

LEG. FINANCE - BILLS 1983 - 1984 2059
CSSB 222 cont. 2059

1 * Sec. 65. AS 38.05.115(a) is amended to read:

2 (a) The commissioner [, UPON RECOMMENDATION OF THE DIRECTOR,]
3 shall determine the timber and other materials to be sold, and the
4 limitations, conditions and terms of sale. The limitations, condi-
5 tions and terms shall include the utilization, development and mainte-
6 nance of the sustained yield principle, subject to preference among
7 other beneficial uses. The commissioner [DIRECTOR] may negotiate
8 sales of timber or materials without advertisement and on the limita-
9 tions, conditions, and terms that are considered to be [WHICH HE
10 CONSIDERS ARE] in the best interests of the state [, SUBJECT TO THE
11 APPROVAL OF THE COMMISSIONER]. However, not more than 500 M.B.M. or
12 equivalent other measure of timber or more than 25,000 cubic yards of
13 materials may be sold by nonadvertised, negotiated sale to the same
14 purchaser within a one-year period.

15 * Sec. 66. AS 38.05.118 is amended to read:

16 Sec. 38.05.118. NEGOTIATED TIMBER SALES IN AREAS OF HIGH UNEM-
17 PLOYMENT. (a) Notwithstanding any other provision of AS 38.05.110 -
18 38.05.120, the [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,]
19 may negotiate a sale of timber to a local manufacturer at appraised
20 value. The period of a contract for a sale of timber negotiated under
21 this section may not exceed 25 years. The contract shall provide that
22 the appraised value of timber remaining to be harvested under the
23 provisions of the contract shall be redetermined at least once every
24 five years.

25 (b) Notice of intent to negotiate a contract authorized by (a)
26 of this section shall be given in accordance with AS 38.05.345.

27 (c) No sale of timber may be negotiated by the commissioner
28 [DIRECTOR] under this section except on a finding [UNLESS HE FIRST
29 FINDS] that, within an area proximate to the business site which the

1 manufacturer may economically serve, there exists

2 (1) a high level of local unemployment;

3 (2) an underutilized timber manufacturing capacity; and

4 (3) an underutilized allowable cut of state timber.

5 * Sec. 67. AS 38.05.120 is amended to read:

6 Sec. 38.05.120. DISPOSAL PROCEDURE. Timber and other materials
7 shall be sold either by sealed bids or public auction, depending on
8 which method is determined by the commissioner to be in the best
9 interests of the state, to the highest qualified bidder as determined
10 by the commissioner [DIRECTOR] An aggrieved bidder may appeal to the
11 commissioner within five days after the sale for a review of the
12 [DIRECTOR'S] determination. The sale shall be conducted by the com-
13 missioner [DIRECTOR OR HIS REPRESENTATIVE], and at the time of sale
14 the successful bidder shall deposit the amount specified in the terms
15 of sale. The means by which the amount of deposit is determined shall
16 be prescribed by appropriate regulation. The commissioner [DIRECTOR
17 OR HIS REPRESENTATIVE] shall immediately issue a receipt containing a
18 description of the timber or materials purchased, the price bid, and
19 the terms of sale. The receipt shall be acknowledged in writing by
20 the bidder. A contract of sale, on a form approved by the attorney
21 general, shall be signed by the purchaser and [, FOLLOWING THE AP-
22 PROVAL OF THE COMMISSIONER,] the contract shall be signed by the
23 commissioner [DIRECTOR] on behalf of the state. The [DIRECTOR, WITH
24 THE APPROVAL OF THE] commissioner [,] may impose conditions, limita-
25 tions, and terms considered [WHICH HE CONSIDERS] necessary and proper
26 to protect the interests of the state. Violation of any provision of
27 this chapter or the terms of the contract of sale subjects the pur-
28 chaser to appropriate legal action.

29 * Sec. 68. AS 38.05.130 is amended to read:

1 Sec. 38.05.130. DAMAGES AND POSTING OF BOND. No rights shall be
2 exercised by the state, its lessees, successors or assigns under the
3 reservation as set out in AS 33.05.125 until the state, its lessees,
4 successors, or assigns make provision to pay the owner of the land
5 full payment for all damages sustained by the owner, by reason of
6 entering upon the land. If the owner for any cause refuses or ne-
7 glects to settle the damages, the state, its lessees, successors,
8 assigns, or an applicant for a lease or contract from the state for
9 the purpose of prospecting for valuable minerals, or option, contract
10 or lease for mining coal or lease for extracting geothermal resources,
11 petroleum or natural gas, may enter upon the land in the exercise of
12 the reserved rights after posting a surety bond determined by the
13 commissioner [DIRECTOR], after notice and an opportunity to be heard,
14 to be sufficient as to form, amount, and security to secure to the
15 owner payment for damages, and may institute legal proceedings in a
16 court where the land is located, as may be necessary to determine the
17 damages which the owner may suffer.

18 * Sec. 69. AS 38.05.140(e) is amended to read:

19 (e) The provisions of (d) of this section that apply to waiver,
20 suspension, refund or reduction of rental of minimum royalty apply to
21 rental or minimum royalty paid before or after June 19, 1970 on any
22 lease covering land beneath navigable waters which, according to the
23 records of the department [DIVISION OF LANDS], is in effect on
24 June 19, 1970.

25 * Sec. 70. AS 38.05.145(a) is amended to read:

26 (a) Deposits of coal, phosphates, oil shale, sodium, potassium,
27 oil, gas, geothermal resources and state land [LANDS] containing these
28 deposits are subject to disposition under [RULES AND] regulations [,
29 RECOMMENDED BY THE DIRECTOR AND] adopted by the commissioner, and the

1 provision of AS 38.05.145 - 38.05.181. In applying the acreage limi-
2 tations the commissioner may apply the rule of approximation. The
3 uses of the rule of approximation made before March 31, 1960, by the
4 commissioner are ratified.

5 * Sec. 71. AS 38.05.185(a) is amended to read:

6 (a) The acquisition and continuance of rights in and to deposits
7 on state land [LANDS] of minerals which on January 3, 1959, were
8 subject to location under the mining laws of the United States shall
9 be governed by AS 38.05.185 - 38.05.280. Nothing in AS 38.05.185 -
10 33.05.280 affects the law pertaining to the acquisition of rights to
11 mineral deposits owned by any other person or government. The [DIREC-
12 TOR, WITH THE APPROVAL OF THE] commissioner [,] shall determine that
13 land [THOSE LANDS] from which mineral deposits may be mined only under
14 lease, and, subject to the limitations of AS 38.05.300, that land
15 [THOSE LANDS] which shall be closed to mining. State land may not be
16 closed to mining or mineral location unless the commissioner makes a
17 finding that mining would be incompatible with significant surface
18 uses on the state land. State land may not be restricted to mining
19 under lease unless the commissioner determines that potential use
20 conflicts on the state land require that mining be allowed only under
21 written leases issued under AS 38.05.205 or the commissioner has
22 determined that the land was mineral in character at the time of state
23 selection. The determinations required under this subsection shall be
24 made in compliance with land classification orders and land use plans
25 developed under AS 38.05.300.

26 * Sec. 72. AS 38.05.205(a) is amended to read:

27 (a) Prior discovery, location and filing shall initiate prior
28 rights to mineral deposits subject to AS 38.05.185 - 38.05.280 in or
29 on state land [LANDS], other than submerged land [LANDS], which is

1 [ARE] open to mining leasing. Locations shall be made and certifi-
2 cates of location recorded in accordance with AS 38.05.195. If the
3 located land is [LANDS ARE] available only for leasing, the commis-
4 sioner [DIRECTOR] shall publish in a paper of general circulation in
5 the area of the location, notice of the filing of the location and
6 notice that a mineral lease will be issued. The notice may be com-
7 bined with notices of locations either in the same general area or
8 statewide. Unless a conflicting location exists, no later than two
9 weeks after publication of the notice, an application form for a
10 mining lease shall be mailed to the locator by the commissioner [DI-
11 RECTOR]. A lease application shall be filed with the commissioner
12 [DIRECTOR] by the locator within 90 days after receipt of the form.
13 If the located land is [LANDS ARE] not available for leasing, notice
14 shall be given the locator by the commi:sioner [DIRECTOR] and the
15 locator's prior rights shall terminate. A mining lessee has the
16 exclusive rights of possession and extraction of all minerals subject
17 to AS 38.05.185 - 38.05.280 lying within the boundaries of the [HIS]
18 lease or location. Mining leases may be issued for one location or
19 for a group of contiguous locations held in common. Minerals may not
20 be mined and marketed or used until a lease is issued, except for
21 limited amounts necessary for sampling or testing.

22 * Sec. 73. AS 38.05.205(c) is amended to read:

23 (c) A mining lease shall be for any period up to 55 years, and
24 the lessee has a right to a new lease at the end of each lease period.
25 The commissioner may make reasonable adjustments of the rental rate at
26 the end of each 20 year period, based upon changed conditions in
27 production costs and markets. A valid mining claim located and held
28 under AS 38.05.195 may be converted to a lease at any time upon appli-
29 cation by the owner, and issuance by the commissioner [DIRECTOR]. No

1 rights granted by a mining lease may be exercised until the lease has
2 been filed for record in the recording district where the land is
3 located.

4 * Sec. 74. AS 38.05.245(a) is amended to read:

5 (a) Before the discovery of valuable minerals, an exclusive
6 right to prospect by geophysical, geochemical and similar methods may
7 be acquired by marking boundaries and posting a notice of location of
8 a prospecting site in a manner and containing such information as the
9 commissioner requires. A prospecting site may not exceed 2,640 feet
10 in its longest dimension and its boundaries shall run in the four
11 cardinal directions. A certificate of location shall be filed for
12 record in the recording district where the prospecting site is located
13 within 90 days after posting the notice of location, and a copy of the
14 certificate shall also be mailed to the commissioner [DIRECTOR] within
15 the 90 day period. The locator of a prospecting site has the exclu-
16 sive right to stake mining claims or leasehold locations within the
17 boundaries of the prospecting [HIS] site.

18 * Sec. 75. AS 38.05.245(c) is amended to read:

19 (c) No person may locate more than six prospecting sites in one
20 calendar year in one recording district. A prospecting site remains
21 in effect for one year after the notice of location is posted and may,
22 at the discretion of the commissioner [DIRECTOR], be extended for one
23 year periods. During each year, work of a type compatible with the
24 purpose of this section and acceptable to the commissioner [DIRECTOR]
25 shall be done. The minimum expenditure for the work shall be estab-
26 lished by the commissioner uniformly for all prospecting sites. Where
27 adjacent prospecting sites are held in common the expenditure may be
28 made on any one or more locations. If a prospecting site expires,
29 neither the locator nor a [HIS] successor in interest of the locator

1 may again locate the same prospecting site or any portion of it, as a
2 prospecting site, for a period of two years following the date of
3 expiration or abandonment; nor may the locator [HE], during the two
4 years, either directly or indirectly, obtain a beneficial interest in
5 the same prospecting site or a portion of it.

6 * Sec. 76. AS 38.05.250(a) is amended to read:

7 (a) The exclusive right to prospect for deposits of minerals
8 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
9 land [LANDS] may be granted by a permit issued by the commissioner
10 [DIRECTOR]. Permits shall be granted to the first qualified appli-
11 cant. No permit may include an area larger than 2,560 acres, subject
12 to the rule of approximation. Land [LANDS] subject to a prospecting
13 permit shall be as compact in form as possible taking into considera-
14 tion the area involved. The term of the permit shall be seven years.
15 Prospecting permits shall be conditioned upon payment of rental
16 against which credit shall be given for useful expenditures on land
17 covered by the permit or group of contiguous permits under common
18 ownership or assignment. Excess expenditures may be applied against
19 rentals due for the following two years. The rental shall be \$3 per
20 acre for each year, payable at the end of each year. No minerals from
21 land [LANDS] under a prospecting permit may be mined and marketed or
22 used, except for limited amounts necessary for sampling or testing.
23 No person may take or hold prospecting permits for minerals on state
24 land under this section exceeding in the aggregate 100,000 acres. No
25 person may take or hold leases for minerals on state land under this
26 section exceeding in the aggregate 46,080 acres.

27 * Sec. 77. AS 38.05.250(b) is amended to read:

28 (b) Upon discovery, the right to possess and extract the min-
29 erals may be acquired by noncompetitive lease. A noncompetitive lease

1 shall be granted to a holder of a prospecting permit for so much of
2 the land subject to the permit as is shown to the satisfaction of the
3 commissioner [DIRECTOR] to contain workable mineral deposits. Sub-
4 merged land [LANDS] containing known deposits of minerals subject to
5 AS 38.05.185 - 38.05.275 may, in the discretion of the commissioner
6 [DIRECTOR], be offered by competitive bid. The land [THESE LANDS]
7 shall be leased to the responsible qualified person offering the
8 highest amount of cash bonus.

9 * Sec. 78. AS 38.05.255 is amended to read:

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

23 * Sec. 79. AS 38.05.265 is amended to read:

24 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for
25 record a certificate of location or a statement of annual labor, or
26 (2) file with the commissioner [DIRECTOR] within the time prescribed a
27 lease application or a copy of a prospecting site location certifi-
28 cate, or (3) pay rental or receive credit for rental, or (4) keep
29 location boundaries clearly marked, all as required by AS 38.05.185 -

1 38.05.280 [SECS. 185 - 280 OF THIS CHAPTER] and by regulations adopted
2 under these sections, constitutes abandonment of all rights acquired
3 under the mining lease, location, or site involved, and it is subject
4 to relocation by others. If a location is not relocated by another
5 person with one year after such failure, or, in the case of a pros-
6 pecting site, two years, the locator or claimant of the abandoned
7 location, or the [HIS] successor in interest of the locator or claim-
8 ant, may return to relocate it as though it had never been located. A
9 statement of annual labor which does not accurately set out the essen-
10 tial facts is void and of no effect.

11 * Sec. 80. AS 38.05.270 is amended to read:

12 Sec. 38.05.270. TRANSFERS. The sale, lease or other transfer of
13 mining property or interest in mining property shall be recorded or
14 shall be approved by the commissioner under adopted regulations [DI-
15 RECTOR IN COMPLIANCE WITH SUCH REGULATIONS AS THE COMMISSIONER MAY
16 ADOPT]. The heirs and assigns of mining property or interest in
17 mining property have the same rights and duties as their predecessors.

18 * Sec. 81. AS 38.05.275 is amended to read:

19 Sec. 38.05.275. RECOGNITION OF LOCATIONS. Mining locations made
20 on state land [LANDS], including shoreland, tideland [SHORELANDS,
21 TIDELANDS], or submerged land [LANDS], or state selected land [LANDS],
22 under AS 38.05.185 - 38.05.280 [SECS. 185 - 280 OF THIS CHAPTER], or
23 in the manner described in AS 27.10.010 - 27.10.240 acquire for the
24 locator mining rights under AS 38.05.185 - 38.05.280 [SECS. 185 - 280
25 OF THIS CHAPTER], subject to existing claims and to any denial of or
26 restriction in the tentative approval of state selection of the patent
27 of the land [LANDS] to the state. If shoreland, tideland [SHORELANDS,
28 TIDELANDS] or submerged land is [LANDS ARE] included in a mining
29 location or within the projected boundaries of a mining location made

1 in accordance with this section, the locator is required to file a
2 certificate of location with the department [DIVISION OF LANDS] within
3 90 days following the date of posting the notice of location, in
4 addition to filing a certificate of location as required by AS 38.-
5 05.195 [SEC. 195 OF THIS CHAPTER]. The certificate of location must
6 identify the position of the mining location in the system of rec-
7 tangular or protracted surveys.

8 * Sec. 82. AS 38.05.310(a) is amended to read:

9 (a) No land may be sold or leased, or a renewal lease issued,
10 except in the case of an oil or gas or mineral lease, unless it has
11 been appraised within 120 days before the date fixed for the sale or
12 lease. When land is offered at public sale but is not sold and is
13 available at private sale, no reappraisal is required unless the
14 commissioner [DIRECTOR] considers that a change in value of the land
15 [LANDS] may have occurred. A grazing lease may be granted to a lessee
16 of federal grazing land [LANDS] without prior appraisal, if the [HIS]
17 federal lease was cancelled to allow the state to select the land
18 [LANDS] under lease. No land may be sold or leased for less than the
19 approved, appraised market value, except as provided in AS 38.05.315,
20 38.05.320, 38.05.057, 38.05.075 - 38.05.085 and 38.05.097.

21 * Sec. 83. AS 38.05.315 is amended to read:

22 Sec. 38.05.315. PUBLIC AND CHARITABLE USE. (a) The lease,
23 sale, or other disposal of state land or resources may be made to a
24 state or federal agency or political subdivision, or the lease, sale,
25 or disposal of coal deposits suitable for mining may be made to a
26 utility owned and operated by a government agency or nonprofit cooper-
27 ative association organized to participate under the Federal Rural
28 Electrification Act for the purpose of generating electric power and
29 energy or the production of process steam, or both, for less than the

1 appraised value as determined by [THE DIRECTOR AND APPROVED BY] the
2 commissioner to be fair and proper and in the best interests of the
3 public, with due consideration given to the nature of the public
4 services or function rendered by the agency, subdivision, or utility
5 making application, and of the terms of the grant under which the land
6 was acquired by the state.

7 (b) Notwithstanding AS 38.05.070 - 38.05.080 and 38.05.095, the
8 commissioner [DIRECTOR], upon application filed by an applicant eli-
9 gible under (b) - (d) of this section, may, by negotiation and without
10 public auction in the manner prescribed in (b) - (d) of this section,
11 lease state land for a term of not more than 55 years. Before leas-
12 ing, the commissioner [DIRECTOR] shall prepare a land use plan and a
13 land classification to insure that the proposed use is compatible with
14 area utilization. Before the land may be leased under (b) - (d) of
15 this section, it must be shown to the satisfaction of the commissioner
16 [DIRECTOR] that the land is to be used for an established or def-
17 initely proposed project, and that the eligible applicant has the
18 financial ability to carry out the project. The commissioner may
19 establish limitations on the acreage which may be leased under (b) -
20 (d) of this section to an applicant.

21 (c) Eligible applicants under (b) - (d) of this section are
22 limited to nonprofit corporations, associations, clubs, or societies
23 organized and operated exclusively for charitable, religious, scien-
24 tific, or educational purposes, or for the promotion of social wel-
25 fare, if the project for which the land is desired conforms to those
26 objectives and not commercial development. No lease of land may be
27 granted under this section for a project closed to the use and enjoy-
28 ment of the general public. In every case the applicant shall submit
29 evidence that it is exempt from payment of federal income tax. As a

1 condition of and in consideration of the rights acquired under a lease
2 granted under (b) - (d) of this section, each eligible organization
3 and its parent or subsidiary organizations shall (1) maintain and
4 preserve books, accounts, and records that the commissioner [DIRECTOR]
5 prescribes by regulation as necessary and appropriate; and (2) accord
6 at all reasonable times to the state and its authorized agents and
7 auditors the right of access to those books, accounts and records for
8 the purpose of inspecting, examining and copying them. Any informa-
9 tion provided the state in the course of an audit becomes a matter of
10 public record.

11 (d) The commissioner [DIRECTOR] may lease the land to an eli-
12 gible applicant at a reasonable annual rental, taking into considera-
13 tion the purposes for which the land is to be used and the financial
14 resources of the applicant. The rental may not be less than one
15 percent of the fair market value on land [LANDS] acquired primarily
16 for development, or less than five percent of the fair market value on
17 university or acquired land [LANDS]. Rent may not be charged for
18 state land leased for a youth encampment. For the purposes of this
19 subsection, "youth encampment" shall be defined by the commissioner by
20 regulation. Renewal leases may be issued at the discretion of the
21 commissioner [DIRECTOR] upon the expiration of a primary or renewal
22 term. Each lease shall contain a provision for its termination as to
23 all or part of the land [LANDS] upon a finding by the commissioner
24 [DIRECTOR] that the land or a part of it has not been used by the
25 lessee for the purpose specified in the lease for a period of two
26 years. No lease may be assigned or subleased except with the consent
27 of the commissioner [DIRECTOR], and in any case may only be trans-
28 ferred to an applicant eligible under (b) - (d) of this section. A
29 lessee may not change the use specified in the lease to another or

1 additional use except with the consent of the commissioner [DIRECTOR].
2 If, at any time after the land is leased, the lessee attempts to
3 assign the lease or transfer control over the land to another, or if
4 the land is devoted to a use other than that for which the land was
5 leased without the consent of the commissioner [DIRECTOR], the lease
6 automatically terminates.

7 (e) The lease, sale, or other disposal of state land at ap-
8 praised fair market value may be negotiated with a licensed public
9 utility or a licensed common carrier by [THE DIRECTOR WITH THE AP-
10 PROVAL OF] the commissioner if the utility or carrier reasonably
11 requires the land for the conduct of its business under its license.

12 (f) The commissioner shall lease state land for telephone or
13 electric transmission and distribution lines for less than the ap-
14 praised value of the land if the lessee is a nonprofit cooperative
15 association organized under AS 10.25.010 - 10.25.650. Before deter-
16 mining [HE DETERMINES] the annual rental, the commissioner shall
17 consider the nature of the public service rendered by the nonprofit
18 cooperative association and the terms of the grant under which the
19 land was acquired by the state. A nonprofit cooperative association
20 may not construct improvements other than transmission or distribution
21 lines and substations on land leased under this subsection.

22 * Sec. 84. AS 38.05.320(b) is amended to read:

23 (b) Home rule cities and cities of the first class incorporated
24 on or before April 1, 1964, may apply, in the manner prescribed by the
25 commissioner [DIRECTOR], and in accordance with [SUCH] regulations
26 [AS] the commissioner [DIRECTOR] may adopt, for a conveyance to them
27 of all land [LANDS] seaward of the home rule cities and cities of the
28 first class which is [ARE] between the mean high tide line in, or
29 forming the boundary of, the home rule cities and cities of the first

1 class, and a line to be shown on a plat made a part of the application
2 which shall be the pierhead line established under the Act of Septem-
3 ber 7, 1957, or the harbor line established under the Act of March 3,
4 1899, or if no pierhead line or harbor line is established then a line
5 subject to approval by [THE DIRECTOR, WITH THE CONCURRENCE OF] the
6 commissioner [,] which shall be seaward of all tideland [TIDELANDS]
7 and submerged land [LANDS] occupied or suitable for occupation and
8 development without unreasonable interference with navigation. The
9 commissioner [DIRECTOR] shall convey that [THESE] tide and submerged
10 land [LANDS] to home rule cities and cities of the first class.
11 Applications by preference right claimants filed with the commissioner
12 [DIRECTOR] before June 30, 1964, shall continue to be processed to a
13 final determination and conveyance, if any by the commissioner [DIREC-
14 TOR], if such preference right claimants are entitled to a conveyance
15 from the commissioner [DIRECTOR] under the existing previous to
16 July 22, 1964.

17 (1) Each home rule city and city of the first class granted
18 a conveyance shall prepare an official subdivision plat of the area
19 conveyed showing all structures and improvements and the boundaries of
20 each tract occupied or developed, together with the name of the owner
21 or claimant. The subdivisional plat shall include within the bound-
22 aries of each tract occupied or developed such surrounding tide and
23 submerged land as is [LANDS AS ARE] reasonably necessary in the opin-
24 ion of the governing body of the home rule cities and cities of the
25 first class for the use and enjoyment of the structures and improve-
26 ments by the owner or claimant, but shall not include tide or sub-
27 merged land [LANDS] which if granted to the occupant would unjustly
28 deprive an occupant of adjoining land [LANDS] from [HIS] reasonable
29 use and enjoyment of it [THEM].

1 (2) An occupant of land included in the conveyance to home
2 rule cities and cities of the first class, who occupied or developed
3 the land on and before September 7, 1957, has a class I preference
4 right to the land [LANDS] from the home rule cities and cities of the
5 first class upon the execution of a waiver to the state and the home
6 rule cities and cities of the first class of all rights the occupant
7 may have acquired under Public Law 85-303 (71 Stat. 623).

8 (3) An occupant of land included in the conveyance to home
9 rule cities and cities of the first class, who has a class II prefer-
10 ence right by reason of the conveyance to home rule cities and cities
11 of the first class, and is unwilling to waive the right has a prefer-
12 ence right to the land [LANDS] which it is mandatory for the home rule
13 cities and cities of the first class to expeditiously honor upon
14 application from the occupant after the Secretary of the Army has
15 submitted to the Secretary of the Interior and the governor [OF THE
16 STATE] maps showing the pierhead line established by the corps of
17 engineers with respect to the tract so granted.

18 (4) An occupant of land included in the conveyance to home
19 rule cities and cities of the first class, who occupied or developed
20 the land after September 7, 1957, and before January 3, 1959, and who
21 continued to occupy it on January 3, 1959, has a class III preference
22 right to the land [LANDS] from the home rule cities and cities of the
23 first class.

24 (5) In making a conveyance to an occupant, the home rule
25 cities and cities of the first class shall include as a part of the
26 tract conveyed and in addition to the occupied or developed land
27 [LANDS], such additional tide and submerged land as is [LANDS AS ARE]
28 reasonably necessary in the opinion of the governing body of the home
29 rule cities and cities of the first class for the occupant's use and

1 enjoyment of the occupied or developed land, but the conveyance shall
2 not include any area which would unjustly deprive an occupant of
3 adjoining land [LANDS] from reasonable use and enjoyment of it [THOSE
4 LANDS] or which, if developed, will interfere with navigation.

5 (6) Each home rule city and city of the first class receiv-
6 ing conveyances shall by ordinance provide for reasonable regulations
7 governing the filing and processing of applications, publication of
8 notices, and the adjudication of disputes between claimants by the
9 governing body of the home rule cities and cities of the first class.
10 A party aggrieved by its determination may appeal to the superior
11 court.

12 (7) When no preference right has been granted to purchase
13 or lease tideland [TIDELANDS], the home rule cities and cities of the
14 first class may sell or lease the tideland [TIDELANDS] conveyed to
15 them, and may impose terms or conditions for the sale or lease. The
16 [SUCH] terms and conditions shall include such reservation of rights-
17 of-way as are necessary to provide reasonable access to public waters.

18 * Sec. 85. AS 38.05.320(c) is amended to read:

19 (c) An occupant of tide or submerged land which is not seaward
20 of a municipal corporation, who occupied or developed it on and before
21 [PRIOR TO] September 7, 1957, has a class I preference right to the
22 land [LANDS] from the state. However, if the land is seaward of a
23 surveyed townsite, the occupant shall execute a waiver to the state of
24 all rights which the occupant [HE] may have acquired under Public Law
25 85-303 (71 Stat. 623), before the preference right may be exercised.

26 (1) A person who has a class II preference right in the
27 disposition of land by the state not provided for under paragraph
28 (b)(3), and who is unwilling to waive that right, has a preference
29 right to the land [LANDS] which it is mandatory for the commissioner

1 [DIRECTOR] to expeditiously honor upon application from the occupant
2 after the Secretary of the Army has submitted to the Secretary of the
3 Interior and the governor [OF THE STATE] maps showing the pierhead
4 line established by the corps of engineers with respect to the tract
5 so granted.

6 (2) An occupant of tide or submerged land which is not
7 seaward of a municipal corporation, who occupied or developed it after
8 September 7, 1957, and before January 3, 1959, and who continued to
9 occupy it on January 3, 1959, has a class III preference right to the
10 land [LANDS] from the state.

11 (3) The preference right [RIGHTS HEREINABOVE] granted any
12 occupant in (c) of this section is lost unless the occupant of tide or
13 submerged land not seaward of a home rule or first class city makes
14 application to the commissioner [DIRECTOR] to exercise the preference
15 right by July 1, 1967.

16 (4) Each occupant shall [AT HIS COST] furnish at the cost
17 of the occupant a plat showing the exterior boundaries of the tideland
18 [TIDELANDS] and submerged land [LANDS] covered by the application, in
19 form and with proof of accuracy as set out in regulations of the
20 commissioner [DIRECTOR], and shall show the location and nature of all
21 fill material, buildings, structures and improvements, which form the
22 basis of the application and which are situated upon the tract applied
23 for. The applicant may include within the boundaries of the tract
24 applied for the [SUCH] surrounding tide and submerged land as is
25 [LANDS AS ARE] reasonably necessary in the opinion of the applicant
26 for the use and enjoyment of the structures and improvements by the
27 occupant, but may not include any tide or submerged land [LANDS] which
28 if granted to the occupant would unjustly deprive an occupant of
29 adjoining land [LANDS] from [HIS] reasonable use and enjoyment of it

1 [THEM].

2 (5) In making a conveyance to an occupant, the commissioner
3 [DIRECTOR] shall include as a part of the tract conveyed, and in
4 addition to the occupied or developed land [LANDS], such additional
5 tide and submerged land as is [LANDS AS ARE] reasonably necessary in
6 the opinion of the commissioner [DIRECTOR] for the occupant's use and
7 enjoyment of the occupied or developed land, but the conveyance shall
8 not include any area which would unjustly deprive an occupant of
9 adjoining land [LANDS] from reasonable use and enjoyment of it [THEM]
10 or which, if developed, will interfere with navigation.

11 (6) The commissioner [DIRECTOR] shall by regulation provide
12 for reasonable procedures [REGULATIONS] governing the filing and
13 processing of applications, the publication of notices and the adju-
14 dication of disputes between claimants. A party aggrieved by an
15 adjudication may appeal to the superior court.

16 (7) The holder of a valid corps of engineers permit issued
17 before November 15, 1959, may be given a preference to a lease or
18 permit by the state if justified in accordance with the policy of this
19 chapter and if in the best interests of the state. This preference is
20 subordinate to all other preferences recognized under this chapter.

21 * Sec. 86. AS 38.05.321(b) is amended to read:

22 (b) State land classified as agricultural land which has been
23 selected by a municipality under former AS 29.18.190 - 29.18.200 or
24 29.18.205(e) may be approved by the commissioner [DIRECTOR] for patent
25 under AS 29.18.205(f); however, only rights in the land for
26 agricultural purposes may be transferred and all other interests in
27 the land will remain with the state. Agricultural land approved for
28 patent to a municipality under AS 29.18.205(f) shall be credited, acre
29 for acre, toward fulfillment of that municipality's entitlement under

1 AS 29.18.201 - 29.18.203. If the commissioner [DIRECTOR] later deter-
2 mines it to be in the best interests of the state to transfer some or
3 all of the additional rights in that approved or patented agricultural
4 land, those rights shall pass without consideration to the municipal-
5 ity in which the land is located. The notice and review provisions of
6 AS [38.05.305 AND] 38.05.345 are applicable to conveyance of rights
7 under this section.

8 * Sec. 87. AS 38.05.323(a) is amended to read:

9 (a) Notwithstanding any other provision of law, a home rule or
10 general law municipality which accepts by conveyance or other disposi-
11 tion from the state a public recreation area facility developed under
12 the terms of P.L. 507 (70 Stat. 130), upon application, shall receive
13 by conveyance from the commissioner [DIRECTOR] all land owned by the
14 state seaward of the public recreation area facility which is between
15 the mean high tide line and the mean low tide line. The commissioner
16 may adopt [DIRECTOR MAY PROMULGATE] necessary regulations providing
17 for the conveyance of land under this section.

18 * Sec. 88. AS 38.05.330(a) is amended to read:

19 (a) The [DIRECTOR, WITHOUT THE PRIOR APPROVAL OF THE] commis-
20 sioner [,] may issue permits, rights-of-way or easements on state land
21 for roads, trails, ditches, field gathering lines or transmission and
22 distribution pipelines not subject to AS 38.35.010 - 38.35.260, tele-
23 phone or electric transmission and distribution lines, log storage,
24 oil well drilling sites and production facilities for the purposes of
25 recovering minerals from adjacent land [LANDS] under valid lease, and
26 other similar uses or improvements, or for the limited personal use of
27 timber or materials. The commissioner [, UPON RECOMMENDATION OF THE
28 DIRECTOR,] shall establish a reasonable rate or fee schedule to be
29 charged for these uses, subject to the exception for nonprofit

1 cooperative associations specified in (b) of this section. In the
2 granting, suspension or revocation of a permit or easement of land
3 [LANDS], the commissioner [DIRECTOR] shall give preference to that use
4 of the land which will be of greatest economic benefit to the state
5 and the development of its resources. However, first preference shall
6 be granted to the upland owner for the use of a tract of tideland, or
7 tideland and contiguous submerged land, which is seaward of the upland
8 property of the upland owner and which is needed by the upland owner
9 for any of the purposes for which the use may be granted.

10 * Sec. 89. AS 38.05.335 is amended to read:

11 Sec. 38.05.335. DEPOSITS. (a) The commissioner [DIRECTOR] may
12 require an applicant seeking the sale, lease or other disposal of land
13 [LANDS], other than under an oil and gas or mineral lease, to deposit
14 an amount covering the estimated cost of an appraisal, survey and
15 necessary advertising. All deposited funds not expended shall be
16 refunded to the applicant. If land is [LANDS ARE] sold or leased to
17 other than the applicant making the deposit, the party awarded the
18 land [LANDS] shall pay the total actual cost of appraising and survey-
19 ing the land [LANDS], together with the total actual cost of advertis-
20 ing, and the deposit shall be returned to the original applicant.

21 (b) Except as provided in (c) of this section, if a competitive
22 sale or lease of state land, minerals, timber or materials is to be
23 made by sealed bid, the commissioner [DIRECTOR] may require each
24 bidder to submit an earnest money deposit with each [HIS] bid. If the
25 sale or lease is by public auction, the commissioner [DIRECTOR] may
26 require each person desiring to bid to make an earnest money deposit
27 before bidding. The earnest money deposit of the highest qualified
28 bidder shall be applied toward the sale or lease price. If the suc-
29 cessful bidder defaults in the payment of the amount [HIS] bid, the

1 [HIS] deposit shall be forfeited to the state. All other earnest
2 money deposits shall be returned unless the commissioner decides to
3 award the contract to the second highest qualified bidder upon default
4 by the highest bidder rather than call for new bids, in which case the
5 commissioner may retain the deposit of the second highest qualified
6 bidder until final deposition of the land is made. A successful
7 bidder for a mineral lease who can prove to the satisfaction of the
8 commissioner within 45 days after notification of the lease award that
9 there is a reasonable doubt as to the ability of the state to grant a
10 valid lease to the land may withdraw the amount bid and have the
11 earnest money deposit returned [MAY WITHDRAW HIS BID AND HAVE HIS
12 EARNEST MONEY DEPOSIT RETURNED IF, WITHIN 45 DAYS AFTER NOTIFICATION
13 OF THE LEASE AWARD, HE CAN PROVE TO THE SATISFACTION OF THE COMMIS-
14 SIONER THAT THERE IS A REASONABLE DOUBT AS TO THE STATE'S ABILITY TO
15 GRANT A VALID LEASE TO THE LAND].

16 (c) The commissioner shall require each bidder for the competi-
17 tive leasing of oil and gas land [LANDS] to submit with each [HIS] bid
18 a deposit of money equal to 20 percent of the bonus.

19 * Sec. 90. AS 38.05.340(a) is amended to read:

20 (a) Except as provided in (b) of this section, all contracts of
21 purchase or lease of land [LANDS] or interest in land [LANDS] may be,
22 on the affirmative approval of the commissioner [DIRECTOR], assigned
23 or subleased in whole or in part in writing by the contract holder or
24 lessee, and the assignee or sublessee is subject to the provisions of
25 laws and regulations applicable to the contract or lease.

26 * Sec. 91. AS 38.05.348(a) is amended to read:

27 (a) The commissioner [DIRECTOR OF THE DIVISION OF LANDS] may
28 make grants of state land to persons and municipal corporations to
29 replace land which is rendered unusable by a natural disaster for the

1 purposes for which it was used before the natural disaster. The
2 commissioner [DIRECTOR] shall designate state land which is available
3 to replace land rendered unusable.

4 * Sec. 92. AS 38.05.348(c) is amended to read:

5 (c) An application for a grant of state land shall be filed with
6 the commissioner [DIRECTOR], and shall contain

- 7 (1) the name and address of the applicant;
- 8 (2) a legal description of the land rendered unusable;
- 9 (3) proof of ownership of the land; and
- 10 (4) a statement of the purpose for which the land was used
11 before the natural disaster rendered it unusable.

12 * Sec. 93. AS 38.05.348(d) is amended to read:

13 (d) The commissioner [DIRECTOR] shall, within 30 days of receipt
14 of the application, approve or disapprove the application. The com-
15 missioner's [DIRECTOR'S] determination of eligibility for a grant of
16 state land is final. Upon approval of [AT THE TIME HE APPROVES] the
17 application or as soon thereafter as possible, the commissioner [DI-
18 RECTOR] shall specify the land which shall be granted to an eligible
19 applicant. In making the [HIS] designation the commissioner [HE]
20 shall consider the value, size and use of the land rendered unusable
21 as a result of the natural disaster, and shall as nearly as possible
22 grant land of equal size or value or of equal utility.

23 * Sec. 94. AS 38.05.349 is amended to read:

24 Sec. 38.05.349. DISPOSITION OF STATE LAND FOR FLOOD CONTROL
25 PROJECTS. The department [DIVISION OF LANDS] may make conveyances of
26 title or other interests in state land, provide for exchange of land,
27 or make other arrangements with respect to state land, as necessary to
28 meet federally established requirements of flood control projects
29 authorized inside the state by the United States before or after

1 June 6, 1971.

2 * Sec. 95. AS 38.05.351 is amended to read:

3 Sec. 38.05.351. BONA FIDE PURCHASERS. No right, title, or
4 interest of a bona fide purchaser of any lease, interest in a lease,
5 option to acquire a lease or an interest in it, acquired after the
6 effective date of issuance of the lease and held by a qualified per-
7 son, association, or corporation in conformity with this chapter shall
8 be canceled or forfeited or otherwise adversely affected by reason of
9 the fact that the holding of the person, association, or corporation
10 from which the lease, interest, or option was acquired, or of a [HIS]
11 predecessor in title (including the original lessee of the state) may
12 have been canceled or forfeited, or may be or have been subject to
13 cancellation or forfeiture. If, in any proceeding for cancellation or
14 forfeiture, an underlying lease interest, or option is canceled or
15 forfeited to the state and there are valid interests therein or valid
16 options to acquire the lease or an interest therein which are not
17 subject to cancellation or forfeiture, the underlying lease, interest,
18 or option shall be sold by the commissioner [DIRECTOR] to the highest
19 responsible qualified bidder by competitive bidding under general
20 competitive leasing regulations subject to all outstanding valid
21 interests therein and valid options pertaining thereto. Likewise if,
22 in any such proceeding, less than the whole interest in a lease,
23 interest, or option is canceled or forfeited to the state, the partial
24 interests so canceled or forfeited shall be sold by the commissioner
25 [DIRECTOR] to the highest responsible qualified bidder under general
26 competitive leasing regulations.

27 * Sec. 96. AS 38.05.362(a) is amended to read:

28 (a) Notwithstanding any other provision of law, [THE DIRECTOR,
29 WITH THE APPROVAL OF] the commissioner, in consultation with other

1 appropriate agencies and entities, shall classify for agricultural
2 purposes

3 (1) no less than 650,000 acres of state patented or tenta-
4 tively approved land which is appropriate for agricultural purposes
5 but in no event less than 50 percent of the state patented or tenta-
6 tively approved land which on September 22, 1976 [THE EFFECTIVE DATE
7 OF THIS ACT] has been classified as Class I or Class III in detailed
8 soil surveys of the National Cooperative Soil Survey;

9 (2) classification under (1) shall be completed within
10 three years of September 22, 1976.

11 * Sec. 97. AS 38.07.030(a) is amended to read:

12 (a) An owner of agricultural land, or a lessee from the state of
13 agricultural land, in the general vicinity of the land to be cleared
14 or drained under AS 38.07.010(a) may apply to the commissioner to have
15 the [HIS] land cleared or drained or both along with the state land.
16 The applicant's land shall be included in the contract of land to be
17 cleared or drained if, in the discretion of the commissioner, the
18 inclusion is feasible and furthers the agricultural policies of the
19 Department of Natural Resources [DIVISION].

20 * Sec. 98. AS 38.08.010 is amended to read:

21 Sec. 38.08.010. CLASSIFICATION OF LAND FOR HOMESITE ENTRY. (a)
22 The commissioner [DIRECTOR] shall designate, classify and make avail-
23 able for homesite entry state land in amounts and at times as required
24 in AS 38.04.020 or as may otherwise be required by law.

25 (b) Land classified as homesite entry land shall be divided into
26 parcels not exceeding five acres in reasonably compact form, with
27 boundaries conforming as nearly as practicable to natural geologic and
28 topographic features. However a parcel may exceed five acres if the
29 commissioner [DIRECTOR] determines that the larger parcel is necessary

1 to

2 (1) comply with local zoning ordinances; or

3 (2) permit the design of a subdivision because of topo-
4 graphical features, soil conditions, on-site sewage disposal require-
5 ments, or water drainage or supply considerations unique to the sub-
6 division.

7 (c) Repealed.

8 (d) The commissioner [DIRECTOR] shall, to as great an extent as
9 possible, classify land for homesite entry based upon the distribution
10 of population in the state.

11 * Sec. 99. AS 38.08.020 is amended to read:

12 Sec. 38.08.020. PUBLIC NOTICE. The commissioner [DIRECTOR]
13 shall publish notice of the availability of the land in the same
14 manner as provided in AS 38.05.345.

15 * Sec. 100. AS 38.08.060(a) is amended to read:

16 (a) A person who enters upon homesite entry land under a permit
17 issued by the commissioner [DIRECTOR] shall be issued a patent to the
18 land conveying an unencumbered title if that person

19 (1) occupies the land for a cumulative total of 35 months
20 within the seven-year period following issuance of the homesite entry
21 permit;

22 (2) erects a habitable, permanent, single-family dwelling
23 on the homesite, which meets all applicable state and local regula-
24 tions, within five years of the date of issuance of the homesite entry
25 permit; for the purposes of this paragraph, mobile homes are not
26 considered to be permanent dwellings unless they are placed on a
27 permanent foundation;

28 (3) reimburses the state for the survey and platting under-
29 taken in accordance with this chapter; the commissioner [DIRECTOR]

1 shall provide by regulation for installment payments of this
2 requirement.

3 * Sec. 101. AS 38.08.100 is amended to read:

4 Sec. 38.08.100. SUBSTANTIAL COMPLETION OF DWELLING. An entry
5 permit may not be revoked for failure to erect a dwelling in the time
6 required under AS 38.08.060(a)(2) if the commissioner [DIRECTOR] finds
7 that erection of the dwelling has been substantially completed and
8 progress toward completion is being made at the expiration of the time
9 required.

10 * Sec. 102. AS 38.10.010 is amended to read:

11 Sec. 38.10.010. APPLICATION FOR TRANSFER. Upon application by a
12 municipal corporation with a population of less than 5,000 persons
13 according to the latest United States census entitled to a conveyance
14 of tide and submerged land [LANDS] under AS 38.05.320(b), the commis-
15 sioner of natural resources [DIRECTOR OF THE DIVISION OF LANDS OF THE
16 DEPARTMENT OF NATURAL RESOURCES] may make or provide for the making of
17 surveys that may be required for the transfer of tide and submerged
18 land [LANDS] to the municipal corporation, and as may be required for
19 subsequent conveyance of the tide and submerged land [LANDS] by the
20 municipal corporations to occupants of the land [THOSE LANDS] who hold
21 preference rights. When the application by the municipal corporation
22 is accepted, the governing body of the municipal corporation shall
23 execute a contract on a form approved by the attorney general provid-
24 ing for the survey under the sole management and supervision of the
25 commissioner [DIRECTOR] and for repayment according to the provisions
26 of this chapter.

27 * Sec. 103. AS 38.10.020 is amended to read:

28 Sec. 38.10.020. SURVEYS. The survey provided for in AS 38.10.-
29 010 shall define the outside boundary of the land [LANDS] to be

1 conveyed to the municipal corporation and shall, on the same or
2 separate plats, show all structures and improvements and the
3 boundaries of each tract occupied or developed, together with the name
4 of the owner or claimant, and shall contain sufficient data to permit
5 preparation of adequate legal descriptions of the tracts to be
6 conveyed. The plats shall provide the same information as to all
7 tracts adjoining the outside boundary of the land [LANDS] to be con-
8 veyed to the municipal corporation. A sketch plat, sufficient for its
9 purpose in the opinion of the commissioner of natural resources [DI-
10 RECTOR], shall indicate the boundaries of each occupied or developed
11 tract as determined by the governing body of the municipal corporation
12 and the sketch plat shall be prepared and submitted to the commis-
13 sioner [DIRECTOR] before actual surveying shall begin. Nothing in
14 this chapter and nothing in a plat or sketch showing interior subdivi-
15 sion of the land [LANDS] to be conveyed to the municipal corporation
16 shall be construed as a determination of any preference right, nor
17 shall it prohibit adjustment and resurvey [RE-SURVEY] of the interior
18 subdivision.

19 * Sec. 104. AS 38.10.030 is amended to read:

20 Sec. 38.10.030. COSTS AND EXPENSES OF SURVEYS. Money shall be
21 appropriated from the general fund in an amount to be determined from
22 time to time by the legislature to facilitate the [SUCH] work. Ac-
23 counting of all costs and expenses of the surveys shall be made to the
24 municipal corporation by the commissioner of natural resources [DIREC-
25 TOR] periodically and a final accounting shall be made upon patent of
26 the land [LANDS] to the municipal corporation. Costs and expenses
27 chargeable to the city shall include the actual amount expended for
28 the survey and a reasonable allocation of overhead, travel and equip-
29 ment expense. The total amount of costs and expenses shall be repaid

1 to the fund through the commissioner [DIRECTOR] by the municipal
2 corporation for whom the survey was made, with interest at six percent
3 a year from the date of patent. The actual cost of survey of each
4 interior subdivision shall be determined by the commissioner [DIREC-
5 TOR]. For tracts conveyed to a preference right holder, the state
6 shall be reimbursed by the municipal corporation in the amount of the
7 survey costs of that tract as determined by the commissioner [DIREC-
8 TOR] within 30 days after the transfer of each tract. For tracts
9 conveyed, leased or otherwise disposed of by the municipal corpora-
10 tion, the fund shall be reimbursed by the municipal corporation in an
11 amount equal to 90 percent of the gross proceeds of the sale, lease or
12 other disposal of each tract until the total amount of the costs and
13 expenses of the survey, with interest, due the state is paid. The
14 total amount, with interest, shall be reimbursed to the state within
15 five years from the date of patent.

16 * Sec. 105. AS 38.10.050 is amended to read:

17 Sec. 38.10.050. REGULATIONS [RULES, REGULATIONS] AND PROCEDURES.
18 The commissioner of natural resources [, UPON RECOMMENDATION OF THE
19 DIRECTOR,] may establish reasonable procedures and adopt reasonable
20 [RULES AND] regulations necessary to carry out this chapter.

21 * Sec. 106. AS 38.35.220(c) is amended to read:

22 (c) Applications for pipeline permits which have been filed with
23 the Department of Natural Resources [DIVISION OF LANDS] before May 20,
24 1972 shall be considered as filed under this chapter but this does not
25 otherwise restrict the authority of the commissioner in acting on
26 these applications under this chapter; however, if the department
27 [DIVISION OF LANDS] has, before May 20, 1972, granted right-of-entry
28 to an applicant or issued a letter of no-objection to an applicant,
29 and the applicant thereafter fully complies with all of the terms and

1 conditions originally specified by the department [DIVISION OF LANDS]
2 or other agency, these applications are existing valid permits or
3 easements on May 20, 1972.

4 * Sec. 107. AS 38.50.010 is amended to read:

5 Sec. 38.50.010. AUTHORIZATION. Subject to the requirements of
6 this chapter, [THE DIRECTOR, WITH THE CONCURRENCE OF] the commissioner
7 [,] is authorized to dispose of state land or interest in land by
8 exchanging it for land, interest in land, or other consideration.
9 Exchanges shall be for the purpose of consolidating state land hold-
10 ings, creating land ownership and use patterns which will permit more
11 effective administration of the state public domain, facilitating the
12 objectives of state programs, or other public purposes.

13 * Sec. 108. AS 38.50.020 is amended to read:

14 Sec. 38.50.020. VALUE OF PROPERTIES EXCHANGED. (a) The land,
15 interest in land, and other consideration which the state receives in
16 an exchange made under this chapter shall be equal to or exceed the
17 appraised fair market value of the land, interest in land or property
18 exchanged by the state; however, the commissioner [DIRECTOR] may
19 accept cash from, or pay cash to, any other party to an exchange in
20 order to equalize the value of the property or other consideration
21 conveyed and received by the state. If the commissioner [DIRECTOR]
22 determines that the property to be exchanged is not equal in appraised
23 fair market value or if the value cannot be ascertained with reason-
24 able certainty, the commissioner [DIRECTOR] may enter into an exchange
25 upon a finding [IF HE FINDS] that the appraised fair market value of
26 the property to be received, together with the value of other public
27 benefits, equals or exceeds the value of the property which the state
28 will relinquish. An exchange for other than equal appraised fair
29 market value is subject to legislative review as provided in

1 AS 38.50.140.

2 (b) An appraisal required by this section is presumed accurate
3 and valid for a period of six months from the time the appraisal is
4 completed. After that time, or if the commissioner [DIRECTOR] has
5 reason to believe that the value of the appraised property has changed
6 significantly during the original six-month period, a reappraisal of
7 the property is required.

8 * Sec. 109. AS 38.50.030 is amended to read:

9 Sec. 38.50.030. PARTIES. (a) The commissioner [DIRECTOR] may
10 exchange land and interests [INTEREST] in land with a government
11 agency, organization, corporation, individual, or other person. At
12 the beginning of discussions concerning a proposed exchange, the
13 commissioner [DIRECTOR] shall require proof that each party to the
14 negotiations is the owner of, or is legally entitled to, the property
15 which the party desires to exchange and proof that a person acting as
16 an agent for a principal [THE PARTY] has the authority to negotiate an
17 exchange in behalf of the [HIS] principal.

18 (b) The commissioner [DIRECTOR] may negotiate an exchange in-
19 volving more than one party; however, in order to ascertain whether
20 the equal value requirements of this chapter have been met, the com-
21 missioner [DIRECTOR] shall consider only the land and other considera-
22 tion which the state would convey and receive if the exchange were
23 executed.

24 * Sec. 110. AS 38.50.040 is amended to read:

25 Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise
26 provided in this chapter, the commissioner [DIRECTOR] is authorized to
27 convey for purposes of exchange any state land or interest in land
28 regardless of the authority under which the land or interest was
29 obtained by the state. The conveyance of university land shall be

1 approved in the manner prescribed in AS 38.05.030.

2 * Sec. 111. AS 38.50.050 is amended to read:

3 Sec. 38.50.050. CONVEYANCE OF MINERAL RIGHTS. Subject to the
4 requirements of this chapter, the commissioner [DIRECTOR] is autho-
5 rized to exchange mineral rights in state land to the extent that the
6 conveyance is authorized by the state constitution and applicable
7 federal law. The commissioner [DIRECTOR] may not exchange or receive
8 the surface estate of land or the mineral rights in it, one without
9 the other, unless the separation of estate is necessitated by a prior
10 separation of ownership or by restrictions in applicable law, or the
11 commissioner [DIRECTOR] otherwise finds that the conveyance or receipt
12 of the surface or mineral estates, one without the other, is necessary
13 to achieve a significant public purpose.

14 * Sec. 112. AS 38.50.060 is amended to read:

15 Sec. 38.50.060. RESERVATIONS AND COVENANTS. The commissioner
16 [DIRECTOR] may include in any patent or other instrument issued under
17 this chapter any reservations and covenants relating to the land which
18 the commissioner [HE] considers necessary to protect or promote the
19 public interest. Reservations and covenants may include, but are not
20 limited to, those relating to access, environmental protection, and
21 use or development rights. The commissioner [DIRECTOR] may receive
22 land which is subject to reservations and covenants if the commis-
23 sioner [HE] finds that the reservations and covenants are consistent
24 with the public interest.

25 * Sec. 113. AS 38.50.080 is amended to read:

26 Sec. 38.50.080. PROHIBITION AGAINST FUTURE CONSIDERATIONS AND
27 ALIENATION OF SELECTION RIGHTS. (a) The commissioner [DIRECTOR] may
28 not negotiate or enter into a land exchange agreement which requires
29 the identification of land, interest in land, or other consideration,

1 except for the performance of necessary survey work, at any time after
2 the agreement is initially executed.

3 (b) The commissioner [DIRECTOR], in implementing the provisions
4 of this chapter, may not alienate or agree not to exercise selection
5 rights granted to the state in the Alaska Statehood Act or other
6 applicable law authorizing the state to select land or interest in
7 land.

8 * Sec. 114. AS 38.50.090 is amended to read:

9 Sec. 38.50.090. COORDINATION WITH OTHER STATE AGENCIES. (a)
10 During the negotiation of a land exchange, the commissioner [DIRECTOR]
11 shall consult with other departments [AND OTHER DIVISIONS OF THE
12 DEPARTMENT OF NATURAL RESOURCES] relative to matters which are within
13 their jurisdiction. If land under the jurisdiction of a state agency
14 other than the Department of Natural Resources may be involved in a
15 proposed exchange, the commissioner [DIRECTOR] shall afford the head
16 of that agency an opportunity to participate in the discussions re-
17 specting the land.

18 (b) The commissioner [DIRECTOR] shall be afforded an opportunity
19 to review and comment on any land exchange proposed by a state agency
20 other than the Department of Natural Resources.

21 * Sec. 115. AS 38.50.100 is amended to read:

22 Sec. 38.50.100. FINDING REQUIREMENT AS TO ALTERNATIVES. Before
23 circulating notice under AS 38.50.110, the commissioner [DIRECTOR]
24 shall consider other alternatives to achieve the objectives of the
25 proposed exchange in an effort to determine whether the proposed
26 exchange will best serve the public interest. In making this
27 determination, the commissioner [DIRECTOR] shall consider, among other
28 things, the advantages and disadvantages of acquiring the land or
29 interest in land for the state by means of purchase, lease, or

1 selection under the Alaska Statehood Act, or condemnation. In addi-
2 tion, the commissioner [HE] shall consider alternatives to the di-
3 posal through exchange of the state land or interest in land, includ-
4 ing, but not limited to, lease or sale.

5 * Sec. 116. AS 38.50.110(a) is amended to read:

6 (a) Not more than 60 days nor less than 30 days before a public
7 hearing is scheduled under AS 38.50.120 he commissioner [DIRECTOR]
8 shall circulate a notice containing the information specified in (b)
9 of this section. The commissioner [DIRECTOR] shall

10 (1) publish or post the notice as provided in AS 38.05.345,
11 except as otherwise specified in this section; the commissioner [
12 THE DIRECTOR] shall publish the notice in a newspaper of general
13 circulation in the vicinity of the land which the state will receive
14 and in the three most populated cities of the state;

15 (2) mail the notice to any person who has filed a request
16 for notice of proposed exchanges;

17 (3) mail the notice to each member of the legislature;

18 (4) mail the notice to each municipality the boundaries of
19 which encompass or are located within six linear miles of land in-
20 volved in the proposed exchange;

21 (5) circulate the notice to the Office of the Governor and
22 to all state departments;

23 [(6) Repealed]

24 (6) [(7)] mail the notice to any corporation organized
25 under the Alaska Native Claims Settlement Act, which corporation owns
26 or has selected land located within a radius of 15 linear miles from
27 land or property involved in the proposed exchange; and

28 (7) [(8)] mail the notice to any other party, including an
29 organization of land users, that the commissioner [HE] considers

1 appropriate.

2 * Sec. 117. AS 38.50.120 is amended to read:

3 Sec. 38.50.120. PUBLIC HEARINGS. (a) The commissioner [DIREC-
4 TOR] may hold as many public hearings as is considered appropriate.
5 There shall be at least one public hearing.

6 (b) A person who desires to testify at a hearing shall be pro-
7 vided an opportunity to do so, subject to reasonable time limits. In
8 addition, the commissioner [DIRECTOR] shall hold the hearing record
9 open for at least two weeks following the conclusion of a hearing in
10 order to receive supplemental or additional statements.

11 * Sec. 118. AS 38.50.130 is amended to read:

12 Sec. 38.50.130. REPORT ON PROPOSED EXCHANGE. (a) In conjunc-
13 tion with the public notice required by AS 38.50.110, the commissioner
14 [DIRECTOR] shall prepare and distribute the report required by this
15 section to the parties listed in AS 38.50.110(a)(2) - (7) [(8)] and to
16 any other party who requests it. The report shall contain, among
17 other things, a copy of the notice required by AS 38.50.110 and a
18 discussion in a concise format designed to facilitate public
19 understanding of the issues of

20 (1) the physical characteristics of the land involved,
21 including the surface and mineral resources associated with the land;

22 (2) the appraised fair market value of each tract involved
23 in the exchange or, if the exchange is for other than equal appraised
24 fair market value, the nonmonetary values which are involved;

25 (3) the benefits and detriments which can be expected to
26 accrue, including possible social, economic, and environmental im-
27 pacts; and

28 (4) alternatives to the proposed exchange.

29 (b) Upon termination of the period provided for agency and

1 public comment, the report and the proposed land exchange may be
2 revised, if appropriate, to reflect comments or other information
3 which has come to the commissioner's [DIRECTOR'S] attention. A brief
4 summary of all comments and information received shall be appended to
5 the report.

6 * Sec. 119. AS 38.50.140 is amended to read:

7 Sec. 38.50.140. LEGISLATIVE REVIEW. Within 10 days of the
8 convening of a regular legislative session, the governor shall trans-
9 mit to the president of the senate and the speaker of the house of
10 representatives any proposal for a land exchange for other than equal
11 appraised fair market value which is scheduled to occur before the
12 next legislative session. If [, IN HIS VIEW,] exigent circumstances
13 seriously affecting state interests so require, the governor may
14 submit the proposed exchange to the legislature at some other time. A
15 finding of exigent circumstances shall be carefully documented in the
16 letter of transmittal. The commissioner [DIRECTOR] is authorized to
17 conclude a proposed exchange agreement unless either house of the
18 legislature by simple resolution disapproves of the exchange within 60
19 legislative days of transmittal by the governor. A decision by the
20 legislature to disapprove a proposed exchange shall be accompanied by
21 a recommendation to the governor with respect to future actions which
22 the commissioner [DIRECTOR] should take concerning the exchange.

23 * Sec. 120. AS 38.50.150 is amended to read:

24 Sec. 38.50.150. EXECUTION OF EXCHANGE. If a deed, contract of
25 exchange, or other instrument of conveyance which the commissioner
26 [DIRECTOR] receives to effectuate an exchange is properly executed,
27 acknowledged, and authorized by the appropriate party, the commis-
28 sioner [DIRECTOR] shall accept conveyance of title to the land and
29 other property which the state is to receive as consideration, and

1 [HE] shall issue a patent, contract of exchange or other instrument of
2 conveyance to the appropriate party for the property which the commis-
3 sioner [HE] is then obligated to convey. Before acceptance by the
4 commissioner [DIRECTOR] of a deed, contract of exchange or other
5 instrument, no action taken by the commissioner [HIM] or by any other
6 state official creates a right against the state with respect to state
7 land.

8 * Sec. 121. AS 38.95.080(a) is amended to read:

9 (a) The commissioner of natural resources [DIRECTOR OF THE
10 DIVISION OF LANDS] shall issue a nontransferable permit for the con-
11 struction of a trapping cabin on state land to a person who meets the
12 following qualifications:

13 (1) the person must have an established trapline with proof
14 of regular use;

15 (2) the person must have a trapline of sufficient length to
16 justify the need for cabin construction.

17 * Sec. 122. AS 38.95.080(b) is amended to read:

18 (b) Nothing in (a) of this section prevents the commissioner
19 [DIRECTOR] from issuing a permit to more than one qualified person for
20 the construction and use of the same trapping cabin.

21 * Sec. 123. AS 38.95.080(c) is amended to read:

22 (c) The commissioner [DIRECTOR] shall establish, by regulation,
23 conditions attaching to the permit issued under (a) and (b) of this
24 section. These conditions shall include the following:

25 (1) permits shall be issued for a period of not more than
26 10 years, with succeeding 10-year renewal options, if periodic use and
27 occupancy is established, and the qualifications of (a) of this sec-
28 tion continue to be met;

29 (2) a cabin shall be constructed and maintained according

1 to reasonable specifications established by the commissioner [DIREC-
2 TOR]; one cabin constructed under a permit may contain not more than
3 400 square feet; however, in no case may another cabin constructed
4 under the same permit exceed 192 square feet;

5 (3) a permit shall specify the number of cabins allowed to
6 be constructed and indicate their specific geographical location; the
7 commissioner [DIRECTOR] may establish a maximum number of cabins per
8 person or otherwise limit their number because of the probability of
9 adverse consequences;

10 (4) adequate provision must be made for waste and garbage
11 disposal, as determined by the commissioner [DIRECTOR];

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

13 * Sec. 124. AS 40.15.070 is amended to read:

14 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be
15 subdivided or dedicated is situated within a first or second class
16 borough the proposed subdivision or dedication shall be submitted to
17 the borough planning commission for approval. If the land is situated
18 within a city in the unorganized borough or the third class borough
19 the proposed subdivision or dedication shall be submitted to the city
20 planning commission for approval. The borough planning commission is
21 the platting authority for the first or second class borough, the city
22 planning commission is the platting authority for the city, and the
23 Department of Natural Resources [DIVISION OF LANDS] is the platting
24 authority in the remaining areas of the state and third class borough
25 for the change or vacation of existing plats or a portion of such
26 plats, as provided in AS 40.15.075. If the borough or the city does
27 not have a planning commission, the borough assembly or the city
28 governing body, respectively, is the platting authority and the
29 proposed subdivision or dedication shall be submitted to it. No

1 subdivision may be filed for record until it is approved by the
2 platting authority.

3 * Sec. 125. AS 40.15.075 is amended to read:

4 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD
5 CLASS BOROUGH. The Department of Natural Resources [DIVISION OF
6 LANDS] is the platting authority in the area outside organized bor-
7 oughs and outside cities in the unorganized borough and in the third
8 class borough for only the purposes of hearing and acting on petitions
9 for the change or vacation of plats and shall execute this function
10 substantially in conformity with the provisions of AS 29.33.210 -
11 29.33.240. Costs of publication and mailing as well as other costs
12 authorized in AS 29.33.210 shall be paid to the department [DIVISION]
13 by the petitioner. The commissioner of natural resources [DEPARTMENT
14 OF NATURAL RESOURCES] shall adopt reasonable regulations governing the
15 exercise of the authority conferred by this section upon the depart-
16 ment [DIVISION OF LANDS].

17 * Sec. 126. AS 41.15.040 is amended to read:

18 Sec. 41.15.040. RIGHT OF ENTRY TO CONTROL AND SUPPRESS FIRES.
19 Upon approval by the commissioner or an authorized agent, employees of
20 the Department of Natural Resources [DIVISION OF LANDS], or of any
21 organization authorized to prevent, control or suppress fires or
22 destructive agents, and others assisting in the control or suppression
23 of fires upon request of an officer or employee of the United States
24 or the state may at any time enter upon any land, whether publicly or
25 privately owned, for the purpose of preventing, suppressing or
26 controlling forest fires and destructive agents.

27 * Sec. 127. AS 41.17.030(a) is amended to read:

28 (a) The division shall manage state forests and, as directed by
29 the commissioner, provide technical advice to the department [DIVISION

1 OF LANDS] on sound forest practices necessary to ensure the continuous
2 growing and harvesting of commercial forest species on other state
3 land.

4 * Sec. 128. AS 44.19.056 is amended to read:

5 Sec. 44.19.056. COMPOSITION. The State Geographic Board con-
6 sists of the commissioner of the Department of Community and Regional
7 Affairs, the curator of the state museum, the state historical
8 librarian, the commissioner of the Department of Transportation and
9 Public Facilities, the commissioner of the Department of Natural
10 Resources, the commissioner of the Department of Education, [THE
11 DIRECTOR OF THE DIVISION OF LANDS,] and two [ONE] other persons
12 [PERSON] appointed by the governor.

13 * Sec. 129. AS 44.62.330(a)(9) is amended to read:

14 (9) Department of Natural Resources [DIVISION OF LANDS]
15 under the Alaska Land Act where applicable

16 * Sec. 130. AS 45.50.235(b) is amended to read:

17 (b) Timber property which becomes state property under the
18 provisions of this section may be sold under terms and conditions
19 established by the commissioner [DIRECTOR OF THE DIVISION OF LANDS].

20 * Sec. 131. AS 46.15.133(a) is amended to read:

21 (a) Upon receipt of an application, the commissioner shall
22 prepare a notice containing the location and extent of the proposed
23 appropriation, the name and address of the applicant and other infor-
24 mation the commissioner [HE] considers pertinent. The notice shall
25 state that within 15 days of publication or service of notice, persons
26 may file with the commissioner [DIRECTOR] written objections, stating
27 the name and address of the objector, and any facts tending to show
28 that rights of the objector or the public interest would be adversely
29 affected by the proposed appropriation.

1 * Sec. 132. AS 46.15.133(b) is amended to read:

2 (b) The commissioner shall publish the notice at the applicant's
3 expense in one issue of a newspaper of general distribution in the
4 area of the state in which the water is to be appropriated. The
5 commissioner shall also have notice served personally or by certified
6 mail upon an appropriator of water or applicant for or holder of a
7 permit who, according to the records of the Department of Natural
8 Resources [DIVISION OF LANDS], may be affected by the proposed appro-
9 priation and may serve notice upon any governmental agency, political
10 subdivision or person; notice shall also be served upon the Department
11 of Fish and Game and the Department of Environmental Conservation.

12 * Sec. 133. AS 38.05.005 - 38.05.015; 38.05.020(a); 38.05.365(5);
13 AS 38.50.170(2); and AS 46.15.260(7) are repealed.

14 * Sec. 134. This Act takes effect July 1, 1984.

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
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Senate

Committee on Resources

March 9, 1984

SB 222 - DNR CLEAN-UP LEGISLATION

In May 1983 the Senate Resources Committee passed out a Committee Substitute for SB 222, An Act relating to the organization of DNR, substituting references in the Alaska statutes to the Department and the Commissioner for references to the Division of Lands and the Director of the Division of Lands. When session adjourned last year, the bill lay in the Senate Finance Committee. Early in January the bill was returned to the Senate Resources Committee at the Chairman's request.

The Committee's work on SB 375, An Act relating to land disposal and management, is nearing completion; SB 375 is scheduled for Committee action this Friday, March 9. Our Legal Division has reviewed SB 222 to ensure that the technical changes it proposes to Title 38 are consistent with the changes proposed in SB 375.

In short, SB 222, which was prepared by the Revisor of Statutes, reflects changes in drafting style (the use of Commissioner rather than Director, the use of Department rather than Division, the use of land rather than lands, and references to full citations rather than sections only, i.e. "AS 38.05.065(c)" rather than ".065(c) of this chapter").

from Rep. Ringstad

CSSB 222 (Finance) (title am)

AMENDMENT # _____

Page 21, line 21

Delete Section 37

Explanation:

This type of broad based zoning power is not needed by DNR and has only been used a limited number of times in the past. In contacting the Division of lands the present director indicated that this provision has not been used since he has been in the division, and that it is not necessary to have in statute for current transactions with the Federal Government.

SB2221

Conforming amend of busseil amend
to SB 375 is accepted

1 development rights, and retention of scenic or other easements. A
2 conditional title may be tied to a development schedule or other
3 standards of performance.

4 * Sec. 26. AS 38.04.045(b) is amended to read:

5 (b) Before the conveyance of surface rights to state land, an
6 official cadastral survey shall be accomplished, unless a comparable,
7 acceptable survey exists that has been conducted by the federal Bureau
8 of Land Management. The rectangular survey section corner positions
9 shall be monumented and shown on a cadastral survey plat approved by
10 the state. However, for those areas where the state may wish to
11 convey surface estate outside of an official cadastral survey grid,
12 the commissioner [DIRECTOR] may waive monumentation of all individual
13 section corner positions and ~~substitute an official control survey~~ *convey parcels described by*
14 *aliquot parts.* ~~with control points being monumented at approximately two-mile inter-~~
15 ~~vals and shown on control survey plats approved by the state. No~~
16 ~~portion of land to be conveyed may be located more than two miles from~~
17 ~~such a survey control monument.~~ The lots and tracts in state subdivi-
18 sions shall be monumented and the cadastral survey and plats for the
19 subdivision shall be approved by the state. Where land is located
20 within a municipality with planning, platting, and zoning powers,
21 plats for state subdivisions shall comply with local ordinances and
22 regulations in the same manner and to the same extent as plats for
23 subdivisions by other landowners. State subdivisions shall be filed
24 in the district recorder's office. The requirements of this section
25 do not apply to land made available through a cabin permit system,
26 material sales, or short-term leases; however, for short-term leases
27 the lessee must comply with local subdivision ordinances unless waived
28 by the municipality under procedures specified by ordinance.

29 * Sec. 27. AS 38.04.050 is amended to read:

PROPOSED AMENDMENTS TO SB 222

page 14, line 28 and page 15, line 2. Amend to read:

(6) "official control survey" means a position marked on the ground [by triangulation or traverse stations] established in conformity with standards adopted by United States Coastal and Geodetic Survey for first, second and third order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927 or the North American datum of 1983 and approved by the department.

RATIONALE:

Both amendments have been brought to staff attention by the Society of Professional Land Surveyors. Triangulation and traverse stations are not the most current or only methods of survey. The "North American datum of 1983" reflects a change in the federal datum used as a base for the Alaska Coordinate System. Conforming changes have been made in SB 375 (Sections 56-67); this amendment reflects an oversight.

page 75, line 14.

Add a new section 134 and renumber remaining sections accordingly:

Sec. 134 Wherever the phrases "division of lands" or the "director of the division of lands" appear in the Alaska Statutes, the revisor of statutes shall substitute the phrases "commissioner of natural resources" or "Department of Natural Resources".

RATIONALE:

SB 222 was prepared by the revisor of statutes to reflect the changes in drafting style reflected above. Prior to passage of SB 222 and SB 375 by the Senate, Legislative Legal Division reviewed both bills for conformity. However, SB 375 has since been substantially amended. The new Section 134 would ensure that any new sections added in SB 375 will reflect the change in drafting style.

Offered: 4/18/84
Referred: Rules

Original sponsor: Resources Committee

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 222 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the organization of the Depart-
7 ment of Natural Resources and planning and construc-
8 tion of forest products access roads; and providing
9 for an effective date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 19.30.060 is amended to read:
12 Sec. 19.30.060. PURPOSE. It is the purpose of AS 19.30.060 -
13 19.30.100 to provide access to state lands that [WHICH] are programmed
14 for surface or forest products disposal, and to provide access roads
15 at the lowest possible cost.
16 * Sec. 2. AS 19.30.070 is amended to read:
17 Sec. 19.30.070. PLANNING AND [CONTRACTS FOR] CONSTRUCTION OF
18 ROADS. The commissioner of natural resources [DIRECTOR OF THE DIVI-
19 SION OF LANDS] may plan and construct roads or contract with private
20 persons for the construction of roads to and on state land [LANDS]
21 programmed for surface or forest products disposal [WHICH ARE NOT MORE
22 THAN SIX MILES FROM EXISTING ROADS OR HIGHWAYS].
23 * Sec. 3. AS 19.30.080 is amended to read:
24 Sec. 19.30.080. CONSTRUCTION STANDARDS AND MAINTENANCE. An
25 access road constructed under AS 19.30.060 - 19.30.100 shall be of low
26 standard, not necessarily suitable for all weather use. The state is
27 not under obligation to maintain an access road constructed under
28 AS 19.30.060 - 19.30.100. If an access road is constructed outside a
29 municipality that has zoning ordinances, the right-of-way width for

1 the road shall be determined by the Department of Natural Resources
2 [DIVISION OF LANDS] and the Department of Transportation and Public
3 Facilities. If an access road is constructed within the boundaries of
4 a municipality that has zoning ordinances, the right-of-way width
5 shall conform to the subdivision control ordinances of the municipal-
6 ity. Contracts for the work on an access road shall be awarded to the
7 lowest responsible bidder qualified to contract with the state.

8 * Sec. 4. AS 19.30.090 is amended to read:

9 Sec. 19.30.090. PAYMENT OF CONSTRUCTION COSTS [IN LAND CREDIT
10 CERTIFICATES]. The cost of constructing access roads to state land
11 [LANDS] shall be paid in appropriated funds or freely transferable
12 land credit certificates which may be applied toward the purchase or
13 lease of any state land [LANDS] under the jurisdiction of the Depart-
14 ment of Natural Resources [DIVISION OF LANDS], except tide, submerged,
15 and shoreland and land [SHORELANDS AND LANDS] belonging to the state
16 which have been obtained by escheat, purchase, or any means other than
17 by general land grant. A land credit certificate is valid for a
18 period of 20 years after issue. After the expiration of 20 years from
19 date of issue the holder may not start an action against the state or
20 any person based upon the certificate. The method of disposing of
21 land [LANDS] and resources and restrictions upon their disposal estab-
22 lished by law or regulation are in no way affected by the use of land
23 credit certificates.

24 * Sec. 5. AS 29.18.202 is amended to read:

25 Sec. 29.18.202. DETERMINATION OF ENTITLEMENT FOR CITIES. The
26 general grant land entitlement of a city formerly eligible to receive
27 general grant land under the provisions of former AS 29.18.190 and
28 29.18.200 [, AS REPEALED BY THIS ACT,] is 10 percent of the maximum
29 total acreage of vacant, unappropriated, unreserved land within the

1 boundaries of each city at any time between the initial date of eligi-
2 bility under former AS 29.18.190 and 29.18.200 and July 1, 1978.
3 Within six months of July 1, 1978, the commissioner [DIRECTOR] shall
4 determine the entitlement for each city eligible to receive general
5 grant land under this section and certify that entitlement to the
6 city.

7 * Sec. 6. AS 29.18.203(b) is amended to read:

8 (b) Within six months of the date of incorporation of a munici-
9 pality which is incorporated after July 1, 1978, the commissioner
10 [DIRECTOR] shall determine the entitlement of each municipality eli-
11 gible to receive general grant land under (a) of this section and
12 certify the entitlement to the municipality.

13 * Sec. 7. AS 29.18.204(c) is amended to read:

14 (c) Land may be selected or nominated for selection by a munic-
15 ipality to satisfy a general grant land entitlement under AS 29.18.201
16 and 29.18.202 at any time before October 1, 1980. However, if a
17 municipal selection or nomination or a part of a municipal selection
18 or nomination is rejected by the commissioner [DIRECTOR], the munic-
19 ipality may, not later than 90 days after receipt of the commission-
20 er's [DIRECTOR'S] rejection, select additional state land as necessary
21 to satisfy its entitlement.

22 * Sec. 8. AS 29.18.204(d) is amended to read:

23 (d) Land may be selected by a municipality to satisfy a general
24 grant land entitlement under AS 29.18.203 at any time within one year
25 after the commissioner [DIRECTOR] certifies the entitlement to the
26 municipality.

27 * Sec. 9. AS 29.18.205(b) is amended to read:

28 (b) All approved selections under former AS 29.18.190 and
29 29.18.200 for which patent has not been issued to a municipality on

1 July 1, 1978 shall be reviewed by the commissioner [DIRECTOR] within
2 nine months of July 1, 1978. Any approved selection of land which was
3 vacant, unappropriated or unreserved on the date of selection is valid
4 as of the date of the approval under former AS 29.18.190 and 29.18.-
5 200, and a patent shall be issued to the municipality within three
6 months after approval by the commissioner [DIRECTOR] of a plat of
7 survey. The acreage shall be credited toward fulfillment of the
8 municipality's entitlement. No municipality is entitled to receive
9 patent under AS 29.18.011 - 29.18.610 to more than its entitlement
10 determined under AS 29.18.201 - 29.18.203. Any prior approval by the
11 commissioner [DIRECTOR] of municipal selections for land which was not
12 vacant, unappropriated or unreserved on the date of selection shall be
13 rescinded, and patent may not be issued except when disposal to a
14 third party by sale or lease has occurred. Transfers of land to
15 municipalities under AS 29.18.011 - 29.18.610 are subject to AS 38.-
16 05.321. Classification actions as reflected upon the land status
17 records of the Department of Natural Resources are determinative of
18 land classification status for purposes of AS 29.18.011 - 29.18.610.

19 * Sec. 10. AS 29.18.205(f) is amended to read:

20 (f) The commissioner [DIRECTOR] shall approve each selection for
21 patent within nine months of its selection by a municipality, and a
22 patent shall be issued to the municipality for land selected in satis-
23 faction of a general grant land entitlement vested under AS 29.18.-
24 201 - 29.18.203 within three months after approval by the commissioner
25 [DIRECTOR] of a plat of survey.

26 * Sec. 11. AS 29.18.206(d) is amended to read:

27 (d) Within six months after approval of a municipal selection of
28 school, university, or mental health land, the commissioner [DIRECTOR]
29 shall identify state general grant land of approximately equal value

1 to the land requested by the municipality, and shall propose the
2 replacement land for the concurrence of the appropriate board. If a
3 proposal by the commissioner [DIRECTOR] is rejected by the board, the
4 commissioner [DIRECTOR] shall meet with the board as often as neces-
5 sary to determine the type and amount of equal value replacement land
6 that would be required to obtain the board's concurrence, and shall
7 propose the replacement land for consideration by the board. The
8 replacement land shall thereafter be managed for the purposes for
9 which the land selected by the municipality was acquired by the Terri-
10 tory and State of Alaska.

11 * Sec. 12. AS 29.18.206(e) is amended to read:

12 (e) The notice and review provisions of AS [38.05.305 AND]
13 38.05.345 are applicable to the designation of other general grant
14 land as school, university or mental health land in replacement of
15 land selected under this section. The provisions of AS 38.50 [AND
16 38.05.032] do not apply to such designations under this section. [THE
17 PROVISIONS OF AS 38.05.030(a), 38.05.030(e), AND 38.05.035(a)(13)
18 WHICH REQUIRE THE APPROVAL OF THE RESPECTIVE TRUST BOARD BEFORE DIS-
19 POSAL OF LANDS BY THE DIRECTOR DO NOT APPLY TO SELECTIONS OF SCHOOL,
20 UNIVERSITY OR MENTAL HEALTH LAND BY A MUNICIPALITY UNDER THIS SEC-
21 TION.]

22 * Sec. 13. AS 29.18.207(c) is amended to read:

23 (c) If land selected by a municipality is unsurveyed at the time
24 of approval, the commissioner [DIRECTOR] shall survey, or may approve
25 the municipality's survey of, the exterior boundaries of an approved
26 selection without interior subdivision, and shall issue patent in
27 terms of the exterior boundary survey. The cost of the survey shall
28 be borne by the municipality. If land selected by a municipality has
29 been surveyed at the time of its selection, the boundaries shall

1 conform to the public land subdivisions established by the approved
2 survey.

3 * Sec. 14. AS 29.18.207(d) is amended to read:

4 (d) The commissioner [DIRECTOR] may approve municipal selections
5 of land which have been tentatively approved or patented to the state
6 by the federal government, but the commissioner [HE] may not issue
7 patent to a municipality until the land has first been patented to the
8 state. After approval of a selection by the commissicner [DIRECTOR],
9 but before patent to a municipality, the municipality may execute
10 conditional leases and make conditional sales only with the consent of
11 the commissioner [DIRECTOR]. Conditional sales and conditional leases
12 made before July 1, 1978 do not require the consent of the commis-
13 sioner [DIRECTOR].

14 * Sec. 15. AS 29.18.209 is amended to read:

15 Sec. 29.18.209. AUTHORIZATION FOR LAND EXCHANGES. The [DIREC-
16 TOR, WITH THE CONCURRENCE OF THE] commissioner [,] and any municipal-
17 ity are authorized to exchange land or interests in land when it is in
18 the public interest. Land or interests in land exchanged under this
19 section must be of approximately equal value, including the non-
20 monetary value of public benefits. Exchange procedures shall comply
21 with applicable law and municipal ordinances. The notice and review
22 provisions of AS [38.05.305 AND] 38.05.345 are applicable to exchanges
23 of land under this section. The provisions of AS 38.50.010 - 38.50.-
24 170 do not apply to exchanges of land under this section.

25 * Sec. 16. AS 29.18.210(b) is amended to read:

26 (b) Where state land is the most logical location for demon-
27 strated municipal expansion for nonpublic settlement and development
28 purposes, and when an exchange of land under AS 29.18.209 is not
29 possible or is not in the public interest, it is the policy of the

1 state to sell or lease the land at public auction. The state may
2 contract with a municipality to act as its agent in an auction of
3 state land under applicable statutes. When a municipality acts as the
4 agent of the state in an auction, the municipality may retain from the
5 proceeds of the auction the expenses that [WHICH] the commissioner
6 [DIRECTOR] determines to be necessary and reasonable.

7 * Sec. 17. AS 29.18.210(c) is amended to read:

8 (c) Nothing in AS 29.18.011 - 29.18.610 limits or impairs the
9 authority of the commissioner [DIRECTOR] to transfer land to munic-
10 ipalities, without limit or consideration, for public purposes in
11 accordance with AS 38.05.315. If there is a remaining entitlement of
12 the municipality, land transferred under AS 38.05.315 shall be cred-
13 ited toward fulfillment of the entitlement.

14 * Sec. 18. AS 29.18.211(a) is amended to read:

15 (a) A municipality which on July 1, 1978 is engaged in litiga-
16 tion, or which becomes engaged in litigation, regarding a claim to
17 state land under former AS 29.18.190 and 29.18.200 shall elect either
18 to obtain the benefits provided in AS 29.18.201 - 29.18.213 or to
19 pursue the litigation and thereby waive any claim to entitlement under
20 AS 29.18.201 - 29.18.213. An election shall be made by filing a motion
21 for dismissal with prejudice in the court in which the litigation is
22 pending. If the claim involves a municipality identified in
23 AS 29.18.201, the municipality shall file its motion for dismissal
24 within 60 days of July 1, 1978. If the claim involves a city eligible
25 to receive an entitlement under AS 29.18.202, the city shall file its
26 motion for dismissal within 60 days after receiving the certificate of
27 entitlement provided by the commissioner [DIRECTOR] under AS 29.18.-
28 202. Failure of the municipality to file a motion for dismissal
29 during the time period provided in this subsection shall be considered

1 a waiver of entitlement under AS 29.18.201 - 29.18.213.

2 * Sec. 19. AS 29.18.213 is amended to read:

3 Sec. 29.18.213. DEFINITIONS. In AS 29.18.201 - 29.18.213,
4 unless the context otherwise requires,

5 [(1) Repealed]

6 (1) [(2)] "approved selection" means a municipal land
7 selection that [WHICH] has been approved in writing by the
8 commissioner [DIRECTOR] for transfer by patent to a municipality;

9 (2) [(3)] "commissioner" ["DIRECTOR"] means the
10 commissioner [DIRECTOR] of the [DIVISION OF LANDS,] Department of
11 Natural Resources, or the commissioner's [HIS] designee;

12 (3) [(4)] "general grant land" means land patented or
13 tentatively approved to the state from the United States under sec.
14 6(a) or (b) of the Alaska Statehood Act;

15 (4) [(5)] "mental health land" means land granted under
16 Title II, sec. 202 of P.L. 84-830, as amended before or after July 1,
17 1978;

18 (5) [(6)] "municipal land selection" means a request by a
19 municipality, filed in writing with the commissioner [DIRECTOR] under
20 authority of AS 29.18.190 and 29.18.200 repealed by this Act or under
21 AS 29.18.201 - 29.18.213 for vacant, unappropriated, unreserved
22 general grant land within its municipal boundaries in partial
23 fulfillment of its municipal entitlement;

24 (6) [(7)] "municipality" means a home rule or general law
25 city or organized borough of any class, and includes unified
26 municipalities established under AS 29.68.240 - 29.68.440;

27 (7) [(8)] "patent" means a document, issued by the
28 commissioner [DIRECTOR] to a municipality for a previously approved
29 selection, which conveys and quitclaims all the right, title and

1 interest of the state without reservation or condition except as may
2 be required by law;

3 (8) [(9)] "remaining entitlement" means the general grant
4 land entitlement determined in accordance with AS 29.18.201 -
5 29.18.213, reduced by the total acreage of approved selections,
6 including both patented and unpatented parcels;

7 (9) [(10)] "school land" means those rectangular sections
8 16 and 36 within each township surveyed on or before January 3, 1959,
9 and confirmed and transferred to the State of Alaska upon its
10 admission under sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any
11 other land designated solely for school revenues;

12 (10) [(11)] "university land" has the meaning given that
13 term in AS 38.05.365 [MEANS ALL SECTIONS 33 RESERVED TO THE UNIVERSITY
14 UNDER 38 STAT. 1214, AS AMENDED (48 U.S.C. 353) AND ALL LAND GRANTED
15 TO OR RESERVED FOR THE BENEFIT OF THE UNIVERSITY];

16 (11) [(12)] "vacant, unappropriated, unreserved land" means
17 general grant land as defined in (3) [(4)] of this section, excluding
18 minerals as required by sec. 6(i) of the Alaska Statehood Act, that
19 [WHICH]

20 (A) has not been set aside by statute for one or more
21 particular uses or purposes;

22 (B) has not been approved for patent to a municipality
23 under AS 29.18.201 - 29.18.213 or former AS 29.18.190 and
24 29.18.200 repealed by this act; or

25 (C) is unclassified or, if classified under
26 AS 38.05.300, is classified for agricultural, grazing,
27 commercial, industrial, private recreational, residential,
28 utility or open-to-entry purposes, or where classified in
29 accordance with an agreement between a municipality and the state

1 providing for state management of land of the municipality.

2 * Sec. 20. AS 30.15.040 is amended to read:

3 Sec. 30.15.040. DISPOSITION OF STATE LAND FOR PORT FACILITIES
4 DEVELOPMENT PROJECTS. The [DIVISION OF LANDS IN THE] Department of
5 Natural Resources, subject to the applicable provisions of AS 38.05
6 and AS 38.10, may convey title or other interests in state land,
7 provide for the exchange of state land, or make other arrangements
8 with respect to state land that may be necessary to complete a project
9 for which a state grant is approved under this chapter.

10 * Sec. 21. AS 38.04.005(b) is amended to read:

11 (b) In classifying state land for private use and settlement
12 purposes, the commissioner [DIRECTOR] shall make adequate provision
13 for public open space which is accessible to communities so that
14 natural areas are easily reached from all communities and settled
15 areas. The amount of that land shall be sufficient to meet existing
16 and projected needs for accessible public recreation land. Special
17 care shall be taken to preserve public access to public water and to
18 retain state ownership of sufficient land which combine high value for
19 recreation and other public purposes with accessibility to settled
20 areas. This classification for public purposes does not constitute
21 dedication to open space, but the department's [DIVISION'S] management
22 of land so classified shall be in a manner to preserve the identified
23 values.

24 * Sec. 22. AS 38.04.010(a) is amended to read:

25 (a) The primary public interest in conveying rights to state
26 land surface to private parties is to make them available to individ-
27 uals and other persons for direct use in areas classified as suitable
28 for these purposes. In making state land available for private use,
29 the commissioner [DIRECTOR] shall seek to guide year-round settlement

1 to areas where public services already exist, or can be extended with
2 reasonable economy, or where development of a viable economic base is
3 probable.

4 * Sec. 23. AS 38.04.025 is amended to read:

5 Sec. 38.04.025. VARIETY OF USES. In making state land available
6 for private use, the commissioner [DIRECTOR] shall endeavor to accom-
7 modate persons with a current need and anticipated use for the land.
8 To this end, the commissioner [DIRECTOR] shall assess the nature of
9 the supply and demand for state land in different regions and loca-
10 tions of the state, taking into account the supply of available land
11 under other ownership, and shall make land available in locations and
12 under programs suited to the differing needs of prospective users
13 throughout the state.

14 * Sec. 24. AS 38.04.030 is amended to read:

15 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs which may
16 be used by the commissioner [DIRECTOR] to make the state's land sur-
17 face available for private use under this section include sale of
18 whole or partial rights to the fee simple estate, including conveyance
19 of agricultural use rights; leasing; [OPEN-TO-ENTRY;] homesiting;
20 homesteading; permitting for construction and occupation of cabins in
21 isolated locations on land retained in state ownership; and other
22 methods as provided by law.

23 * Sec. 25. AS 38.04.035 is amended to read:

24 Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining
25 which land availability program is appropriate for state land [LANDS]
26 in different locations, the commissioner [DIRECTOR] shall be guided by
27 the following criteria:

28 (1) To cover public costs associated with private land use
29 and to provide the public with a fair return for publicly owned

1 property, conveyance of state land to private parties should be at
2 fair market value except where otherwise authorized by statute, or by
3 an administrative regulation the adoption of which is specifically
4 permitted by statute.

5 (2) Sale or lease programs should be used where land is
6 readily accessible to a major community center or where, because of a
7 prime location on waterfront or a transportation route or some other
8 location characteristic, land has relatively high real estate value.

9 (3) Sale programs are preferred but lease programs should
10 be used

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

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

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

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

20 (E) where current demand for private use is high, but
21 projections suggest that, in the future, the land may be more
22 valuable for public use, as in accessible waterfront recreation
23 areas.

24 (4) For enabling isolated cabin development in remote
25 locations where survey and conveyance is impractical, a system for
26 cabin permits on public land may be used.

27 (5) Limited or conditional title may be granted when the
28 state's best interest so dictates. Among other things, title limita-
29 tions may include grants of agricultural interest only, retention of

1 development rights, and retention of scenic or other easements. A
2 conditional title may be tied to a development schedule or other
3 standards of performance.

4 * Sec. 26. AS 38.04.045(b) is amended to read:

5 (b) Before the conveyance of surface rights to state land, an
6 official cadastral survey shall be accomplished, unless a comparable,
7 acceptable survey exists that has been conducted by the federal Bureau
8 of Land Management. The rectangular survey section corner positions
9 shall be monumented and shown on a cadastral survey plat approved by
10 the state. However, for those areas where the state may wish to
11 convey surface estate outside of an official cadastral survey grid,
12 the commissioner [DIRECTOR] may waive monumentation of all individual
13 section corner positions and substitute an official control survey
14 with control points being monumented at approximately two-mile inter-
15 vals and shown on control survey plats approved by the state. No
16 portion of land to be conveyed may be located more than two miles from
17 such a survey control monument. The lots and tracts in state subdivi-
18 sions shall be monumented and the cadastral survey and plats for the
19 subdivision shall be approved by the state. Where land is located
20 within a municipality with planning, platting, and zoning powers,
21 plats for state subdivisions shall comply with local ordinances and
22 regulations in the same manner and to the same extent as plats for
23 subdivisions by other landowners. State subdivisions shall be filed
24 in the district recorder's office. The requirements of this section
25 do not apply to land made available through a cabin permit system,
26 material sales, or short-term leases; however, for short-term leases
27 the lessee must comply with local subdivision ordinances unless waived
28 by the municipality under procedures specified by ordinance.

29 * Sec. 27. AS 38.04.050 is amended to read:

1 Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state
2 land is surveyed for purposes of private use, adequate rights-of-way
3 and easements shall be reserved as necessary for access and, where
4 appropriate, for power and telephone service to each parcel of land.
5 Where necessary and appropriate for the use intended, the commissioner
6 [DIRECTOR] shall arrange for the development of surface access as part
7 of the land availability program. The direct cost of local access
8 development shall be borne by the recipient of the land unless other-
9 wise provided by state statutes or regulations.

10 * Sec. 28. AS 38.04.055 is amended to read:

11 Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The commis-
12 sioner [DIRECTOR] shall reserve easements and rights-of-way on and
13 across land which is made available for private use as necessary to
14 reach or use public water and public and private land. An easement or
15 right-of-way reserved under this section may include established
16 trails traditionally used for commerce, recreation, or transportation.

17 * Sec. 29. AS 38.04.910(2) is amended to read:

18 (2) "department" means ["DIRECTOR" MEANS THE DIRECTOR OF
19 THE DIVISION OF LANDS OF] the Department of Natural Resources;

20 * Sec. 30. AS 38.04.910(5) is amended to read:

21 (5) "official cadastral survey" means a United States
22 public land survey or a survey executed under survey instructions
23 issued by the department [DIVISION] for the purpose of preparing a
24 cadastral survey plat, and approved and accepted by the department
25 [DIVISION] for the state's official records;

26 * Sec. 31. AS 38.04.910(6) is amended to read:

27 (6) "official control survey" means a position marked on
28 the ground by triangulation or traverse stations established in con-
29 formity with standards adopted by United States Coastal and Geodetic

1 Survey for first, second and third order work, whose geodetic posi-
2 tions have been rigidly adjusted on the North American datum of 1927
3 and approved by the department [DIVISION];

4 * Sec. 32. AS 38.05.020(b) is amended to read:

5 (b) The commissioner may

6 (1) establish reasonable procedures and adopt reasonable
7 [RULES AND] regulations necessary to carry out this chapter [AND MAY,
8 WHENEVER NECESSARY, ISSUE DIRECTIVES OR ORDERS TO THE DIRECTOR TO
9 CARRY OUT SPECIFIC FUNCTIONS AND DUTIES]; all [RULES AND] regulations
10 adopted by the commissioner shall be adopted under the Administrative
11 Procedure Act (AS 44.62); orders classifying land by the commissioner
12 [CLASSIFYING LANDS] issued after January 3, 1959, are not required to
13 be adopted under the Administrative Procedure Act (AS 44.62);

14 (2) enter into agreements that the commissioner [WHICH HE]
15 considers necessary to carry out the purposes of this chapter,
16 including agreements with federal and state agencies;

17 [(3) REVIEW ANY ORDER OR ACTION OF THE DIRECTOR;]

18 (3) [(4)] exercise the powers and do the acts necessary to
19 carry out the provisions and objectives of this chapter;

20 (4) [(5)] notwithstanding the provisions of any other
21 section of this chapter, grant an extension of the time within which
22 payments due on any lease or sale of state land, minerals, or
23 materials may be made, including payment of rental and royalties, if
24 the commissioner [HE] finds that compliance with the requirements is
25 or was prevented by reason of war, riots, or acts of God; [.]

26 (5) [(6)] classify tracts for agricultural uses and require
27 the prequalification, including the submission of conservation plans,
28 development plans, or other plans, schedules, or programs, of persons
29 who apply to participate in an agricultural development project under

1 AS 44.33.475.

2 * Sec. 33. AS 38.05.030(b) is amended to read:

3 (b) The provisions of this chapter do not apply to any power,
4 duty or authority now or in the future granted to the Department of
5 Transportation and Public Facilities [PUBLIC WORKS AND THE DEPARTMENT
6 OF HIGHWAYS] in the name of the state, to acquire, use, lease, dispose
7 of, or exchange real property, or any interest in real property.
8 Lands assigned by the department [DIVISION OF LANDS] to the Department
9 of Transportation and Public Facilities [PUBLIC WORKS AND THE DEPART-
10 MENT OF HIGHWAYS] shall be returned to the management of the depart-
11 ment [DIVISION OF LANDS] when they are no longer needed for the pur-
12 poses assigned.

13 * Sec. 34. AS 38.05.030(c) is amended to read:

14 (c) In addition to the requirements specified in AS 38.50.090,
15 the agencies referred to in (a) and (b) of this section and other
16 state agencies with authority to acquire or dispose of land shall give
17 written notification of the fact of acquisition, lease or exchange to
18 the department [DIVISION OF LANDS] within three months after the date
19 that they make the acquisition, lease or exchange.

20 * Sec. 35. AS 38.05.030(d) is amended to read:

21 (d) Real property acquired by, and under the management of, the
22 agencies referred to in (a) and (b) of this section, which is no
23 longer needed for its intended use, shall be returned to the jurisdic-
24 tion of the department [DIVISION OF LANDS], except that the Department
25 of Transportation and Public Facilities [HIGHWAYS] may dispose of real
26 property acquired by it under AS 19.05.040(2) and AS 19.05.080 -
27 19.05.12C.

28 * Sec. 36. AS 38.05.035 is repealed and reenacted to read:

29 .ec. 38.05.035. POWERS AND DUTIES OF THE COMMISSIONER. (a) The

1 commissioner shall

2 (1) manage, inspect and control state land and improvements
3 on it belonging to the state and under the jurisdiction of the depart-
4 ment;

5 (2) prescribe application procedures and practices for the
6 sale, lease or other disposition of available land, resources, prop-
7 erty, or an interest in them;

8 (3) prescribe fees or service charges for any public ser-
9 vice rendered;

10 (4) under the conditions and limitations imposed by law,
11 issue deeds, leases or other conveyances disposing of available land,
12 resources, property or an interest in them;

13 (5) have jurisdiction over state land, except that land
14 acquired by the Alaska World War II Veterans Board and the Agricul-
15 tural Loan Board or the departments or agencies succeeding to their
16 respective functions through foreclosure or default; to this end the
17 commissioner has the power and shall perform the duties necessary to
18 protect the state's rights and interest in state land, including the
19 taking of all necessary action to protect and enforce the state's
20 contractual or other property rights;

21 (6) maintain necessary records, administer oaths, and do
22 all things incidental to the authority imposed; the following records
23 and files shall be kept confidential upon request of the person sup-
24 plying the information;

25 (A) the name of the person nominating or applying for
26 the sale, lease, or other disposal of land by competitive bid-
27 ding;

28 (B) before the announced time of opening, the names of
29 the bidders and the amounts of the bids;

1 (C) all geological, geophysical and engineering data
2 supplied, whether or not concerned with the extraction or devel-
3 opment of natural resources;

4 (D) except as provided in AS 38.05.036, cost data and
5 financial information submitted in support of applications,
6 bonds, leases and similar items;

7 (E) applications for rights-of-way or easements;

8 (F) requests for information or applications by public
9 agencies for land which is being considered for use for a public
10 purpose;

11 (7) account for the fees, licenses, taxes or other money
12 received in the administration of this chapter including the sale or
13 leasing of land, identify their source, and promptly transmit them to
14 the proper fiscal department after crediting them to the proper fund;
15 receipts from land application filing fees and charges for copies of
16 maps and records shall be deposited immediately in the general fund of
17 the state;

18 (8) be the certifying agent of the state to select, accept
19 and secure by whatever action is necessary in the name of the state,
20 by deed, sale, gift, devise, judgment, operation of law, or other
21 means any land, of whatever nature or interest, available to the
22 state; and

23 (9) be the certifying agent of the state, to select, accept
24 or secure by whatever action is necessary in the name of the state any
25 land, or title or interest to land available, granted, or subject to
26 being transferred to the state for any purpose.

27 (b) The commissioner may

28 (1) grant preference rights for the lease or purchase of
29 state land without competitive bid in order to correct the errors or

1 omissions of a state or federal administrative agency when inequitable
2 detriment would otherwise result to a diligent claimant or applicant
3 due to situations over which the claimant or applicant had no control;
4 the exercise of this discretionary power operates only to divest the
5 state of its title to or interests in land;

6 (2) grant a preference right to a claimant who shows bona
7 fide improvement of state land or federal land subsequently acquired
8 by the state and who has in good faith sought to obtain title to the
9 land but who, through error or omission of others, has been denied
10 title to it; upon a showing satisfactory to the commissioner, the
11 claimant may lease or purchase the land at the price set on the date
12 of original entry on the land or, if a price was not set at that time
13 at a price determined by the department to fairly represent the value
14 of unimproved land at the time the claim was established, but in no
15 event less than the cost of administration including survey; the error
16 or omission of a predecessor in interest or an agent, administrator,
17 or executor which has clearly prejudiced the claimant may be the basis
18 for granting a preference right;

19 (3) sell land by lottery for less than the appraised value
20 when, in the judgment of the commissioner, past scarcity of land
21 suitable for private ownership in any particular area has resulted in
22 unrealistic land values;

23 (4) when the commissioner determines it is in the best
24 interest of the state and will avoid injustice to a person or the
25 heirs or devisees of a person, dispose of land, by direct negotiation
26 to the person who presently uses and who used and made improvements to
27 the land before January 3, 1959, or to the heirs or devisees of the
28 person; the amount paid for the land shall be its fair market value on
29 the date that the person first entered the land, as determined by the

1 commissioner; a parcel of land disposed of under this paragraph shall
2 be of a size consistent with the person's prior use, but may not
3 exceed five acres;

4 (5) dispose of an interest in land limited to use for
5 agricultural purposes by lottery;

6 (6) convey to an adjoining landowner a parcel of land
7 created by a highway right-of-way alignment or realignment, or a
8 parcel created by the vacation of a state-owned right-of-way if

9 (A) the commissioner determines that it is in the best
10 interests of the state;

11 (B) the parcel does not exceed the minimum lot size
12 under an applicable zoning code; and

13 (C) the commissioner and the platting authority having
14 land use planning jurisdiction agree that conveyance of the
15 parcel to the adjoining landowner will result in boundaries that
16 are convenient for the use of the land by the landowner and
17 compatible with municipal land use plans;

18 (7) for good cause extend for up to 90 days the time for
19 rental or installment payments by a lessee or purchaser of state land
20 under this chapter if reasonable penalties and interest set by the
21 commissioner are paid.

22 (c) A parcel of land may be conveyed under (b) of this section
23 without classification or reclassification under AS 38.05.300.

24 (d) A parcel of land described in (b)(6) of this section must be
25 sold at its fair market value as determined by the commissioner on the
26 basis of an appraisal completed as provided in AS 38.05.310. Nothing
27 in this subsection prevents the sale of land under AS 38.05.055 or
28 38.05.057 to a person not qualifying as an adjoining landowner if the
29 adjoining landowner declines to purchase the land.

1 (e) Upon a written finding that the interests of the state will
2 be best served, the commissioner may approve contracts for the sale,
3 lease, or other disposal of available land, resources, property or
4 interests in them, and, in addition to the conditions and limitations
5 imposed by law, may impose additional conditions or limitations in the
6 contracts as the commissioner determines will best serve the interests
7 of the state. Before a public hearing, if held, or in any case no
8 less than 21 days before the sale, lease, or other disposal of
9 available land, property, resources, or interests in them, the
10 commissioner shall make available to the public a written finding
11 which sets out the facts and applicable law upon which the
12 commissioner based the determination that the sale, lease, or other
13 disposal will best serve the interests of the state. A written
14 finding is not required before the approval of

15 (1) a contract for a negotiated sale authorized by AS 38.-
16 05.115;

17 (2) the lease of land for a shore fishery site under
18 AS 38.05.082;

19 (3) a permit or other authorization revocable by the
20 commissioner.

21 * Sec. 37. AS 38.05.037 is amended to read:

22 Sec. 38.05.037. ZONING POWERS OF DEPARTMENT [REGULATIONS IN THE
23 UNORGANIZED BOROUGH TO FACILITATE FEDERAL LAND SALES]. (a) In areas
24 of the state outside first, second or third class boroughs where there
25 is no municipality with a zoning power, the department [DIVISION OF
26 LANDS] shall exercise the zoning power by adopting zoning regulations.

27 (b) The department [DIVISION OF LANDS] may exercise its zoning
28 power

29 (1) within federal land [LANDS] in the unorganized borough

1 only at the times and in the areas it is requested to do so by the
2 Secretary of the Interior to facilitate sales of federal land [LANDS]
3 within the unorganized borough under P.L. 88-608, 78 Stat. 988;

4 (2) within any portion of a third class borough covered by
5 the Alaska coastal management program adopted in accordance with the
6 provisions of AS 46.40 [AS 46.35] if the municipality has not done so.

7 (c) Any zoning done by the department [DIVISION OF LANDS] under
8 (b) of this section is final unless disapproved by concurrent resolu-
9 tion at the next regular session of the legislature.

10 * Sec. 38. AS 38.05.040 is amended to read:

11 Sec. 38.05.040. COMMISSIONER [DIRECTOR] SHALL BE BONDED. Before
12 performing any [HIS] duties, the commissioner [DIRECTOR] shall execute
13 a corporate surety bond to the state in the sum of \$150,000, condi-
14 tioned upon the faithful performance of all [H.S] duties under this
15 chapter and upon the prompt and faithful accounting of all money
16 collected by the commissioner [HLM] or [HIS] deputies, assistants,
17 employees or agents of the commissioner. The bond, together with
18 additional conditions or limitations considered necessary, shall be
19 approved by the attorney general and filed in the office of the gover-
20 nor. The premium upon the bond is payable from money appropriated for
21 operation of the department [DIVISION].

22 * Sec. 39. AS 38.05.050 is amended to read:

23 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
24 commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall deter-
25 mine the land to be disposed of for private use. The commissioner
26 [DIRECTOR] shall determine the time and place of disposal. An auction
27 sale, a lottery sale, or a disposal of land for homesites under
28 AS 38.04.020(g)(2)(C) must be held in the municipality that is closest
29 to the land to be sold or disposed of and in which regular sessions of

1 a court of the state are held.

2 * Sec. 40. AS 38.05.055 is amended to read:

3 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method
4 of sale is required under this chapter, [UNDER] AS 38.07, or [UNDER]
5 AS 38.08, the sale of state land shall be made at public auction to
6 the highest qualified bidder as determined by the commissioner
7 [DIRECTOR]. A bidder must appear in person at the auction unless
8 medical reasons, attendance at school, or military service outside the
9 state prevent attendance. A bidder may be represented by an attorney
10 or agent at the auction if the land offered for disposal is
11 commercial, industrial, or agricultural land. An aggrieved bidder may
12 appeal to the commissioner within five days after the sale for a
13 review of the commissioner's [DIRECTOR'S] determination. The sale
14 shall be conducted by the commissioner [DIRECTOR OR HIS
15 REPRESENTATIVE], and at the time of sale the successful bidder shall
16 deposit an amount equal to five percent of the purchase price, or if
17 the purchaser elects to use land discounts granted under AS 38.05.058,
18 five percent of the amount bid after deduction of the discount. The
19 commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall immediately issue
20 a receipt containing a description of the land or property purchased,
21 the price bid, the amount deposited, and the amount of any discount
22 allowed. The receipt shall be acknowledged in writing by the bidder.

23 * Sec. 41. AS 38.05.057(e) is amended to read:

24 (e) The commissioner [DIRECTOR] shall accept applications to
25 purchase particular parcels under the following procedures and condi-
26 tions:

- 27 (1) the application period may not be less than 45 days;
28 (2) no application may be accepted less than 15 days before
29 each lottery;

1 (3) notice of the application period and the date of the
2 lottery shall be given in accordance with AS 38.05.345; and

3 (4) the application shall be made on a form provided by the
4 department.

5 * Sec. 42. AS 38.05.057(g) is amended to read:

6 (g) After receiving the deposit required under (a) of this
7 section, the commissioner [DIRECTOR] shall immediately issue a receipt
8 containing a description of the land or property to be conveyed, the
9 price of the land, and the terms of disposal. The receipt shall be
10 acknowledged in writing by the purchaser.

11 * Sec. 43. AS 38.05.057(i) is amended to read:

12 (i) The commissioner [DIRECTOR] may include in contracts for
13 sale of land under this section terms which

14 (1) require purchasers to use or occupy, or both, the land
15 purchased for a reasonable period of time after a sale;

16 (2) prohibit the resale of land purchased by the initial
17 purchaser until the requirements imposed under (1) of this subsection,
18 if any, are satisfied.

19 * Sec. 44. AS 38.05.060 is amended to read:

20 Sec. 38.05.060. REJECTION OF BIDS. Before the signing of the
21 formal conveyance [BY THE DIRECTOR], the commissioner may reject all
22 bids when the best interests of the state justify this action. Land
23 [LANDS] offered at public sale but not sold may be made available at
24 private sale for not less than the [THEIR] appraised value.

25 * Sec. 45. AS 38.05.065(c) is amended to read:

26 (c) The commissioner [DIRECTOR] shall, for contracts under (a)
27 or (b) of this section, set for each sale the period for the payment
28 of installments and the total purchase price plus interest. The
29 [DIRECTOR, WITH THE CONSENT OF THE] commissioner [,] may also include

1 in contracts under this section conditions, limitations and terms
2 considered [WHICH HE CONSIDERS] necessary and proper to protect the
3 interest of the state. Violations of any provision of this chapter or
4 the terms of the contract of sale subject the purchaser to appropriate
5 administrative and legal action, including but not limited to specific
6 performance, foreclosure, ejectment, or other legal remedies in accor-
7 dance with applicable state law.

8 * Sec. 46. AS 38.05.067(a) is amended to read:

9 (a) Except as provided in (e) of this section, before offering
10 to the general public any unoccupied residential land [LANDS], the
11 commissioner [DIRECTOR] shall offer the land at a restricted sale at
12 which only veterans may buy.

13 * Sec. 47. AS 38.05.067(b) is amended to read:

14 (b) The commissioner [DIRECTOR] shall not sell the land [LANDS]
15 under this section at less than the [THEIR] fair appraised market
16 value. The commissioner [DIRECTOR] shall adopt [MAKE] regulations
17 necessary to ensure that land [LANDS] sold under this section is [ARE]
18 for bona fide residential use and not for speculation.

19 * Sec. 48. AS 38.05.068(a) is amended to read:

20 (a) Before offering to the public any land which is subject to a
21 valid existing United States Forest Service permit in effect on the
22 day before that land is tentatively approved for patent to the state,
23 or which is subject to a lease issued under AS 38.05.087, the commis-
24 sioner [DIRECTOR] shall offer the land for sale to the permittee or a
25 [HIS] successor in title, if the permittee or a successor in title of
26 the permittee [HE] can be found.

27 * Sec. 49. AS 38.05.069 is amended to read:

28 Sec. 38.05.069. PREFERENCE TO PERSONS FOR AGRICULTURAL PURPOSES.

29 (a) On a determination [IF THE DIRECTOR DETERMINES] that the highest

1 and best use of unoccupied land is for agricultural purposes [,] and
2 [IF HE DETERMINES] that it is in the best interests of the state to
3 sell or lease the land, the commissioner [HE] shall grant to an
4 Alaskan resident owning and using or leasing and using land for
5 agricultural purposes a 60-day first option after the date of the
6 auction to purchase or lease the unoccupied land situated adjacent to
7 or in the approximate vicinity of land presently held by the Alaska
8 resident [HIS PRESENTLY HELD LAND] for the amount of the high bid
9 received at public auction. A parcel of agricultural land sold under
10 this section may not be less than 20 acres and a parcel of
11 agricultural land that [WHICH] is acquired by exercise of the option
12 granted in this subsection may not exceed 320 acres. Agricultural
13 land that [WHICH] is acquired under this section must be used for
14 agricultural purposes as required by law.

15 (b) If more than one person is eligible for a first option under
16 (a) of this section, the commissioner [DIRECTOR] shall determine
17 priority by granting precedence first to the person who demonstrates
18 the greatest need for the unoccupied land in order to establish an
19 economic unit and, secondly, to the eligible person who occupies land
20 that is most readily accessible to unoccupied land to be sold or
21 leased. In the event that two or more persons have approximately
22 equal qualifications for priority under this section, the commissioner
23 [DIRECTOR] shall grant priority to that person who is a veteran. If
24 more than one person is approximately equally well qualified under
25 this section, the commissioner [DIRECTOR] shall determine priority by
26 lot.

27 (c) Under this section

28 (1) the commissioner [DIRECTOR] may convey or lease an
29 interest in the land only for agricultural purposes, and all other

1 interests in the land remain in the state;

2 (2) the sale or lease shall be at public auction;

3 (3) [(2)] the remaining interests may subsequently be
4 conveyed or leased by the commissioner [DIRECTOR] only upon the
5 request of the grantee or lessee or the [HIS] assigns of the grantee
6 or lessee and the determination of [THE DIRECTOR, WITH THE WRITTEN
7 CONCURRENCE OF] the commissioner [,] that the conveyance or lease is
8 in the public interest;

9 (4) [(3)] the conveyance or lease of the remaining
10 interests shall be at public auction;

11 (5) the original grantee or lessee or their [HIS] assigns
12 have a preference right to meet the high bid within 30 days after the
13 day of the auction;

14 (6) if the preference right is exercised, the value of
15 improvements owned by the holder of the preference right, included
16 with the remaining interests sold, shall be deducted from the purchase
17 price;

18 (7) [(4)] by requesting the conveyance or lease of the
19 remaining interest, the original grantee or lessee or the [HIS]
20 assigns of the grantee or lessee

21 (A) consents to the sale or lease, and

22 (B) if the preference right provided by (5) [(3)] of
23 this subsection is not exercised, consents to sell at fair market
24 value ~~and~~ improvements related to the remaining interest, as
25 appraised by the commissioner [DIRECTOR];

26 (8) [(5)] the remaining interests in the land may not be
27 conveyed or leased for less than their appraised value together with
28 improvements except for the deduction allowed by (6) [(3)] of this
29 subsection.

1 (d) When not in conflict with this section, the [OTHER] provi-
2 sions of AS 38.05.045 - 38.05.105 apply to disposals under this sec-
3 tion.

4 (e) In [FOR THE PURPOSES OF] this section,

5 (1) "agricultural purposes" includes farming, ranching,
6 grazing, and storage or control of agricultural crops or livestock;

7 (2) "approximate vicinity" includes an area in which the
8 land does not have a common boundary to presently held land or in
9 which the land is physically separated from presently held land by any
10 type of barrier.

11 (f) Nothing in (c) of this section affects the disposal of
12 minerals under AS 38.05.135 - 38.05.183.

13 * Sec. 50. AS 38.05.070(b) is amended to read:

14 (b) The [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,]
15 shall determine the land to be leased and the limitations, conditions
16 and terms of the lease. If the appraised value of the transaction is
17 \$250 a year or less the commissioner [DIRECTOR] may negotiate a lease
18 without advertisement for a period not to exceed five years, and on
19 the limitations, conditions and terms that the commissioner [WHICH HE]
20 considers are in the best interests of the state. A lease negotiated
21 under this subsection is not eligible for a preference under
22 AS 38.05.102.

23 * Sec. 51. AS 38.05.070(c) is amended to read:

24 (c) A lease may be issued for a period up to 55 years, if it
25 appears to be in the best interests of the state [AND IF THE COMMIS-
26 SIONER APPROVES]. If the commissioner determines that the land or a
27 part of it which is the subject of a grazing lease is not being used
28 for the purpose issued, the lease may be declared void. [HOWEVER, A
29 NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO

1 EXCEED 99 YEARS.]

2 * Sec. 52. AS 38.05.075 is amended to read:

3 Sec. 38.05.075. LEASING PROCEDURES. The leasing shall be made
4 at public auction to the highest qualified bidder as determined by the
5 commissioner [DIRECTOR]. An aggrieved bidder may appeal to the com-
6 missioner within five days for a review of the [DIRECTOR'S] determina-
7 tion. When a valid existing federal grazing lease is cancelled to
8 allow state selection of the area under lease, the lessee of the land
9 [LANDS] has the preference right to lease the land [LANDS] without
10 competitive bidding for a term equal to that originally granted in the
11 cancelled federal lease and upon terms as favorable to the lessee as
12 those contained in the cancelled federal lease. The leasing shall be
13 conducted by the commissioner [DIRECTOR, OR HIS REPRESENTATIVE,] and
14 the successful bidder shall deposit the first year's rental, or that
15 portion of it which the commissioner requires, in accordance with the
16 [HIS] bid. The commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall
17 immediately issue a receipt containing a description of the land or
18 interest leased, the price bid, and terms of the lease. The receipt
19 shall be acknowledged in writing by the bidder. A lease, on a form
20 approved by the attorney general, shall be signed by the lessee and [,
21 UPON APPROVAL BY] the commissioner [, SHALL BE SIGNED BY THE DIREC-
22 TOR].

23 * Sec. 53. AS 38.05.080 is amended to read:

24 Sec. 38.05.080. REJECTION OF BIDS. Before signing [THE DIRECTOR
25 SIGNS] the lease, the commissioner may reject all bids for leases when
26 the best interest of the state justifies this action.

27 * Sec. 54. AS 38.05.082 is amended to read:

28 Sec. 38.05.082. LEASES FOR SHORE FISHERIES DEVELOPMENT. (a)
29 The [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,] may lease

1 tide and submerged land [LANDS] for fisheries development. Fisheries
2 development includes the utilization of shore gill nets or set nets
3 for the taking of fish. Every lease issued under this section shall
4 reserve to the public a right-of-way for access to navigable waters
5 and other tide and submerged land [LANDS].

6 (b) The commissioner [DIRECTOR] may classify land [LANDS] as
7 subject to leases for fisheries development, and publicly invite
8 applications for lease of the selected areas. Each application shall
9 be accompanied by an affidavit to the effect that the applicant pres-
10 ently intends to personally utilize the leased area for fishing pur-
11 poses the following season. If two or more applications are received
12 for the same shore area, the commissioner [DIRECTOR] shall award the
13 lease to the most qualified applicant. In determining the qualifica-
14 tions of applicants, the commissioner [DIRECTOR] shall consider the
15 length of time during which the applicant has been engaged in set
16 netting, the proximity of the [HIS] past fishing sites of the appli-
17 cant to the land to be leased, the [HIS] present ability of the appli-
18 cant to utilize the location to its maximum potential, and other
19 factors relevant to the equitable assignment of the disputed area. If
20 the commissioner [DIRECTOR] cannot determine a preference between
21 conflicting applicants for the same lease site on the basis of quali-
22 fications, the commissioner [HE] shall select between the applicants
23 by lot. An aggrieved applicant may appeal to the commissioner within
24 five days for a review of the [DIRECTOR'S] determination.

25 (c) A lease for set net fishing may be issued for any period not
26 exceeding 10 years. If the commissioner determines that the land is
27 not being utilized for the purpose for which the lease is issued, the
28 lease may be declared void. The commissioner [DIRECTOR] shall estab-
29 lish a reasonable rental for the lease, equal to the administrative

1 costs involved in processing the leasehold applications.

2 (d) Subleasing and renewals of leases are governed by AS 38.05.-
3 095 and AS 38.05.102.

4 (e) The lease of submerged land [LANDS] conveys no interest in
5 the water above the land or in the fish in the water.

6 * Sec. 55. AS 38.05.085(b) is amended to read:

7 (b) When it becomes necessary to determine the fair market value
8 of property as required by (a) of this section, the commissioner
9 [DIRECTOR] shall have the property appraised by a qualified appraiser.
10 If the lessee disagrees with the appraisal obtained by the commis-
11 sioner, the lessee [DIRECTOR, HE] may appoint a qualified appraiser to
12 make an appraisal of the property in question. If the two appraisers
13 agree upon the fair market value, the determination is binding on the
14 parties. In the event the two appraisers are unable to agree, they
15 shall appoint a third qualified appraiser who shall then make an [HIS]
16 appraisal of the property in question. When the third appraisal is
17 completed, the two of the three appraisals which are nearest each
18 other in their determination of the fair market value shall be av-
19 eraged and the resultant sum shall be the fair market value of the
20 property in question and absolutely binding on the parties. All costs
21 incurred in making the appraisals provided for in this subsection
22 shall be borne by the state and the lessee equally.

23 * Sec. 56. AS 38.05.085(c) is amended to read:

24 (c) The lessee shall make advance payments of the annual rent or
25 portion of it as the [DIRECTOR, WITH THE APPROVAL OF THE] commissioner
26 [,] may require.

27 * Sec. 57. AS 38.05.087(a) is amended to read:

28 (a) Before offering to the public any land for lease which is
29 subject to a valid existing United States Forest Service permit in

1 effect in a state-selected area on the day before the area was tenta-
2 tively approved for patent to the state, the commissioner [DIRECTOR]
3 shall offer the land for leasing to the permittee at not less than its
4 fair appraised market value before offering it to the general public.

5 * Sec. 58. AS 38.05.090 is amended to read:

6 Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON TER-
7 MINATION OF LEASES. (a) Improvements owned by a lessee on state land
8 shall, within 60 days after the termination of the lease, be removed
9 by the lessee [HIM] if removal will not cause injury or damage to the
10 land. The commissioner [DIRECTOR] may extend the time for removing
11 improvements in cases where hardship is proven. The retiring lessee
12 or permittee may, with the consent of the commissioner [DIRECTOR],
13 sell [HIS] improvements to the succeeding lessee or permittee.

14 (b) If improvements or chattels, or both, having an appraised
15 value exceeding \$10,000 as determined by the commissioner [DIRECTOR]
16 are not removed within the time allowed, the improvements or chattels
17 or both shall, upon notice to the lessee, be sold at public sale under
18 the direction of the commissioner [DIRECTOR]. The proceeds of sale
19 inure to the lessee who placed the improvements or chattels on the
20 land after paying to the state all rents due and expenses incurred in
21 making the sale. If there are no other bidders at the sale, the
22 commissioner [DIRECTOR] may bid in the name of the state. The bid
23 money shall be taken from the fund to which the land belongs and the
24 fund shall receive all money or other value subsequently derived from
25 the sale or leasing of the improvements or chattels. The state ac-
26 quires all the rights that any other purchaser could acquire by reason
27 of the purchase.

28 (c) If improvements or chattels, or both, having an appraised
29 value of \$10,000 or less, as determined by the commissioner

1 [DIRECTOR], are not removed within the time allowed, they revert to
2 the state and absolute title vests in the state. The preference right
3 lessees of grazing or forest land [LANDS] may follow the provisions
4 for removal of improvements upon termination of the lease as autho-
5 rized in the cancelled federal lease or permit.

6 (d) Improvements of the lessee which have become fixtures of the
7 land shall be purchased by the subsequent purchaser or lessee of the
8 land if the improvements were authorized in the former lease or by
9 permit from the commissioner [DIRECTOR]. Upon the termination of a
10 lease, and at additional times which may be necessary, the value of
11 the authorized fixtures remaining on the land shall be set by agree-
12 ment between the former lessee and the commissioner [DIRECTOR] or, if
13 agreement cannot be reached, by an independent appraisal made at cost
14 to the former lessee.

15 (e) A notice or offer by the state to sell or lease formerly
16 leased land shall state

17 (1) the value of the authorized fixtures remaining on the
18 land;

19 (2) that the purchaser or lessee will be required, as a
20 condition of the sale or lease, to purchase the fixtures from the
21 former lessee for an amount equal to the value specified.

22 * Sec. 59. AS 38.05.095(a) is amended to read:

23 (a) Except as provided in (b) of this section, a lessee may
24 sublease or assign the land or a portion of it [UPON WHICH HE HAS A
25 LEASE] if, after application to the commissioner, the commissioner
26 [DIRECTOR, THE DIRECTOR] issues a permit. The commissioner [DIRECTOR]
27 may issue a permit upon a finding [IF HE FINDS] that it is in the best
28 interests of the state to do so.

29 * Sec. 60. AS 38.05.097(c) is amended to read:

1 (c) A nonprofit organization which satisfies the requirements of
2 this section that is using land under a lease in effect before July 1,
3 1978 may convert its lease to a new lease with terms exempting it from
4 the payment of rent by submitting a written request to the commis-
5 sioner [DIRECTOR].

6 * Sec. 61. AS 38.05.102 is amended to read:

7 Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold
8 created under AS 38.05.070 - 38.05.105 is offered for sale or
9 long-term lease at the termination of the existing leasehold, the
10 commissioner [DIRECTOR] may, upon a finding that it is in the best
11 interest of the state, allow the holder in good standing of that
12 leasehold to purchase or lease the land for its appraised fair market
13 value at the time of the sale or long-term lease.

14 * Sec. 62. AS 38.05.103 is amended to read:

15 Sec. 38.05.103. RIGHTS OF HOLDER OF SECURITY INTEREST. (a) If
16 there is a breach or default of a term of a lease or of the provisions
17 of this chapter relating to a lease, the department [DIVISION] shall
18 provide written notice of the breach or default by personal service or
19 by registered or certified mail to the lessee and to any holder of
20 record having a security interest in the leased property. The notice
21 shall also make demand upon the lessee to cure or remedy the breach or
22 default within 60 days from the date of receipt of the notice and
23 demand. If a lessee fails to cure or remedy the breach or default
24 within 60 days, or within the additional time which the department
25 [DIVISION] may allow for good cause, the state may, subject to (b) of
26 this section, exercise any right which it may have at law or as set
27 out in the lease.

28 (b) If a lessee fails to cure or remedy a breach or default
29 within the time allowed in (a) of this section, a holder of a security

1 interest who has received notice under (a) of this section may cure or
2 remedy the breach or default if the breach or default can be cured by
3 the payment of money or, if this cannot be done, by performing or
4 undertaking in writing to perform the terms, covenants, restrictions
5 and conditions of the lease capable of performance by the holder. The
6 holder shall act within 60 days from the date of receipt of notice
7 under (a) of this section, or within an additional period as the
8 commissioner [DIRECTOR] may allow for good cause.

9 * Sec. 63. AS 38.05.105(a) is amended to read:

10 (a) Each lease shall stipulate that at the conclusion of the
11 initial 25-year period of the lease and at intervals of 10 years
12 thereafter the annual rent payment is subject to adjustment. Charges
13 or adjustments shall be based primarily on an adjusted fair market
14 value. However, if the commissioner [DIRECTOR OF THE DIVISION OF
15 LANDS] determines that single-family residential development is the
16 best use of the land, the reappraisal period may be lengthened or the
17 readjustment waived in accordance with regulations adopted by the
18 department. Before a waiver of rent adjustment is issued, the land
19 shall have a current reappraisal. A waiver is valid only if single-
20 family residential development actually occurs. The regulations
21 adopted under this section shall ensure that the state receives a fair
22 return from the land.

23 * Sec. 64. AS 38.05.110 is amended to read:

24 Sec. 38.05.110. SALE OF TIMBER AND MATERIALS. The commissioner
25 [DIRECTOR] shall provide for cruises of timber and appraisals of other
26 materials in or upon state land to determine [LANDS AND TRANSMIT THIS
27 DATA TO THE COMMISSIONER, TOGETHER WITH HIS RECOMMENDATIONS WITH
28 RESPECT TO] (1) the timber and other materials which should be offered
29 for sale, and (2) the terms of sale of the timber or other materials.

1 * Sec. 65. AS 38.05.115(a) is amended to read:

2 (a) The commissioner [, UPON RECOMMENDATION OF THE DIRECTOR,]
3 shall determine the timber and other materials to be sold, and the
4 limitations, conditions and terms of sale. The limitations, condi-
5 tions and terms shall include the utilization, development and mainte-
6 nance of the sustained yield principle, subject to preference among
7 other beneficial uses. The commissioner [DIRECTOR] may negotiate
8 sales of timber or materials without advertisement and on the limita-
9 tions, conditions, and terms that are considered to be [WHICH HE
10 CONSIDERS ARE] in the best interests of the state [, SUBJECT TO THE
11 APPROVAL OF THE COMMISSIONER]. However, not more than 500 M.B.M. or
12 equivalent other measure of timber or more than 25,000 cubic yards of
13 materials may be sold by nonadvertised, negotiated sale to the same
14 purchaser within a one-year period.

15 * Sec. 66. AS 38.05.118 is amended to read:

16 Sec. 38.05.118. NEGOTIATED TIMBER SALES IN AREAS OF HIGH UNEM-
17 PLOYMENT. (a) Notwithstanding any other provision of AS 38.05.110 -
18 38.05.120, the [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,]
19 may negotiate a sale of timber to a local manufacturer at appraised
20 value. The period of a contract for a sale of timber negotiated under
21 this section may not exceed 25 years. The contract shall provide that
22 the appraised value of timber remaining to be harvested under the
23 provisions of the contract shall be redetermined at least once every
24 five years.

25 (b) Notice of intent to negotiate a contract authorized by (a)
26 of this section shall be given in accordance with AS 38.05.345.

27 (c) No sale of timber may be negotiated by the commissioner
28 [DIRECTOR] under this section except on a finding [UNLESS HE FIRST
29 FINDS] that, within an area proximate to the business site which the

1 manufacturer may economically serve, there exists

2 (1) a high level of local unemployment;

3 (2) an underutilized timber manufacturing capacity; and

4 (3) an underutilized allowable cut of state timber.

5 * Sec. 67. AS 38.05.120 is amended to read:

6 Sec. 38.05.120. DISPOSAL PROCEDURE. Timber and other materials
7 shall be sold either by sealed bids or public auction, depending on
8 which method is determined by the commissioner to be in the best
9 interests of the state, to the highest qualified bidder as determined
10 by the commissioner [DIRECTOR]. An aggrieved bidder may appeal to the
11 commissioner within five days after the sale for a review of the
12 [DIRECTOR'S] determination. The sale shall be conducted by the com-
13 missioner [DIRECTOR OR HIS REPRESENTATIVE], and at the time of sale
14 the successful bidder shall deposit the amount specified in the terms
15 of sale. The means by which the amount of deposit is determined shall
16 be prescribed by appropriate regulation. The commissioner [DIRECTOR
17 OR HIS REPRESENTATIVE] shall immediately issue a receipt containing a
18 description of the timber or materials purchased, the price bid, and
19 the terms of sale. The receipt shall be acknowledged in writing by
20 the bidder. A contract of sale, on a form approved by the attorney
21 general, shall be signed by the purchaser and [, FOLLOWING THE AP-
22 PROVAL OF THE COMMISSIONER,] the contract shall be signed by the
23 commissioner [DIRECTOR] on behalf of the state. The [DIRECTOR, WITH
24 THE APPROVAL OF THE] commissioner [,] may impose conditions, limita-
25 tions, and terms considered [WHICH HE CONSIDERS] necessary and proper
26 to protect the interests of the state. Violation of any provision of
27 this chapter or the terms of the contract of sale subjects the pur-
28 chaser to appropriate legal action.

29 * Sec. 68. AS 38.05.130 is amended to read:

1 Sec. 38.05.130. DAMAGES AND POSTING OF BOND. No rights shall be
2 exercised by the state, its lessees, successors or assigns under the
3 reservation as set out in AS 38.05.125 until the state, its lessees,
4 successors, or assigns make provision to pay the owner of the land
5 full payment for all damages sustained by the owner; by reason of
6 entering upon the land. If the owner for any cause refuses or ne-
7 glects to settle the damages, the state, its lessees, successors,
8 assigns, or an applicant for a lease or contract from the state for
9 the purpose of prospecting for valuable minerals, or option, contract
10 or lease for mining coal or lease for extracting geothermal resources,
11 petroleum or natural gas, may enter upon the land in the exercise of
12 the reserved rights after posting a surety bond determined by the
13 commissioner [DIRECTOR], after notice and an opportunity to be heard,
14 to be sufficient as to form, amount, and security to secure to the
15 owner payment for damages, and may institute legal proceedings in a
16 court where the land is located, as may be necessary to determine the
17 damages which the owner may suffer.

18 * Sec. 69. AS 38.05.140(e) is amended to read:

19 (e) The provisions of (d) of this section that apply to waiver,
20 suspension, refund or reduction of rental of minimum royalty apply to
21 rental or minimum royalty paid before or after June 19, 1970 on any
22 lease covering land beneath navigable waters which, according to the
23 records of the department [DIVISION OF LANDS], is in effect on
24 June 19, 1970.

25 * Sec. 70. AS 38.05.145(a) is amended to read:

26 (a) Deposits of coal, phosphates, oil shale, sodium, potassium,
27 oil, gas, geothermal resources and state land [LANDS] containing these
28 deposits are subject to disposition under [RULES AND] regulations [,
29 RECOMMENDED BY THE DIRECTOR AND] adopted by the commissioner, and the

1 provision of AS 38.05.145 - 38.05.181. In applying the acreage limi-
2 tations the commissioner may apply the rule of approximation. The
3 uses of the rule of approximation made before March 31, 1960, by the
4 commissioner are ratified.

5 * Sec. 71. AS 38.05.185(a) is amended to read:

6 (a) The acquisition and continuance of rights in and to deposits
7 on state land [LANDS] of minerals which on January 3, 1959, were
8 subject to location under the mining laws of the United States shall
9 be governed by AS 38.05.185 - 38.05.280. Nothing in AS 38.05.185 -
10 38.05.230 affects the law pertaining to the acquisition of rights to
11 mineral deposits owned by any other person or government. The [DIREC-
12 TOR, WITH THE APPROVAL OF THE] commissioner [,] shall determine that
13 land [THOSE LANDS] from which mineral deposits may be mined only under
14 lease, and, subject to the limitations of AS 38.05.300, that land
15 [THOSE LANDS] which shall be closed to mining. State land may not be
16 closed to mining or mineral location unless the commissioner makes a
17 finding that mining would be incompatible with significant surface
18 uses on the state land. State land may not be restricted to mining
19 under lease unless the commissioner determines that potential use
20 conflicts on the state land require that mining be allowed only under
21 written leases issued under AS 38.05.205 or the commissioner has
22 determined that the land was mineral in character at the time of state
23 selection. The determinations required under this subsection shall be
24 made in compliance with land classification orders and land use plans
25 developed under AS 38.05.300.

26 * Sec. 72. AS 38.05.205(a) is amended to read:

27 (a) Prior discovery, location and filing shall initiate prior
28 rights to mineral deposits subject to AS 38.05.185 - 38.05.280 in or
29 on state land [LANDS], other than submerged land [LANDS], which is

1 [ARE] open to mining leasing. Locations shall be made and certifi-
2 cates of location recorded in accordance with AS 38.05.195. If the
3 located land is [LANDS ARE] available only for leasing, the commis-
4 sioner [DIRECTOR] shall publish in a paper of general circulation in
5 the area of the location, notice of the filing of the location and
6 notice that a mineral lease will be issued. The notice may be com-
7 bined with notices of locations either in the same general area or
8 statewide. Unless a conflicting location exists, no later than two
9 weeks after publication of the notice, an application form for a
10 mining lease shall be mailed to the locator by the commissioner [DI-
11 RECTOR]. A lease application shall be filed with the commissioner
12 [DIRECTOR] by the locator within 90 days after receipt of the form.
13 If the located land is [LANDS ARE] not available for leasing, notice
14 shall be given the locator by the commissioner [DIRECTOR] and the
15 locator's prior rights shall terminate. A mining lessee has the
16 exclusive rights of possession and extraction of all minerals subject
17 to AS 38.05.185 - 38.05.280 lying within the boundaries of the [HIS]
18 lease or location. Mining leases may be issued for one location or
19 for a group of contiguous locations held in common. Minerals may not
20 be mined and marketed or used until a lease is issued, except for
21 limited amounts necessary for sampling or testing.

22 * Sec. 73. AS 38.05.205(c) is amended to read:

23 (c) A mining lease shall be for any period up to 55 years, and
24 the lessee has a right to a new lease at the end of each lease period.
25 The commissioner may make reasonable adjustments of the rental rate at
26 the end of each 20 year period, based upon changed conditions in
27 production costs and markets. A valid mining claim located and held
28 under AS 38.05.195 may be converted to a lease at any time upon appli-
29 cation by the owner, and issuance by the commissioner [DIRECTOR]. No

1 rights granted by a mining lease may be exercised until the lease has
2 been filed for record in the recording district where the land is
3 located.

4 * Sec. 74. AS 38.05.245(a) is amended to read:

5 (a) Before the discovery of valuable minerals, an exclusive
6 right to prospect by geophysical, geochemical and similar methods may
7 be acquired by marking boundaries and posting a notice of location of
8 a prospecting site in a manner and containing such information as the
9 commissioner requires. A prospecting site may not exceed 2,640 feet
10 in its longest dimension and its boundaries shall run in the four
11 cardinal directions. A certificate of location shall be filed for
12 record in the recording district where the prospecting site is located
13 within 90 days after posting the notice of location, and a copy of the
14 certificate shall also be mailed to the commissioner [DIRECTOR] within
15 the 90 day period. The locator of a prospecting site has the exclu-
16 sive right to stake mining claims or leasehold locations within the
17 boundaries of the prospecting [HIS] site.

18 * Sec. 75. AS 38.05.245(c) is amended to read:

19 (c) No person may locate more than six prospecting sites in one
20 calendar year in one recording district. A prospecting site remains
21 in effect for one year after the notice of location is posted and may,
22 at the discretion of the commissioner [DIRECTOR], be extended for one
23 year periods. During each year, work of a type compatible with the
24 purpose of this section and acceptable to the commissioner [DIRECTOR]
25 shall be done. The minimum expenditure for the work shall be estab-
26 lished by the commissioner uniformly for all prospecting sites. Where
27 adjacent prospecting sites are held in common the expenditure may be
28 made on any one or more locations. If a prospecting site expires,
29 neither the locator nor a [HIS] successor in interest of the locator