

S B

22

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3-2-89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER FINANCE

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

1/9/89

DATE TURNED INTO OFFICE 5-3-90

Mr. President:

RESOURCES

Committee considered SB 22

disposition of unclaimed real property interests

and recommended:

- replace with cs SB 22 (Res) same title
- attached amendment(s) and new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
Kirk Halford
[Signature]
[Signature]
[Signature]

Aulis Sturgulinski No Rec

[Signature]
Chairman signature and recommendation

Committee backup attached

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 22
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 7-Mar-89 Agency Affected: Natural Resources
 Title: SB 22, An act relating to the BRU: Land and Water Management
disposition of unclaimed property interests
 Sponsor: Senator Paiks Components: Land & Water Mgt
 Requestor: Senate Resource Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		46.0	46.0	46.0	46.0	46.0
TRAVEL		4.0	4.0	4.0	4.0	4.0
CONTRACTUAL		34.0	34.0	34.0	34.0	34.0
SUPPLIES		2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	86.0	86.0	86.0	86.0	86.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		86.0	86.0	86.0	86.0	86.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	86.0	86.0	86.0	86.0	86.0

POSITIONS:

FULL-TIME		1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 7-Mar-89
 Approved by Commissioner: Lennie Gorsuch Date: 7-Mar-89
 Agency: Department of Natural Resources

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Position Title Natural Resource Officer II		No. of Positions 1	Range/Step 16A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District
Justification				
<p>Pursuing information furnished by department personnel, other state and federal agencies and members of the public. Sufficient background info must be gathered to present the potential escheat to the Attorney General's office for a judgement. Includes presenting escheats to state attorneys with a request for Superior Court judgement. Gathering any additional background information they need and recommending decisions on contested escheats. Giving the Regional offices sufficient information and notice so that processors can make best interest findings, appraisals and approved disposals. Also involves ensuring that money from escheated lands finds its way to the department's escheated real property trust account. Drafting written decisions with appeal rights for those undiscovered individuals who choose to pursue an administrative claim instead of a court claim to escheated land. Includes background support for state attorneys to support obtaining a judgement of escheat and most important the judgement itself.</p> <p>Contractural monies include the costs for appraisals, public notice and inspection of the site.</p>				
Type of Expenditure		Amount		
1	2	3		
Salary	46.0			
Benefits				
Premium Pay				
Other				
Total Personal Services	46.0			
Travel		4.0		
Contractual		34.0		
Commodities		2.0		
Equipment				
Other				
Total Cost		86.0		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	86.0		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Natural Resources
 BRU Land and Water Management
 Component _____

FY 90

Page 2 of 2
 Revised Date 3/7/89

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: 5 SB 22 (Reg)

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 7-Mar-89
Title: SB 22, An act relating to the disposition of unclaimed property interests
Sponsor: Senator Faiks
Requestor: Senate Resource Committee

Agency Affected: Natural Resources
BRJ: Land and Water Management
Components: Land & Water Mgt

EXPENDITURES/REVENUES: (Thousands of Dollars)

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EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	86.0	86.0	86.0	86.0	86.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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FEDERAL FUNDS						
OTHER						
TOTAL	0.0	86.0	86.0	86.0	86.0	86.0

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PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

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Division: Commissioner's Office

Phone: 465-2400
Date: 7-Mar-89

Approved by Commissioner: Lennie Gorsuch
Agency: Department of Natural Resources

Date: 7-Mar-89
3/Mar/90

Distribution (by preparer) :
Legislative Finance
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Requestor
Office of Management and Budget
Impacted Agency(ies)

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**Request For
New Position**

Agency Natural Resources
BRU Land and Water Management
Component _____

Page 2 of 2
Revised Date 3/7/89

FY 90

BILL: SB 22

NAME:

TITLE: "An Act relating to the disposition of unclaimed real property interests."

PRIME SPONSOR: FAIKS

CURRENT STATUS: (S) FIN

STATUS DATE: 05/03/90

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	SUBJ	EXIT	MENU	TEXT	PRINT	BWD	FWD		FIRST	LAST	QUIT
SB	22									Page 2	of 2

Bill/Resolution Floor Action

Current Status: (S) FIN

	Jrn-Date	Jrn-Page	Action
1	12/30/88		(S) PREFILE RELEASED
2	01/09/89	16	(S) READ THE FIRST TIME - REFERRAL(S)
3	01/09/89	16	(S) RESOURCES, THEN FINANCE
4	05/03/90	3854	(S) RES RPT CS 5DP 2NR SAME TITLE
5	05/03/90	3854	(S) FN TO SB & CS PUBLISHED (DNR)
6	05/03/90	3854	(S) REFERRED TO FINANCE

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	SUBJ	EXIT	MENU	TEXT	PRINT	BWD	FWD	CMT/JRNL	FIRST	LAST	QUIT
BASIS	Journal	Text									

05/03/90

SENATE JOURNAL

PAGE 3854

SB 22

The Resources Committee considered SENATE BILL NO. 22 (An Act relating to the disposition of unclaimed real property

interests) and recommended it be replaced with

CS FOR SENATE BILL NO. 22 (Resources)

Senator Fahrenkamp, Chair, and Senator Sturgulewski signed "no recommendation." Senators Kerttula, Halford, Zharoff, Eliason and Frank signed "do pass."

Fiscal notes for SENATE BILL NO. 22 and the Committee Substitute published today from Department of Natural Resources.

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

BASIS Journal Text

05/03/90

SB 22

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HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

B004-FIRST PAGE

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

March 7, 1989

The Honorable Bettye Fahrenkamp
Chair, Senate Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Fahrenkamp:

Subject: SB 22, An Act relating to the disposition of unclaimed real property interests.

Background: The 1986 Legislature passed the real property escheat bill which transferred responsibility from the Department of Revenue to the Department of Natural Resources. SB 22 was before the 16th Alaska State Legislature as CSSB 16.

Position: SB 22 limits the department's land management options with respect to escheated real property. During the 14th Session of the Alaska State Legislature, the state's escheat real property statutes were amended to accomplish two primary objectives.

First, management responsibility was transferred from the Department of Revenue to the Department of Natural Resources. This transfer consolidated land management functions in the appropriate state agency with resultant cost savings.

Second, the legislation set up a process whereby escheated land transferred to the state is subject to a written best interest finding to establish its highest and best use. In this manner, the department is able to safeguard the public interest and avoid downstream land acquisition costs. SB 22 eliminates this process in favor of a requirement to sell all escheat properties.

Many parcels are located in public use areas and are desirable for retention or for future land exchanges. For instance, the Harry C. Robb tract in Talkeetna has considerable interest from the Talkeetna Historical Society because of the site's historic value to the community. Powder Island, a 12 acre island in Kachemak Bay has been proposed for exchange with the Seldovia Native Association.

Although all revenue enhancement opportunities must be explored, the escheat program is a small scale project which often involves parcels of land with significant public interests. The department lists eight escheat properties worth roughly \$300,000 in its inventory.

Concern has been voiced that the Department of Natural Resources is needlessly retaining lands that it has obtained from private ownership through the escheat process; however, the department is diligently working to make the lands available to the private sector. Powder Island (escheat #46) and the Talkeetna property (escheat #43, Harry Rob estate), discussed earlier, are examples of disposals. Additionally, a mining claim at Turnagain Pass (escheat #53) is in the disposal process, and the City of Nenana is seeking an escheat parcel (escheat #17) adjacent to the airport. The department believes it is more sensible to first determine whether the state should retain a parcel. It is our experience that this determination will often yield a higher purpose for the parcel. Should no higher purpose exist, the existing law already provides that the land may be sold at public auction.

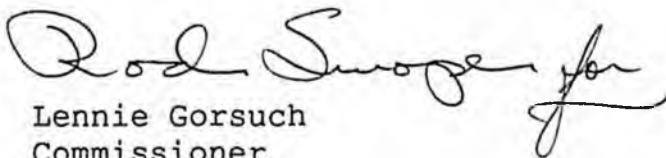
SB 22 does offer a few minor improvements to the existing escheat law, including the addition of a definition of "net proceeds" and a provision that claims must occur within one year after a minor reaches the age of 18 years.

In summary, we believe that the existing legislation should be retained and be given a sufficient opportunity to operate.

Technical changes: Line 14 of section 4 should be changed to read that the department shall "offer to sell" the lands. This same comment applies to line 21 of this section.

We look forward to working with you and the members of the committee on this legislation.

Sincerely,


Lennie Gorsuch
Commissioner

Senator Fahrenkamp

- 3 -

March 7, 1989

cc: Committee Members
Bill Sponsors
Bob Evans
Denby Lloyd
Gary Gustafson

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION : SB 22
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 7-Mar-89 Agency Affected: Natural Resources
 Title: SB 22, An act relating to the BRU: Land and Water Management
disposition of unclaimed property interests
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ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 7-Mar-89
 Approved by Commissioner: Lennie Gorsuch Date: 7-Mar-89
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**Request For
New Position**

Agency Natural Resources
 BRU Land and Water Management
 Component _____

Page 2 of 2
 Revised Date 3/7/89

FY 90

Bill/Resolution History 11:07 AM 05/02/90
BILL: SB 22
NAME:
TITLE: "An Act relating to the disposition of unclaimed real property interests."

Page 1

PRIME SPONSOR: FAIKS

CURRENT STATUS: (S) RES THEN FIN STATUS DATE: 01/09/89

HEARING:(S) RES MAY 02 01:30 PM BUTROVICH ROOM 205

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
SB 22 Journal & Committee Action Page 2 of 2
Current Status: (S) RES
Date Page Action
1 12/30/88 (S) PREFILE RELEASED
2 01/09/89 16 (S) READ THE FIRST TIME - REFERRAL(S)
3 01/09/89 16 (S) RESOURCES, THEN FINANCE
4 03/08/89 N/A (S) RES AT 1:30 PM BUTROVICH ROOM 205
5 03/08/89 N/A (S) MINUTE(RES)
6 03/08/89 N/A (S) MINUTE(RES)
7 05/02/90 N/A (S) RES AT 1:30 PM BUTROVICH ROOM 205

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD JRNL FIRST LAST QUIT
BASIS Committee Minutes
Senator Fahrenkamp announced SB 22 to be up for discussion. Senator Faiks gave the background on the bill. She said it required DNR to sell escheated property unless the property is considered an historic site.

Senator Faiks said the essence of the bill is whether you want private sector property to remain in private sector hands or do you want it to increase the state's inventory of property.

Gary Gustafson, Director of the Division of Land and Water Management for the Department of Natural Resources, said he opposed the bill. He said they are required to do a best interest finding before disposing of escheated properties to find out what the highest and best use might be. There are currently seven escheated properties, three of which are going to be sold. The other properties are to be traded for the benefit of the public and the state.

Senator Kerttula asked how many employees were hired when

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
BASIS Committee Minutes

the Department started handling the program. Mr. Gustafson answered one person. He said this program pays for itself.

Bill Glude, Alaska Environmental Lobby, opposed SB 22, because he thought there are some lands that should be retained in public ownership such as parks, public access, avalanche zones, and the flood plains which should not be developed. The state should be able to determine what the best use of those lands are before selling them.

Senator Halford asked Mr. Gustafson about the Powder Island land trade. He said that after public input, they decide what the best use is. The transfer through a land exchange to the Seldovia Native Association makes the most sense.

Senator Halford moved to pass SB 22 with individual recommendations and asked unanimous consent. Senator Kerttula objected. The bill moved out with individual recommendations.

Selection=>
PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
HELP SUBJ EXIT MENU TEXT PRINT BWD FWD FIRST LAST QUIT
BASIS Committee Minutes

Senator Fahrenkamp said that regarding SB 22, there is a need for an amendment before it leaves committee.

Senator Kerttula said the amendment should say no property presently held and escheated by the state will be affected by this legislation.

Senator Halford moved to rescind their action on reporting out SB 22 and asked unanimous consent. There were no objections and it was so ordered. Senator Fahrenkamp said they would take up the amended bill again on Friday.

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT



Official Business

Alaska State Legislature

Senate

P.O. BOX V
State Capitol
Juneau, Alaska 99811

January 17, 1989

JAN 18 1989

MEMORANDUM

TO: Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee

FROM: Senator Jan Faiks, Chairman
Senate Judiciary Committee *Jan Faiks*

SUBJECT: SB 22 "An Act relating to the disposition
of unclaimed real property inter-
ests."

Senate Bill 22 has been referred to the Senate Resources Committee for consideration.

This bill, and the statutes it seeks to replace, concern escheated real property. "Escheat" refers to property which reverts to the state in situations where there is no one to inherit it.

SB 22 seeks to simplify the procedures for the disposition of escheated real property by requiring the State to sell such property, thereby creating revenue for the State and returning property to the private sector.

The Fourteenth Legislature adopted House Bill 182 relating to a Uniform Unclaimed Property Act. The Governor subsequently signed the bill and it became Chapter 133 of the Session Laws of 1986. This legislation is now codified in AS 13.16.381, and AS 38.95.200-270.

Under the current statutes, AS 38.95.200-270 enumerate the steps which must be followed by the Department of Natural Resources (DNR) when it has received escheated real property. My concern is that these steps are inefficient and costly. The steps are as follows:

1. DNR must first be informed or have reason to believe that real property has escheated to the State. (AS 38.95.210)

2. DNR must then bring an action in superior court to establish whether the property has escheated to the State, or it may maintain an action to recover the possession of escheated property, or the enforcement of the State's right to the property. (AS 38.95.210)
3. DNR must then get a court judgment of escheat. (AS 38.95.220)
4. DNR has two years from the judgment of escheat to determine the proper disposition of the property by making a "best interest finding". The Department may, at its option, sell, lease, exchange, assign, or otherwise manage the property. (AS 38.95.230) The method of disposition selected determines the procedures to be followed by the Department.
5. A series of procedural and valuation steps must then be consulted in the event that a claim to the property is filed within seven years from the judgment of escheat. (AS 38.95.240)

SB 22 has two significant effects on these statutes. First, it facilitates the disposition of escheated real property by requiring DNR to sell it, unless the property could be considered an historic site. By eliminating the other disposition options currently available, several procedural and valuation steps are also eliminated. Specifically, the two-year lag period for disposition, need for a written "best interest" finding, and the property appraisal requirements of AS 38.95.230 would be eliminated. Awards to plaintiffs would also be simplified by eliminating the present variables of AS 38.95.240, since the courts would award the property or an amount equal to the net proceeds of the sale.

Additionally, since DNR must then sell the escheated property by public auction, the property is returned to the private sector and revenue is created for the State.

The current statutes allow the State, at its option, to sell, lease, exchange, assign, or otherwise manage the property, thus taking more time for disposition, costing more money to maintain, and not effectively utilizing the property.

This bill contains the following provisions:

Section 1. DISPOSITION OF UNCLAIMED ESTATE BY PERSONAL REPRESENTATIVE. Amends AS 13.16.381 by requiring the personal representative of an intestate estate to handle the unclaimed real property of the estate in accordance with AS 38.95 (Miscellaneous Provisions under Public Lands).

Section 2. Amends AS 38.05.945(a) by requiring that notice be

given under the procedures of that statute of a proposed sale of escheated real property by the department under AS 38.95.230 (Disposal of escheated real property by the department).

Section 3. Amends AS 38.05.945(a) to provide that notice of the proposed sale of land which the department has leased for mineral rights, as well as notice of the proposed sale of land for which the department has issued a production license, must be given under the procedures of that section if the lease is subject to AS 38.05.945(a).

Section 4. DISPOSAL OF ESCHEATED REAL PROPERTY BY DEPARTMENT. Repeals and reenacts AS 38.95.230. Within 90 days after a judgement of escheat, and after notice has been given, the department must sell the escheated real property unless it issues a written finding that the designation of the property as an historic site would be in the best interest of the state. If so, the department must request the Historic Sites Advisory Committee to determine if the property should be designated an historic. If the committee decides not to recommend the designation or if the governor decides not to make the designation, the department shall make arrangements to sell the property as soon as possible after receiving notice of the decision.

Section 5. CLAIMS TO ESCHEATED REAL PROPERTY. Repeals and reenacts AS 38.95.240. Within seven years from the judgment of escheat, a person who was not a party to the escheat proceeding may bring an action in superior court to prove the person's claim to the real property, or may bring the claim directly before the department. If it is determined that the claim is valid, the department must transfer the property if the state still owns it, or must transfer an amount equal to the net proceeds from the sale of the real property.

Section 6. PROCEEDS OF SALE. The department must maintain the net proceeds from the sale of escheated real property in a trust account. The department may use that money to pay successful claimants under AS 38.95.240.

Section 7. DEFINITIONS.

Section 8. Repeals AS 38.05.945(g), which is incorporated into AS 38.05.945(f) by section 3 of the bill.

Section 9. Provides that this act applies to real property which is the subject of an escheat proceeding begun on or after the effective date of the act.

I would appreciate the committee's scheduling this

legislation at its earliest convenience. Should you need any additional information, please let me know.

Thank you.

Chapter 16. Probate of Wills and Administration.

Article

- 7. Duties and Powers of Personal Representatives (§ 13.16.381)
- 8. Creditor's Claims (§§ 13.16.470, 13.16.490)
- 9. Special Provisions Relating to Distribution (§ 13.16.600)

Article 7. Duties and Powers of Personal Representatives.

Section

381. Disposition of unclaimed estate by personal representative



Sec. 13.16.381. Disposition of unclaimed estate by personal representative. When there is no taker of an intestate estate, or if an heir, devisee, or claimant cannot be found and the missing person has no conservator, the personal representative shall handle the

- (1) unclaimed personal property of the estate in accordance with AS 34.45.280 — 34.45.780; and
- (2) unclaimed real property of the estate in accordance with AS 38.95. (§ 6 ch 133 SLA 1986)

Revisor's notes. — "AS 38.95" was substituted for "AS 38.05" at the end of the section in 1987 to correct a manifest error in the original enactment.

Article 8. Creditor's Claims.

Section

- 470. Classification of claims
- 490. Secured claims

Sec. 13.16.470. Classification of claims. (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- (1) costs and expenses of administration;
 - (2) reasonable funeral expenses;
 - (3) debts and taxes with preference under federal law and past due child support payments, except payments required under AS 47.23.120 — 47.23.130;
 - (4) reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent;
 - (5) debts and taxes with preference under other laws of this state;
 - (6) all other claims.
- (b) Preference may not be given in the payment of any claim over any other claim of the same class, and a claim due and payable is not entitled to a preference over claims not due. (§ 1 ch 78 SLA 1972; am § 16 ch 56 SLA 1973; am § 1 ch 115 SLA 1986)

(c) The director shall establish, by regulation, conditions attaching to the permit issued under (a) and (b) of this section. These conditions shall include the following:

(1) permits shall be issued for a period of not more than 10 years, with succeeding 10-year renewal options, if periodic use and occupancy is established, and the qualifications of (a) of this section continue to be met;

(2) a cabin shall be constructed and maintained according to reasonable specifications established by the director; one cabin constructed under a permit may contain not more than 400 square feet; however, in no case may another cabin constructed under the same permit exceed 192 square feet;

(3) a permit shall specify the number of cabins allowed to be constructed and indicate their specific geographical location; the director may establish a maximum number of cabins per person or otherwise limit their number because of the probability of adverse consequences;

(4) adequate provision must be made for waste and garbage disposal, as determined by the director;

(5) the payment of a trapping cabin permit fee of \$10.

(d) A permit issued under (a) and (b) of this section entitles its holder to use timber in the immediate vicinity of the cabin for personal noncommercial purposes only. No ownership rights to the land are conveyed by the issuance of a trapping cabin permit under this section.

(e) A person who makes a false statement as to any material fact relating to a permit issued under this section is guilty of a misdemeanor. A person who violates this subsection or any of the terms and conditions of a permit issued under this section may have the permit immediately revoked and is subject to payment of all costs required in dismantling the cabin structure. (§ 1 ch 115 SLA 1976; am § 40 ch 113 SLA 1981; am § 1 ch 41 SLA 1982; am § 76 ch 152 SLA 1984)

Effect of amendments. — The 1984 amendment substituted "commissioner may" for "director of the division of lands

shall" in the introductory language of subsection (a).

Article 5. Real Property Escheated to State.

Section

- 200. Real property subject to escheat
- 210. Enforcement of rights by department
- 220. Judgment of escheat
- 230. Management of escheated real property by department

Section

- 240. Time within which to claim escheated real property
- 250. Proceeds of sale or redemption
- 260. Disposition of sale proceeds seven years after the judgment of escheat
- 270. Definition

Sec. 38.95.200. Real property subject to escheat. (a) Real property in an intestate estate for which no taker can be found and real property devised by will for which no devisee, heir, or other claimant can be found escheats to the state.

(b) Real property of a defunct organization or corporation, for which no proceeding for distribution instituted has been instituted within four years after the organization becomes defunct, escheats to the state. (§ 12 ch 133 SLA 1986)

Sec. 38.95.210. Enforcement of rights by department.

(a) When the Department of Natural Resources is informed or has reason to believe that real property has escheated to the state, the department shall bring an action in superior court to establish whether the property has escheated to the state.

(b) The department may maintain an action to recover the possession of escheated property, or for the enforcement of the state's right to the property. (§ 12 ch 133 SLA 1986)

Sec. 38.95.220. Judgment of escheat. (a) If the superior court determines that the real property has escheated to the state, the superior court shall issue a judgment of escheat.

(b) A court order approving settlement of an estate that distributes real property to the state is a judgment of escheat. (§ 12 ch 133 SLA 1986)

Sec. 38.95.230. Management of escheated real property by department. (a) After a judgment of escheat under AS 38.95.220, the department may sell, lease, exchange, assign, or otherwise manage real property that has escheated to the state. In determining the proper disposition of escheated real property the department shall, within two years after the judgment of escheat under AS 38.95.220, make a written finding that it is in the best interests of the state either to

(1) obtain an appraisal of the fair market value of the real property and sell, lease, exchange, assign, or otherwise manage the property, including retention in state management; or

(2) retain the real property in state management without obtaining an appraisal.

(b) The appraised value of property handled under (a)(1) of this section, or the selling price from a sale under AS 38.05.055 if it is lower, less the expenses of sale or appraisal, is the established value of the property for purposes of redemption by an heir or other taker under AS 38.95.240(c).

(c) Seven years after the judgment of escheat, real property that has not been otherwise disposed of by the department becomes general state land for classification, disposal, and use. (§ 12 ch 133 SLA 1986)

Sec. 38.95.240. Time within which to claim escheated real property. (a) Within seven years after a judgment of escheat under AS 38.95.220, a person who is not a party to the escheat proceeding may bring an action in the superior court to prove the person's claim to the real property. If the plaintiff establishes the claim and establishes that the plaintiff had no knowledge of the prior escheat proceeding, the court shall award the plaintiff the property if it has been managed under AS 38.95.230(a)(2), or the appraised value of the property under AS 38.95.230(b) if the property has been managed under AS 38.95.230(a)(1).

(b) If it is determined that the plaintiff is entitled to the property, the department shall deliver the property to the plaintiff. The rents, profits, interest, or dividends that accrue to the state during its possession of the property are the property of the state and may not be recovered.

(c) If it is determined that the plaintiff is entitled to the appraised value of property that has been disposed of under AS 38.95.230(a)(1), at the department's discretion it may offer to the plaintiff land owned by the state and available for disposal that is of comparable value to the appraised value under AS 38.95.230(a)(1). If the department does not offer land of comparable value, or if the plaintiff refuses the department's offer, the plaintiff is entitled to the established value of the property under AS 38.95.230(b).

(d) The time limitation of seven years does not apply to a minor or an incapacitated person as defined by AS 13.26.005, but such a person must bring an action to prove the person's claim to the real property within one year after the incapacity ceases.

(e) This section does not prevent the state from transferring escheated real property to a person who provides proof satisfactory to the department that the person is the owner of the real property when the department determines the transfer to be appropriate. (§ 12 ch 133 SLA 1986)

Sec. 38.95.250. Proceeds of sale or redemption. The department shall deposit the proceeds of real property sold under AS 38.95.230(a)(1) less the expenses of sale, including attorney fees and appraisal and publication costs in an escheated real property trust account. The department shall maintain the proceeds in the account for a period of at least seven years after the date of the judgment of escheat. The department may use money in the trust account to pay claims made under AS 38.95.240. (§ 12 ch 133 SLA 1986)

Sec. 38.95.260. Disposition of sale proceeds seven years after the judgment of escheat. Seven years after the judgment of escheat, net proceeds from the sale of escheated real property may be transferred from the escheated real property trust account to the general fund and credited to the land disposal income account under AS 38.04.022, unless a person who was the owner or one of the owners of the property when the property escheated to the state has outstanding child support obligations, in which case the proportion of the net proceeds that is attributable to the ownership interest of the person shall be applied to the satisfaction of the child support obligations and the balance remaining after the satisfaction shall be credited to the land disposal income account. (§ 12 ch 133 SLA 1986)

Sec. 38.95.270. Definition. In AS 38.95.200 — 38.95.270, "department" means the Department of Natural Resources. (§ 12 ch 133 SLA 1986)