMENT SUBMITTED UNDER  
22 AS 38.04.020(f)];  
23 (2) an estimate of the number of acres of municipal land that the  
24 municipality plans to dispose of during each fiscal year of the five-year period;  
25 (3) a description of the methods to be used for the disposal of  
26 municipal land and the terms under which it will be offered to the public and  
27 (4) a description of the municipal land that the municipality plans to  
28 dispose of each fiscal year during the five-year period.

29 \* Sec. 9. AS 38.04.030 is amended to read:

30 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs that may  
31 be used by the director to make the state's land surface available for private use under

1 AS 38.04.020 - 38.04.055 include sale of whole or partial rights to the fee simple  
2 estate, including conveyance of agricultural use rights; leasing; [OPEN-TO-ENTRY;]  
3 homesiting; homesteading; permitting for construction and occupation of cabins in  
4 isolated locations on land retained in state ownership; and other methods as provided  
5 by regulation or other law. Notwithstanding a contrary provision of AS 38, a land  
6 availability program adopted by regulation must provide for competitive disposal,  
7 based on no less than fair market value, to serve the best interests of the state.

8 \* Sec. 10. AS 38.04.035 is amended to read:

9 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining  
10 which land availability program is appropriate for state land in different locations, the  
11 director shall be guided by the following criteria:

12 (1) to cover public costs associated with private land use and to provide  
13 the public with a fair return for publicly owned property, conveyance of state land to  
14 private parties shall [SHOULD] be at fair market value except where otherwise  
15 authorized by statute, or by an administrative regulation the adoption of which is  
16 specifically permitted by statute;

17 (2) sale or lease programs should be used where land is readily  
18 accessible to a major community center or where, because of a prime location on  
19 waterfront or a transportation route or some other location characteristic, land has  
20 relatively high real estate value;

21 (3) sale programs are preferred but lease programs should be used

22 (A) where special land use controls are required and there is a  
23 high public interest in having certain types of land used for particular purposes;

24 (B) when the intended use is a temporary one;

25 (C) in commercial or industrial situations when a leasehold can  
26 provide cash flow advantages to the lessee;

27 (D) when a unique location with special public value is  
28 involved, as in a deep water port, hydroelectric site, or aquaculture facility;

29 (E) where current demand for private use is high, but  
30 projections suggest that, in the future, the land may be more valuable for public  
31 use, as in accessible waterfront recreation areas;

1 (4) for enabling isolated cabin development in remote locations where  
2 survey and conveyance is impractical at the anticipated time of cabin development,  
3 or where disposal of land would cause potential conflicts with other resources and  
4 uses, or where a long-range interest in public ownership and use exist, a system for  
5 cabin permits on public land may be used;

6 (5) limited or conditional title may be granted when the state's best  
7 interest so dictates; among other things, title limitations may include grants of  
8 agricultural interest only, retention of development rights, and retention of scenic or  
9 other easements; a conditional title may be tied to a development schedule or other  
10 standards of performance.

11 \* Sec. 11. AS 38.05.035(b)(9) is amended to read:

12 (9) quitclaim land or an interest in land to the federal government on  
13 a determination that the land or interest in land was wrongfully or erroneously  
14 conveyed by the federal government to the state, or that it is in the best interests of  
15 the state to reconvey the land or interest in land, under terms authorized by  
16 43 U.S.C. 1617(c), in substitution for land or an interest in land located in a state  
17 park unit created under AS 41.21;

18 \* Sec. 12. AS 38.05.050 is amended to read:

19 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The  
20 commissioner shall determine the land to be disposed of for private use. The  
21 commissioner shall determine the time and place of disposal. An auction sale, a  
22 lottery sale, or a disposal of land for homesites may [SHALL] be held in a community  
23 that is near the land to be sold or disposed of.

24 \* Sec. 13. AS 38.05.055 is amended to read:

25 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of  
26 sale is required under this chapter, [AS 38.07, OR] AS 38.08, or AS 38.09, the sale  
27 of state land shall be made at public auction to the highest qualified bidder as  
28 determined by the director. The director may accept bids and sell state land under this  
29 section at no less than 70 percent of the appraised fair market value of the land. [A  
30 BIDDER MUST APPEAR IN PERSON AT THE AUCTION UNLESS MEDICAL  
31 REASONS, ATTENDANCE AT SCHOOL, OR MILITARY SERVICE OUTSIDE

1 THE STATE PREVENT ATTENDANCE.] A bidder may be represented by an  
2 attorney or agent at the auction [IF THE LAND OFFERED FOR DISPOSAL IS  
3 COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL LAND]. An aggrieved  
4 bidder may appeal to the commissioner within five days after the sale for a review of  
5 the director's determination. The sale shall be conducted by the director and at the  
6 time of sale the successful bidder shall deposit an amount equal to five percent of the  
7 purchase price. The director shall immediately issue a receipt containing a description  
8 of the land or property purchased, the price bid, and the amount deposited. The  
9 receipt shall be acknowledged in writing by the bidder.

10 \* Sec. 14. AS 38.05.057(a) is amended to read:

11 (a) The commissioner may dispose of land, including land limited to use for  
12 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be  
13 the fair market value of the land as determined by the commissioner. The  
14 commissioner may sell land by lottery for less than the fair market value of the land  
15 on a determination that scarcity of land for private use in the area of the land to be  
16 sold has resulted in unrealistic land values. [THE COMMISSIONER SHALL  
17 CONSULT WITH THE ASSESSOR OF A MUNICIPALITY BEFORE  
18 DETERMINING THE PURCHASE PRICE FOR LAND THAT IS LOCATED IN  
19 THE MUNICIPALITY AND THAT IS TO BE SOLD UNDER THIS SECTION.] The  
20 lottery shall be conducted in public by the commissioner. A [AN APPLICANT MAY  
21 NOT BE SELECTED TO PURCHASE LAND UNLESS THE APPLICANT IS  
22 PRESENT ON THE DATE AND AT THE PLACE THAT THE LOTTERY IS  
23 CONDUCTED UNLESS MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR  
24 MILITARY SERVICE OUTSIDE THE STATE PREVENT ATTENDANCE. AN  
25 APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE  
26 LOTTERY IF THE LAND OFFERED FOR SALE IS COMMERCIAL,  
27 INDUSTRIAL, OR AGRICULTURAL LAND. ON THE DAY OF THE LOTTERY  
28 A] purchaser selected by lot shall deposit an amount equal to five percent of the  
29 purchase price within 30 days after receiving notification of the selection.

30 \* Sec. 15. AS 38.05.069(e)(2) is repealed and reenacted to read:

31 (2) "adjacent" means that a tract of land has a common boundary or

1 corner to presently held land or is separated from the presently held land only by a  
2 physical barrier such as a road or stream.

3 \* Sec. 16. AS 38.05.082(b) is amended to read:

4 (b) The director may classify land as subject to leases for fisheries  
5 development. In an area or region of the state for which a land use plan has not been  
6 adopted under AS 38.04.065, the director may classify land for lease under this section  
7 after notice under AS 38.05.945. The director may [SHALL] publicly invite  
8 applications for lease of the selected areas. Each application shall be accompanied by  
9 an affidavit to the effect that the applicant presently intends to personally utilize the  
10 leased area for fishing purposes throughout the term of the lease [THE  
11 FOLLOWING SEASON]. If two or more applications are received for the same shore  
12 area, the director may offer [SHALL AWARD] the lease at public auction under  
13 AS 38.05.075(a). If only one application is received and the appraisal value of the  
14 lease is \$5,000 a year or less, the commissioner may issue a negotiated lease under  
15 AS 38.05.070(b) [TO THE MOST QUALIFIED APPLICANT. IN DETERMINING  
16 THE QUALIFICATIONS OF APPLICANTS, THE DIRECTOR SHALL CONSIDER  
17 THE LENGTH OF TIME DURING WHICH THE APPLICANT HAS BEEN  
18 ENGAGED IN SET NETTING, THE PROXIMITY OF THE PAST FISHING SITES  
19 OF THE APPLICANT TO THE LAND TO BE LEASED, THE PRESENT ABILITY  
20 OF THE APPLICANT TO UTILIZE THE LOCATION TO ITS MAXIMUM  
21 POTENTIAL, AND OTHER FACTORS RELEVANT TO THE EQUITABLE  
22 ASSIGNMENT OF THE DISPUTED AREA. IF THE DIRECTOR CANNOT  
23 DETERMINE A PREFERENCE BETWEEN CONFLICTING APPLICANTS FOR  
24 THE SAME LEASE SITE ON THE BASIS OF QUALIFICATIONS, THE  
25 DIRECTOR SHALL SELECT BETWEEN THE APPLICANTS BY LOT. AN  
26 AGGRIEVED APPLICANT MAY APPEAL TO THE COMMISSIONER WITHIN 30  
27 DAYS FOR A REVIEW OF THE DIRECTOR'S DETERMINATION].

28 \* Sec. 17. AS 38.05.082(c) is amended to read:

29 (c) A lease for set net fishing may be issued for any period not exceeding 10  
30 years. If the commissioner determines that the land is not being utilized for the  
31 purpose for which the lease is issued, the lease may be declared void. [THE

1           **DIRECTOR SHALL ESTABLISH A REASONABLE RENTAL FOR THE LEASE,**  
2           **EQUAL TO THE ADMINISTRATIVE COSTS INVOLVED IN PROCESSING THE**  
3           **LEASEHOLD APPLICATIONS.]**

4   \* **Sec. 18. AS 38.05.083 is repealed and reenacted to read:**

5           **Sec. 38.05.083. AQUATIC FARMING AND HATCHERY SITE LEASES.**

6           **(a) The commissioner may offer to the public for lease at public auction under**  
7           **AS 38.05.075 or by negotiation under AS 38.05.070 a site for aquatic farming or**  
8           **related hatchery operations. Before a final decision to issue or renew a lease under**  
9           **this section, the commissioner shall give notice and allow opportunity for comment in**  
10           **accordance with AS 38.05.945, and may hold a hearing to take testimony. Before a**  
11           **final decision to issue or renew a lease under this section, the commissioner shall**  
12           **consider all relevant comment or testimony submitted under this section, AS 38.05.945,**  
13           **or 38.05.946.**

14           **(b) The commissioner, for good cause, may deny an application for issuance**  
15           **or renewal of a lease under this section, but shall provide the applicant with written**  
16           **findings that explain the reasons for the denial.**

17           **(c) A site may be leased under this section for not less than the appraised fair**  
18           **market value of the lease. The value of the lease shall be reappraised every five years.**

19           **(d) A lease under this section may be assigned, but if the assignee changes the**  
20           **use of the site the lease reverts to the state.**

21           **(e) Before entering into a lease under this section, the commissioner shall**  
22           **require the lessee to post a performance bond or provide other security to cover the**  
23           **costs to the department of restoring the leased site in the event the lessee abandons the**  
24           **site.**

25           **(f) The commissioner shall adopt regulations establishing criteria for the**  
26           **approval or denial of leases under this section and for limiting the number of sites for**  
27           **which leases may be issued in an area in order to protect the environment and natural**  
28           **resources of the area. The regulations must provide for the consideration of upland**  
29           **management policies and whether the proposed use of a site is compatible with the**  
30           **traditional and existing uses of the area in which the site is located.**

31   \* **Sec. 19. AS 38.05.090 is repealed and reenacted to read:**

1                    **Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON**  
2                    **TERMINATION OF LEASES. (a) Unless otherwise agreed to in writing by the**  
3                    **commissioner, a lessee shall remove from a former leasehold**

4                                       (1) all personal property, including above-ground and below-ground  
5                    tanks, transportable buildings, equipment, machinery, tools, and other goods, not  
6                    belonging to the state, within 30 days after termination of the lease; and

7                                       (2) all buildings and fixtures, including gravel pads, foundations, and  
8                    slabs, not belonging to the state, within 60 days after termination of the lease.

9                                       (b) Unless otherwise agreed to in writing by the commissioner, the lessee shall  
10                    restore the leasehold to a good and marketable condition, acceptable to the  
11                    commissioner, within 120 days after termination of the lease.

12                                       (c) If the lessee does not remove personal property, buildings, and fixtures as  
13                    required within the time specified under (a) of this section, title to the personal  
14                    property, buildings, and fixtures that remain automatically vests in the state unless the  
15                    commissioner elects to remove and dispose of the remaining personal property,  
16                    buildings, and fixtures of the lessee. The commissioner may assess upon the lessee  
17                    the cost of removing and disposing of personal property, buildings, and fixtures  
18                    remaining upon the land.

19                                       (d) If the lessee does not restore the land within the time period specified  
20                    under (b) of this section, the commissioner may have the land restored and assess the  
21                    costs upon the lessee.

22                                       (e) As part of a lease agreement, and in order to protect the public interest, the  
23                    commissioner may require terms for removal or reversion of improvements additional  
24                    to those specified in (a) - (d) of this section.

25                                       (f) Private residential improvements of a lessee that have become fixtures of  
26                    the land and that are not removed by that lessee upon termination of the lease shall be  
27                    purchased by the subsequent purchaser of the land if the improvements were  
28                    authorized in the former lease or by permit from the director and if they have a net  
29                    value of more than \$10,000. The net value is the value of the improvements as  
30                    determined by an appraisal approved by the commissioner, less all rents due the  
31                    department, all costs of restoration under (d) of this section, and all department

1 expenses estimated to be incurred in making the sale. After termination of the former  
2 lessee's lease, and at additional times as determined necessary by the commissioner,  
3 the value of the authorized residential fixtures shall be determined by an independent  
4 appraisal made at the cost of the former lessee. A notice or offer by the state to sell  
5 formerly leased land under this subsection shall state (1) the appraised value of  
6 authorized residential fixtures remaining on the land that must be purchased, and (2)  
7 that that cost is included in the purchase price. Out of the proceeds of the sale, the  
8 department shall pay to the former lessee the appraised value of the residential  
9 improvements, less all rents due the department, all costs of restoration due the  
10 department under (d) of this section, and all department expenses incurred in making  
11 the sale.

12 (g) Personal property described in (c) of this section is not subject to AS 34.45  
13 (Uniform Unclaimed Property Act).

14 \* Sec. 20. AS 38.05 is amended by adding a new section to read:

15 Sec. 38.05.117. SALVAGE SALES. (a) Notwithstanding the provisions of  
16 AS 38.05.113, the commissioner, after making a determination that the disposal will  
17 serve the best interests of the state, may offer for salvage sale timber stands that will  
18 lose substantial economic value, or will perpetuate insect or disease epidemics, if not  
19 salvaged within two years. Timber on land to be cleared for conversion to nonforest  
20 uses also may be offered as a salvage sale under this section.

21 (b) A salvage sale offered as a negotiated timber sale is exempt from  
22 AS 38.05.115.

23 \* Sec. 21. AS 38.05.118(c) is amended to read:

24 (c) A sale of timber may not be negotiated by the commissioner under ~~this~~  
25 section except on a finding that, within an area proximate to the business site ~~that~~  
26 [WHICH] the manufacturer may economically serve, there exists, or will exist within  
27 two years,

28 (1) a high level of local unemployment;

29 (2) an underutilized timber manufacturing capacity; and

30 (3) an underutilized allowable cut of state timber, or timber that will  
31 lose substantial economic value due to insects, disease, fire, or land use

1        conversion.

2        \* **Sec. 22. AS 38.05.180(c) is amended to read:**

3                (c) Except as provided in (d) and (w) of this section, an oil and gas lease sale  
4        may not be held unless it was included in the proposed leasing programs submitted to  
5        the legislature during the two calendar years preceding the year in which the sale is  
6        held. [A LEASE SALE SHALL BE HELD DURING THE CALENDAR QUARTER  
7        FOR WHICH IT IS SCHEDULED IN THE PROPOSED OIL AND GAS LEASING  
8        PROGRAM BUT MAY BE DELAYED BY THE COMMISSIONER FOR NOT  
9        MORE THAN 90 DAYS AFTER THE LAST DAY OF THE CALENDAR  
10        QUARTER FOR WHICH IT WAS SCHEDULED IF THE COMMISSIONER  
11        DETERMINES THAT A DELAY IS IN THE BEST INTEREST OF THE STATE.  
12        A LEASE SALE WHICH IS NOT HELD DURING THE CALENDAR QUARTER  
13        FOR WHICH IT WAS SCHEDULED IN THE OIL AND GAS LEASING  
14        PROGRAM, OR IN THE FOLLOWING 90-DAY PERIOD AUTHORIZED BY THIS  
15        SUBSECTION, MAY BE HELD ONLY IF RESCHEDULED AS PROVIDED IN (b)  
16        OF THIS SECTION.] A lease sale may not be held before the date it is scheduled in  
17        the proposed oil and gas leasing program.

18        \* **Sec. 23. AS 38.05.185(a) is amended to read:**

19                (a) The acquisition and continuance of rights in and to deposits on state land  
20        of minerals, which on January 3, 1959, were subject to location under the mining laws  
21        of the United States, shall be governed by AS 38.05.185 - 38.05.275. Nothing in  
22        AS 38.05.185 - 38.05.275 affects the law pertaining to the acquisition of rights to  
23        mineral deposits owned by any other person or government. The director, with the  
24        approval of the commissioner, shall determine that land from which mineral deposits  
25        may be mined only under lease, and, subject to the limitations of AS 38.05.300, that  
26        land that shall be closed to location under AS 38.05.185 - 38.05.275 [MINING].  
27        State land may not be closed to [MINING OR MINERAL] location under  
28        AS 38.05.185 - 38.05.275 except as provided in AS 38.05.300 and unless the  
29        commissioner makes a finding that mining would be incompatible with significant  
30        surface uses on the state land. State land may not be restricted to mining under lease  
31        unless the commissioner determines that potential use conflicts on the state land.

1 require that mining be allowed only under written leases issued under AS 38.05.205  
2 or the commissioner has determined that the land was mineral in character at the time  
3 of state selection. The determinations required under this subsection shall be made in  
4 compliance with land classification orders and land use plans developed under  
5 AS 38.05.300.

6 \* Sec. 24. AS 38.05.190(a) is amended to read:

7 (a) The right to acquire exploration and mining rights under AS 38.05.185 -  
8 38.05.275 may be acquired or held only by

9 (1) citizens of the United States at least 18 years of age;

10 (2) legal guardians or trustees of citizens of the United States under 18  
11 years of age on behalf of the citizens;

12 (3) persons at least 18 years of age who have declared their intention  
13 to become citizens of the United States;

14 (4) [ALIENS AT LEAST 18 YEARS OF AGE IF THE LAWS OF  
15 THEIR COUNTRY GRANT LIKE PRIVILEGES TO CITIZENS OF THE UNITED  
16 STATES;]

17 (5) corporations organized under the laws of the United States or of any  
18 state or territory of the United States and qualified to do business in this state [,  
19 EXCEPT THAT IF MORE THAN 50 PERCENT OF THE STOCK OF A  
20 CORPORATION IS OWNED OR CONTROLLED BY ALIENS WHO ARE NOT  
21 QUALIFIED, THE CORPORATION IS NOT QUALIFIED TO ACQUIRE OR HOLD  
22 THE RIGHTS];

23 (6) associations of persons described in (1) - (5) of this subsection.

24 \* Sec. 25. AS 38.05.211(d) is repealed and reenacted to read:

25 (d) The rental amount established under this section shall be revised by the  
26 commissioner as provided in this section based on changes in the Consumer Price  
27 Index for all Urban Consumers, Anchorage Metropolitan Area (Semi-Annual Average)  
28 compiled by the Bureau of Labor Statistics, United States Department of Labor, as  
29 revised, rebased or replaced by that bureau. The reference base index is the index for  
30 January - June, 1989, as revised or rebased by that bureau. The rental amount shall  
31 be revised by the commissioner if the change between the index for the first six

1 months of the current year and the most recent index used to revise the rental, or the  
2 reference base index if the rental amount has never been revised, equals or exceeds \$5.  
3 The rental amount must be increased or decreased, as appropriate, by an amount equal  
4 to the change in the index described in this subsection rounded to the nearest whole  
5 \$5 unit. The commissioner shall calculate the change in the index annually and, if the  
6 rental amount must be revised, shall adopt a regulation establishing the revised rental  
7 amount. A revised rental amount applies to a rental payment if the regulation  
8 establishing the revised rental amount took effect at least 90 days before the date the  
9 rental payment is due.

10 \* Sec. 26. AS 38.05.255 is amended to read:

11 Sec. 38.05.255. SURFACE USE OF LAND OR WATER. (a) Surface uses  
12 of land or water included within mining properties by owners of those properties shall  
13 be limited to those necessary for the prospecting for, extraction of, or basic processing  
14 of mineral deposits and shall be subject to reasonable concurrent uses. Leases  
15 [PERMITS] for millsites and tailings disposal may be issued [GRANTED] by the  
16 director. The leases [PERMITS] shall be conditioned upon payment of a reasonable  
17 annual rent [CHARGE] for the lease [USE] and restriction to [CONTINUANCE OF]  
18 the limited use. Timber from land open to mining without lease, except timberland,  
19 may be used by a mining claimant or prospecting site locator for the mining or  
20 development of the location or adjacent claims under common ownership. On other  
21 land, timber may be acquired as provided in this chapter. Use of water shall be made  
22 in accordance with AS 46.15.

23 (b) A lease issued under this section is exempt from the provisions of  
24 AS 38.05.070 - 38.05.105. The commissioner, by regulation, shall establish  
25 appropriate leasing procedures and annual rent amounts for leases under this  
26 section.

27 \* Sec. 27. AS 38.05.265 is amended to read:

28 Sec. 38.05.265. ABANDONMENT. Failure to properly record a certificate of  
29 location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE  
30 TIME PRESCRIBED A LEASE APPLICATION,] pay any required annual rental, pay  
31 any required production royalty, or keep location boundaries clearly marked as

1 required by AS 38.05.185 - 38.05.275 and by regulations adopted under these sections  
2 constitutes abandonment of all rights acquired under the mining claim, leasehold  
3 location, lease, or site involved, and the claim, location, lease, or site is subject to  
4 relocation by others. A locator or claimant of an abandoned location or a successor  
5 in interest may not relocate the location until one year after abandonment. A statement  
6 of annual labor that does not accurately set out the essential facts is void and of no  
7 effect. If an annual rental or a royalty payment is deficient but is otherwise timely  
8 paid, abandonment does not result if full payment is made within

9 (1) the period prescribed by a deficiency notice from the commissioner;

10 or

11 (2) 30 days after a final judgment establishing the amount due if the  
12 deficiency amount due was contested.

13 \* Sec. 28. AS 38.05.850(a) is amended to read:

14 (a) The director, without the prior approval of the commissioner, may issue  
15 permits, rights-of-way or easements on state land for roads, trails, ditches, field  
16 gathering lines or transmission and distribution pipelines not subject to AS 38.35,  
17 telephone or electric transmission and distribution lines, log storage, oil well drilling  
18 sites and production facilities for the purposes of recovering minerals from adjacent  
19 land under valid lease, and other similar uses or improvements, or revocable,  
20 nonexclusive permits for the personal or commercial use or removal of resources  
21 that the director has determined to be of limited value [FOR THE LIMITED  
22 PERSONAL USE OF TIMBER OR MATERIALS]. The commissioner, upon  
23 recommendation of the director, shall establish a reasonable rate or fee schedule to be  
24 charged for these uses, subject to the exception for nonprofit cooperative associations  
25 specified in (b) of this section. In the granting, suspension or revocation of a permit  
26 or easement of land, the director shall give preference to that use of the land which  
27 will be of greatest economic benefit to the state and the development of its resources.  
28 However, first preference shall be granted to the upland owner for the use of a tract  
29 of tideland, or tideland and contiguous submerged land, which is seaward of the upland  
30 property of the upland owner and which is needed by the upland owner for any of the  
31 purposes for which the use may be granted.

1 \* Sec. 29. AS 38.05.945(d) is amended to read:

2 (d) Notice at least 30 days before a preliminary finding under  
3 AS 38.05.035(e) concerning sites for aquatic farms and related hatcheries  
4 [ACTION UNDER (a) (5) OR (6) OF THIS SECTION] shall be given to appropriate

5 (1) regional fish and game councils established under AS 16.05.260;  
6 and

7 (2) coastal resource service areas organized under AS 46.40.110 -  
8 46.40.210.

9 \* Sec. 30. AS 38.08.030(b) is amended to read:

10 (b) The provisions of AS 38.05.057(e), (f), and (h) apply to application for  
11 and issuance of a homesite entry permit. Fees for filing an application may not  
12 exceed the amount set out in AS 38.05.057(d) [\$10].

13 \* Sec. 31. AS 38.08.040(a) is amended to read:

14 (a) An applicant meeting the qualifications for homesite entry under  
15 AS 38.08.030 and selected under AS 38.05.057(e) shall be issued a revocable permit  
16 to occupy and improve the homesite in order to qualify for issuance of patent as  
17 provided in this chapter. The holder of a homesite entry permit shall pay, in  
18 advance, an annual rental fee of \$100. [THE APPLICATION FEE IS THE SOLE  
19 RENT CHARGEABLE ON THE PERMIT FOR ITS DURATION.]

20 \* Sec. 32. AS 38.09.010(g) is amended to read:

21 (g) The commissioner may limit the number of persons permitted to stake  
22 homestead entries within an area designated under (a) of this section by a lottery of  
23 qualified applicants. [THE COMMISSIONER MAY CONDUCT A LOTTERY HELD  
24 UNDER THIS SUBSECTION IN THE COMMUNITY THAT IS CLOSEST TO THE  
25 AREA DESIGNATED FOR HOMESTEAD ENTRY. THE COMMISSIONER MAY  
26 REQUIRE THAT EACH PARTICIPANT IN THE LOTTERY BE PRESENT UNLESS  
27 ATTENDANCE AT THE LOTTERY IS PREVENTED BY

28 (1) MEDICAL REASONS, ATTENDANCE AT SCHOOL, OR MILITARY  
29 SERVICE OUTSIDE THE STATE; OR

30 (2) A MANDATORY, UNAVOIDABLE EMPLOYMENT COMMITMENT  
31 DETERMINED VALID BY THE COMMISSIONER BEFORE THE SALE.]

1 \* Sec. 33. AS 38.09.030(a) is amended to read:

2 (a) An applicant for a homestead entry permit shall

3 (1) submit proof acceptable to the commissioner that the applicant is  
4 at least 18 years of age and has been a resident of the state for not less than one year  
5 immediately before the date of application;

6 (2) pay a fee of \$5 per acre according to the description provided by  
7 the applicant if the entry is on land classified agricultural, or \$20 per acre if the  
8 entry is on land not classified agricultural;

9 (3) agree to comply with the requirements of AS 38.09.050;

10 (4) certify that the corners of the land entered have been staked and the  
11 boundaries have been flagged; and [OR]

12 (5) assume full responsibility for the accuracy of the description of the  
13 land filed with the commissioner under AS 38.09.020(b).

14 \* Sec. 34. The amendments to AS 38.05.082(b) made by sec. 16 of this Act do not affect  
15 the amendments made to that subsection by sec. 3, ch. 27, SLA 1991, effective January 1,  
16 1997. Unless amended or repealed by Act of the legislature after the effective date of this  
17 Act, the amendments to AS 38.05.082(b) made by sec. 16 of this Act continue in effect after  
18 the amendments made by sec. 3, ch. 27, SLA 1991 take effect January 1, 1997.

19 \* Sec. 35. AS 38.04.020(c), 38.04.020(f), 38.04.020(j), 38.04.020(k); AS 38.05.035(e)(6),  
20 38.05.057(g), 38.05.057(j), 38.05.207, 38.05.855, 38.05.856, 38.05.945(a)(5), 38.05.945(a)(6),  
21 38.05.945(g), 38.05.946(b); AS 38.09.050(d), and 38.09.050(e) are repealed.

22 \* Sec. 36. APPLICABILITY. Legal rights accrued under AS 38.05.083, 38.05.255,  
23 38.05.856, or AS 38.08.040, as those statutes existed before July 1, 1994, are not impaired by  
24 the amendments to or repeal of those statutes by this Act.

25 \* Sec. 37. TRANSITIONAL PROVISIONS: REGULATIONS. Notwithstanding sec. 40  
26 of this Act, the Department of Natural Resources may proceed to adopt regulations necessary  
27 to implement the changes made by this Act. The regulations take effect under AS 44.62  
28 (Administrative Procedure Act), but not before July 1, 1994.

29 \* Sec. 38. TRANSITIONAL PROVISIONS: REMOVAL OF CONDITIONS ON  
30 REMOTE PARCEL AND HOMESTEAD ENTRY LAND. (a) The commissioner may not  
31 include the conditions of former AS 38.05.078(d) in a remote parcel purchase contract issued

1 on or after July 1, 1994.

2 (b) The commissioner shall amend a remote parcel or homestead entry land purchase  
3 contract or patent issued before July 1, 1994 to remove the conditions of AS 38.05.078(d) or  
4 AS 38.09.050(e), if the holder of the purchase contract or patent

5 (1) requests the amendment;

6 (2) pays the reasonable administrative costs of the amendment as determined  
7 by the commissioner; and

8 (3) pays the difference, as established by the commissioner, between the land's  
9 fair market value before and the estimated fair market value after the conditions would be  
10 removed.

11 \* Sec. 39. Section 37 of this Act takes effect immediately under AS 01.10.070(c).

12 \* Sec. 40. Sections 1 - 36 and 38 of this Act take effect July 1, 1994.