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SJR 3: BACKGROUND

The purpose of this amendment is to embody in the Alaska State Constitution, the philosophy expressed in the existing statute, AS 38.05.321, relating to preservation of the rights of agricultural land for the purposes of agriculture only and to ensure that that philosophy will not be undermined by future legislation.

The amendment proposes that those state lands which are classified as agricultural and are disposed of either by sale, or long-term lease, must remain forever agricultural in nature. These lands can be abandoned to reforestation, but they cannot be subdivided or used for purposes incompatible with future agricultural use. This affects approximately 1 million acres.

Under this amendment, farmers will own the right to farm but will not have unlimited or fee simple title to the property, which would remain with the State. This is in keeping with the present statute and the philosophy of the Homestead Act of the 1920's.

This amendment has been introduced in response to the destruction of valuable lands suitable for agriculture by using them for commercial or residential purposes. This is a widespread national problem which has become intensified in some areas of Alaska and there is only a limited amount of farming land available in the State.

Unfortunately, valuable agricultural lands on the Kenai and in the Tanana and Matanuska Valleys has been lost to other than agricultural development and it is apparent that the Susitna, Nenana and Copper River Valleys may be next.

It is imperative that we learn from the lessons of the past and of other states and preserve these lands while we still have the opportunity to do so.

Sup. Ct. Op. No. 1462 (File Nos. 2561, 2671), 566 P.2d 1320 (1977).

While strict or absolute necessity is not required, something more than mere convenience must be shown before an occu-

pant of tidelands is entitled to an easement under subsection (b)(6) of this section. *Talbot's, Inc. v. Cessnun Enterprises, Inc.*, Sup. Ct. Op. No. 1462 (File Nos. 2561, 2671), 566 P.2d 1320 (1977).

Sec. 38.05.321. Restriction on sale, lease or other disposal of agricultural land. (a) The sale, lease or other disposal of state land classified as agricultural land transfers only rights for agricultural purposes, and all other interests in the land remain with the state unless otherwise required by law.

(b) State land classified as agricultural land which has been selected by a municipality under AS 29.18.190 — 29.18.200 or 29.18.205(e) may be approved by the director for patent under AS 29.18.205(f); however, only rights in the land for agricultural purposes may be transferred and all other interests in the land will remain with the state. Agricultural land approved for patent to a municipality under AS 29.18.205(f) shall be credited, acre for acre, toward fulfillment of that municipality's entitlement under AS 29.18.201 — 29.18.203. If the director later determines it to be in the best interests of the state to transfer some or all of the additional rights in that approved or patented agricultural land, those rights shall pass without consideration to the municipality in which the land is located. The notice and review provisions of AS 38.05.305 and 38.05.345 are applicable to conveyance of rights under this section.

(c) The provisions of this section do not apply to state land classified as agricultural land which has been selected by a municipality under the provisions of AS 29.18.190 — 29.18.200 if the selection is an approved selection before April 1, 1978 and is otherwise valid under AS 29.18.205(b). (§ 3 ch 71 SLA 1976; am § 3 ch 180 SLA 1978)

Effect of amendments. — The 1978 amendment rewrote this section.

Editor's notes. — Sections 29.18.190 and 29.18.200, referred to in subsections (b) and (c), were repealed by § 5, ch. 180, SLA 1978.

AS 38.05.305, referred to in subsection (b), was repealed by § 45, ch. 113, SLA 1981.

Sec. 38.05.325. Homestead entry.

Repealed by § 45 ch 85 SLA 1979.

Editor's notes. — The repealed section derived from § 6, art. III, ch. 169, SLA 1959; § 1, ch. 72, SLA 1966.

Sec. 38.05.330. Permits. (a) The director, without the prior approval of the commissioner, may issue permits, rights-of-way or easements on state land for roads, trails, ditches, field gathering lines or transmission and distribution pipelines not subject to AS 38.35.010

— 38.35.260, telegraph storage, oil purposes of record and other similar of timber or material director, shall es for these uses, s cations specific revocation of a preference to the benefit to the st preference shall of tideland, or seaward of the needed by the t may be granted

(b) The fee section shall be a transmission tive association purpose of supp to its members. in the best inte ch 61 SLA 196 am § 13 ch 25

Effect of amendment added ignation, and in tuted "telephone and distribution i

Sec. 38.05.3 seeking the sale oil and gas or mated cost of deposited fund lands are sold the party aw appraising and of advertising. cant.

(b) Except a lease of state sealed bid, the money deposit director may t

Supplement