

CS FOR SENATE BILL NO. 339(RES)(efd fld)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Amended: 5/2/94
Offered: 4/11/94

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

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

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3 * **Sec. 3.** AS 38.04.020(d) is repealed and reenacted to read: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11 * **Sec. 4.** AS 38.04.020(e) is repealed and reenacted to read: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 this title, a
6 land availability program adopted by regulation must provide for competitive
7 disposal, based on no less than fair market value, to serve the best interests of the
8 state.

9 * Sec. 10. AS 38.04.035 is amended to read:

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

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

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

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

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

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

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

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

30 (E) where current demand for private use is high, but
31 projections suggest that, in the future, the land may be more valuable for public

1 use, as in accessible waterfront recreation areas;

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

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

12 * Sec. 11. AS 38.05.020(b) is amended to read:

13 (b) The commissioner may

14 (1) establish reasonable procedures and adopt reasonable regulations
15 necessary to carry out this chapter and, whenever necessary, issue directives or orders
16 to the director to carry out specific functions and duties; regulations adopted by the
17 commissioner shall be adopted under AS 44.62 ([THE] Administrative Procedure Act)
18 [(AS 44.62)]; orders by the commissioner classifying land, issued after January 3,
19 1959, are not required to be adopted under AS 44.62 ([THE] Administrative
20 Procedure Act) [(AS 44.62)];

21 (2) enter into agreements considered necessary to carry out the purposes
22 of this chapter, including agreements with federal and state agencies;

23 (3) review any order or action of the director;

24 (4) exercise the powers and do the acts necessary to carry out the
25 provisions and objectives of this chapter;

26 (5) notwithstanding the provisions of any other section of this chapter,
27 grant an extension of the time within which payments due on any lease or sale of state
28 land, minerals, or materials may be made, including payment of rental and royalties,
29 on a finding that compliance with the requirements is or was prevented by reason of
30 war, riots, or acts of God;

31 (6) classify tracts for agricultural uses and require the prequalification,

1 including the submission of conservation plans, development plans, or other plans,
2 schedules, or programs, of persons who apply to participate in an agricultural
3 development project under AS 44.33.475;

4 (7) waive, postpone, or otherwise modify the development requirements
5 of a contract for the sale of agricultural land if

6 (A) the land is inaccessible by road; and

7 (B) transportation, marketing, and development costs render the
8 required development uneconomic;

9 (8) reconvey or relinquish land or an interest in land to the federal
10 government if

11 (A) the land is described in an amended application for an
12 allotment under 43 U.S.C. 1617; and

13 (B) the reconveyance or relinquishment is

14 (i) for the purposes provided in 43 U.S.C. 1617; and

15 (ii) in the best interests of the state.

16 * Sec. 12. AS 38.05.050 is amended to read:

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

22 * Sec. 13. AS 38.05.055 is amended to read:

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

1 COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL LAND]. An aggrieved
2 bidder may appeal to the commissioner within five days after the sale for a review of
3 the director's determination. The sale shall be conducted by the director and at the
4 time of sale the successful bidder shall deposit an amount equal to five percent of the
5 purchase price. The director shall immediately issue a receipt containing a description
6 of the land or property purchased, the price bid, and the amount deposited. The
7 receipt shall be acknowledged in writing by the bidder.

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

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

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

29 (2) "adjacent" means that a tract of land has a common boundary or
30 corner to presently held land or is separated from the presently held land only by a
31 physical barrier such as a road or stream.

1 * Sec. 16. AS 38.05.090 is repealed and reenacted to read:

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

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

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

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

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

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

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

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

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

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

15 * Sec. 17. AS 38.05 is amended by adding a new section to read:

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

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

24 * Sec. 18. AS 38.05.118(c) is amended to read:

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

29 (1) a high level of local unemployment;

30 (2) an underutilized timber manufacturing capacity; and

31 (3) an underutilized allowable cut of state timber, or timber that will

1 lose substantial economic value due to insects, disease, fire, or land use
2 conversion.

3 * Sec. 19. AS 38.05.180(c) is amended to read:

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

19 * Sec. 20. AS 38.05.185(a) is amended to read:

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

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

7 * Sec. 21. AS 38.05.190(a) is amended to read:

8 (a) The right to acquire exploration and mining rights under AS 38.05.185 -
9 38.05.275 may be acquired or held only by

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

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

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

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

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

24 (5) [(6)] associations of persons described in (1) - (4) [(1) - (5)] of this
25 subsection.

26 * Sec. 22. AS 38.05.211(d) is repealed and reenacted to read:

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

1 January - June, 1989, as revised or rebased by that bureau. The rental amount shall
2 be revised by the commissioner if the change between the index for the first six
3 months of the current year and the most recent index used to revise the rental, or the
4 reference base index if the rental amount has never been revised, equals or exceeds \$5.
5 The rental amount shall be increased or decreased, as appropriate, by an amount equal
6 to the change in the index described in this subsection rounded to the nearest whole
7 \$5 unit. The commissioner shall calculate the change in the index annually and, if the
8 rental amount must be revised, shall adopt a regulation establishing the revised rental
9 amount. A revised rental amount applies to a rental payment if the regulation
10 establishing the revised rental amount took effect at least 90 days before the date the
11 rental payment is due.

12 * Sec. 23. AS 38.05.255 is amended to read:

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

25 * Sec. 24. AS 38.05.255 is amended by adding a new subsection to read:

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

29 * Sec. 25. AS 38.05.265 is amended to read:

30 Sec. 38.05.265. ABANDONMENT. Failure to properly record a certificate of
31 location or a statement of annual labor, [FILE WITH THE DIRECTOR WITHIN THE

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

11 (1) the period prescribed by a deficiency notice from the commissioner;
12 or

13 (2) 30 days after a final judgment establishing the amount due if the
14 deficiency amount due was contested.

15 * Sec. 26. AS 38.05.850(a) is amended to read:

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

1 owner and which is needed by the upland owner for any of the purposes for which the
2 use may be granted.

3 * Sec. 27. AS 38.08.030(b) is amended to read:

4 (b) Fees for filing an application may not exceed \$25 [\$10].

5 * Sec. 28. AS 38.08.040(a) is amended to read:

6 (a) An applicant meeting the qualifications for homesite entry under
7 AS 38.08.030 and selected under (f) of this section shall be issued a revocable permit
8 to occupy and improve the homesite in order to qualify for issuance of patent as
9 provided in this chapter. The holder of a homesite entry permit shall pay, in
10 advance, an annual rental fee of \$100. [THE APPLICATION FEE IS THE SOLE
11 RENT CHARGEABLE ON THE PERMIT FOR ITS DURATION.]

12 * Sec. 29. AS 38.08.040 is amended by adding a new subsection to read:

13 (f) If only one application for a homesite parcel is received, the commissioner
14 shall offer an entry permit for the parcel to the applicant provided the applicant is
15 otherwise qualified. If more than one application is received for a parcel, the
16 commissioner shall select by lottery the applicant who is entitled to receive the permit
17 for the parcel. The lottery shall be conducted under regulations adopted by the
18 commissioner that are to the maximum extent practicable consistent with the provisions
19 of AS 38.05.057 and the regulations adopted under that section.

20 * Sec. 30. 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
29 MILITARY SERVICE OUTSIDE THE STATE; OR

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

1 SALE.]

2 * Sec. 31. AS 38.09.030(a) is amended to read:

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

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

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

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

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

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

15 * Sec. 32. AS 38.09 is amended by adding a new section to read:

16 Sec. 38.09.105. REMOVAL OF CONDITIONS ON REMOTE PARCEL AND
17 HOMESTEAD ENTRY LAND. (a) The commissioner may not include the
18 conditions of former AS 38.05.078(d) in a remote parcel purchase contract issued on
19 or after the effective date of this section.

20 (b) The commissioner shall amend a remote parcel or homestead entry land
21 purchase contract or patent issued before the effective date of this section to remove
22 the conditions of former AS 38.05.078(d) or former AS 38.09.050(e) if the holder of
23 the purchase contract or patent

24 (1) requests the amendment;

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

27 (3) pays the difference, as established by the commissioner, between
28 the land's fair market value before the amendment and the estimated fair market value
29 after the amendment.

30 * Sec. 33. AS 38.04.020(c), 38.04.020(f), 38.04.020(j), 38.04.020(k); AS 38.05.035(e)(6),
31 38.05.057(g), 38.05.057(j), 38.05.207, 38.05.945(g); AS 38.09.050(d), and 38.09.050(e) are

1 repealed.

2 * **Sec. 34. TRANSITIONAL PROVISIONS: REGULATIONS.** (a) Notwithstanding sec.
3 36 of this Act, the Department of Natural Resources may proceed to adopt regulations
4 necessary to implement the changes made by this Act. The regulations take effect under
5 AS 44.62 (Administrative Procedure Act), but not before July 1, 1994.

6 (b) To the extent they are consistent with AS 38.08, regulations governing the
7 selection of applicants for homesite parcels under AS 38.08 in effect on the effective date of
8 this Act remain in effect notwithstanding the amendment to AS 38.08.040, provided by sec.
9 29 of this Act, until the regulations are amended, repealed, or superseded.