

LEG. FINANCE - BILLS 1983 - 1984 2064

SB 222 cont.

2064

1 determines to be necessary and reasonable.

2 * Sec. 16. AS 29.18.210(c) is amended to read:

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

9 * Sec. 17. AS 29.18.211(a) is amended to read:

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

26 * Sec. 18. AS 29.18.213(2) is amended to read:

27 (2) "approved selection" means a municipal land selection
28 which has been approved in writing by the commissioner [DIRECTOR] for
29 transfer by patent to a municipality;

1 * Sec. 19. AS 29.18.213(3) is amended to read:

2 (3) "commissioner" ["DIRECTOR"] means the commissioner
3 [DIRECTOR] of the [DIVISION OF LANDS,] Department of Natural Re-
4 sources, or the commissioner's [HIS] designee;

5 * Sec. 20. AS 29.18.213(6) is amended to read:

6 (6) "municipal land selection" means a request by a munic-
7 ipality, filed in writing with the commissioner [DIRECTOR] under
8 authority of AS 29.18.190 and AS 29.18.200 repealed by this act or
9 under AS 29.18.201 - 29.18.213 for vacant, unappropriated, unreserved
10 general grant land within its municipal boundaries in partial fulfill-
11 ment of its municipal entitlement;

12 * Sec. 21. AS 29.18.213(8) is amended to read:

13 (8) "patent" means a document, issued by the commissioner
14 [DIRECTOR] to a municipality for a previously approved selection,
15 which conveys and quitclaims all the right, title and interest of the
16 state without reservation or condition except as may be required by
17 law;

18 * Sec. 22. AS 30.15.040 is amended to read:

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

26 * Sec. 23. AS 38.04.005(b) is amended to read:

27 (b) In classifying state land for private use and settlement
28 purposes, the commissioner [DIRECTOR] shall make adequate provision
29 for public open space which is accessible to communities so that

1 natural areas are easily reached from all communities and settled
2 areas. The amount of that land shall be sufficient to meet existing
3 and projected needs for accessible public recreation land. Special
4 care shall be taken to preserve public access to public water and to
5 retain state ownership of sufficient land which combine high value for
6 recreation and other public purposes with accessibility to settled
7 areas. This classification for public purposes does not constitute
8 dedication to open space, but the department's [DIVISION'S] management
9 of land so classified shall be in a manner to preserve the identified
10 values.

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

12 (a) The primary public interest in conveying rights to state
13 land surface to private parties is to make them available to individ-
14 uals and other persons for direct use in areas classified as suitable
15 for these purposes. In making state land available for private use,
16 the commissioner [DIRECTOR] shall seek to guide year-round settlement
17 to areas where public services already exist, or can be extended with
18 reasonable economy, or where development of a viable economic base is
19 probable.

20 * Sec. 25. AS 38.04.025 is amended to read:

21 Sec. 38.04.025. VARIETY OF USES. In making state land available
22 for private use, the commissioner [DIRECTOR] shall endeavor to accom-
23 modate persons with a current need and anticipated use for the land.
24 To this end, the commissioner [DIRECTOR] shall assess the nature of
25 the supply and demand for state land in different regions and loca-
26 tions of the state, taking into account the supply of available land
27 under other ownership, and shall make land available in locations and
28 under programs suited to the differing needs of prospective users
29 throughout the state.

1 * Sec. 26. AS 38.04.030 is amended to read:

2 Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs which may
3 be used by the commissioner [DIRECTOR] to make the state's land sur-
4 face available for private use under this section include sale of
5 whole or partial rights to the fee simple estate, including conveyance
6 of agricultural use rights; leasing; open-to-entry; homesiting; home-
7 steadng; permitting for construction and occupation of cabins in
8 isolated locations on land retained in state ownership; and other
9 methods as provided by law.

10 * Sec. 27. AS 38.04.035 is amended to read:

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

15 (1) To cover public costs associated with private land use
16 and to provide the public with a fair return for publicly owned prop-
17 erty, conveyance of state land to private parties should be at fair
18 market value except where otherwise authorized by statute, or by an
19 administrative regulation the adoption of which is specifically per-
20 mitted by statute.

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

25 (3) Sale programs are preferred but lease programs should
26 be used

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

- 1 (B) when the intended use is a temporary one;
- 2 (C) in commercial or industrial situations when a
3 leasehold can provide cash flow advantages to the lessee;
- 4 (D) when a unique location with special public values
5 is involved, as in a deep water port, hydroelectric site, or
6 aquaculture facility;
- 7 (E) where current demand for private use is high, but
8 projections suggest that, in the future, the land may be more
9 valuable for public use, as in accessible waterfront recreation
10 areas.

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

14 (5) Limited or conditional title may be granted when the
15 state's best interest so dictates. Among other things, title limita-
16 tions may include grants of agricultural interest only, retention of
17 development rights, and retention of scenic or other easements. A
18 conditional title may be tied to a development schedule or other
19 standards of performance.

20 * Sec. 23. AS 38.04.045(b) is amended to read:

21 (b) Before the conveyance of surface rights to state land, an
22 official cadastral survey shall be accomplished, unless a comparable,
23 acceptable survey exists that has been conducted by the federal Bureau
24 of Land Management. The rectangular survey section corner positions
25 shall be monumented and shown on a cadastral survey plat approved by
26 the state. However, for those areas where the state may wish to
27 convey surface estate outside of an official cadastral survey grid,
28 the commissioner [DIRECTOR] may waive monumentation of all individual
29 section corner positions and substitute an official control survey

1 with control points being monumented at approximately two-mile inter-
2 vals and shown on control survey plats approved by the state. No
3 portion of land to be conveyed may be located more than two miles from
4 such a survey control monument. The lots and tracts in state subdivi-
5 sions shall be monumented and the cadastral survey and plats for the
6 subdivision shall be approved by the state. Where land is located
7 within a municipality with planning, platting, and zoning powers,
8 plats for state subdivisions shall comply with local ordinances and
9 regulations in the same manner and to the same extent as plats for
10 subdivisions by other landowners. State subdivisions shall be filed
11 in the district recorder's office. The requirements of this section
12 do not apply to land made available through a cabin permit system,
13 material sales, or short-term leases; however, for short-term leases
14 the lessee must comply with local subdivision ordinances unless waived
15 by the municipality under procedures specified by ordinance.

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

17 Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state
18 land is surveyed for purposes of private use, adequate rights-of-way
19 and easements shall be reserved as necessary for access and, where
20 appropriate, for power and telephone service to each parcel of land.
21 Where necessary and appropriate for the use intended, the commissioner
22 [DIRECTOR] shall arrange for the development of surface access as part
23 of the land availability program. The direct cost of local access
24 development shall be borne by the recipient of the land unless other-
25 wise provided by state statutes or regulations.

26 * Sec. 30. AS 38.04.055 is amended to read:

27 Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The commis-
28 sioner [DIRECTOR] shall reserve easements and rights-of-way on and
29 across land which is made available for private use as necessary to

1 reach or use public water and public and private land. An easement or
2 right-of-way reserved under this section may include established
3 trails traditionally used for commerce, recreation, or transportation.

4 * Sec. 31. AS 38.04.900(a) is amended to read:

5 (a) The commissioner shall adopt under the Administrative Proce-
6 dure Act (AS 44.62) regulations believed [HE BELIEVES ARE] necessary
7 to carry out the purposes of this chapter. [WITHIN 120 DAYS AFTER THE
8 EFFECTIVE DATE OF THIS ACT, THE DIRECTOR SHALL SUBMIT TO THE COMMIS-
9 SIONER DRAFT REGULATIONS IMPLEMENTING THIS CHAPTER AND REVISING REGU-
10 LATIONS IN EFFECT ON THE EFFECTIVE DATE OF THIS ACT PERTAINING TO
11 PLANNING, CLASSIFICATION, MANAGEMENT, AND DISPOSAL OF THE STATE'S
12 SURFACE ESTATE IN LAND. NEW AND REVISED REGULATION SHALL BE INTE-
13 GRATED IN A SINGLE COMPREHENSIVE DRAFT COMPATIBLE WITH THE STRUCTURE
14 OF THE ALASKA ADMINISTRATIVE CODE. IN PREPARING THIS DRAFT, THE
15 DIRECTOR SHALL SEEK TO SIMPLIFY AND CLARIFY REGULATIONS GOVERNING LAND
16 PLANNING, CLASSIFICATION, MANAGEMENT, AND DISPOSAL.]

17 * Sec. 32. 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. 33. 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. 34. AS 33. 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. 35. AS 38.05.005 - 38.05.015 and AS 38.05.020(a) are repealed.

5 * Sec. 36. AS 38.05.020(b)(1) is amended to read:

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 * Sec. 37. AS 38.05.020(b)(3) is repealed.

15 * Sec. 38. AS 38.05.030(b) is amended to read:

16 (b) The provisions of this chapter do not apply to any power,
17 duty or authority now or in the future granted to the Department of
18 Transportation and Public Facilities [PUBLIC WORKS AND THE DEPARTMENT
19 OF HIGHWAYS] in the name of the state, to acquire, use, lease, dispose
20 of, or exchange real property, or any interest in real property.
21 Lands assigned by the department [DIVISION OF LANDS] to the Department
22 of Transportation and Public Facilities [PUBLIC WORKS AND THE DEPART-
23 MENT OF HIGHWAYS] shall be returned to the management of the depart-
24 ment [DIVISION OF LANDS] when they are no longer needed for the pur-
25 poses assigned.

26 * Sec. 39. AS 38.05.030(c) is amended to read:

27 (c) In addition to the requirements specified in AS 38.50.090,
28 the agencies referred to in (a) and (b) of this section and other
29 state agencies with authority to acquire or dispose of land shall give

1 written notification of the fact of acquisition, lease or exchange to
2 the department [DIVISION OF LANDS] within three months after the date
3 that they make the acquisition, lease or exchange.

4 * Sec. 40. AS 38.05.030(d) is amended to read:

5 (d) Real property acquired by, and under the management of, the
6 agencies referred to in (a) and (b) of this section, which is no
7 longer needed for its intended use, shall be returned to the jurisdic-
8 tion of the department [DIVISION OF LANDS], except that the Department
9 of Transportation and Public Facilities [HIGHWAYS] may dispose of real
10 property acquired by it under AS 19.05.040(2) and AS 19.05.080 -
11 19.05.120.

12 * Sec. 41. AS 38.05.035 is repealed and reenacted to read:

13 Sec. 38.05.035. POWERS AND DUTIES OF THE COMMISSIONER. (a) The
14 commissioner shall

15 (1) manage, inspect and control state land and improvements
16 on it belonging to the state and under the jurisdiction of the depart-
17 ment;

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

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

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

26 (5) have jurisdiction over state land, except that land
27 acquired by the Alaska World War II Veterans Board and the Agricul-
28 tural Loan Board or the departments or agencies succeeding to their
29 respective functions through foreclosure or default; to this end the

1 commissioner has the power and shall perform the duties necessary to
2 protect the state's rights and interest in state land, including the
3 taking of all necessary action to protect and enforce the state's
4 contractual or other property rights;

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

9 (A) the name of the person nominating or applying for
10 the sale, lease, or other disposal of land by competitive bid-
11 ding;

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

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

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

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

21 (F) requests for information or applications by public
22 agencies for land which is being considered for use for a public
23 purpose;

24 (7) account for the fees, licenses, taxes or other money
25 received in the administration of this chapter including the sale or
26 leasing of land, identify their source, and promptly transmit them to
27 the proper fiscal department after crediting them to the proper fund;
28 receipts from land application filing fees and charges for copies of
29 maps and records shall be deposited immediately in the general fund of

1 the state;

2 (8) be the certifying agent of the state to select, accept
3 and secure by whatever action is necessary in the name of the state,
4 by deed, sale, gift, devise, judgment, operation of law, or other
5 means any land, of whatever nature or interest, available to the
6 state; and

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

11 (b) The commissioner may

12 (1) grant preference rights for the lease or purchase of
13 state land without competitive bid in order to correct the errors or
14 omissions of a state or federal administrative agency when inequitable
15 detriment would otherwise result to a diligent claimant or applicant
16 due to situations over which the claimant or applicant had no control;
17 the exercise of this discretionary power operates only to divest the
18 state of its title to or interests in land;

19 (2) grant a preference right to a claimant who shows bona
20 fide improvement of state land, or federal land subsequently acquired
21 by the state, and who has in good faith sought to obtain title to the
22 land but who, through error or omission of others, has been denied
23 title to it; upon a showing satisfactory to the commissioner, the
24 claimant may lease or purchase the land at the price set on the date
25 of original entry on the land or, if a price was not set at that time
26 at a price determined by the Department to fairly represent the value
27 of unimproved land at the time the claim was established, but in no
28 event less than the cost of administration including survey; the error
29 or omission of a predecessor in interest or an agent, administrator,

1 or executor which has clearly prejudiced the claimant may be the basis
2 for granting a preference right;

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

7 (4) when the commissioner determines it is in the best
8 interest of the state and will avoid injustice to a person or that
9 person's heirs or devisees, dispose of land, by direct negotiation to
10 the person who presently uses and who used and made improvements to
11 the land before January 3, 1959 or that person's heirs or devisees;
12 the amount paid for the land shall be its fair market value on the
13 date that the person first entered the land, as determined by the
14 commissioner; a parcel of land disposed of under this paragraph shall
15 be of a size consistent with the person's prior use, but may not
16 exceed five acres;

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

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

22 (A) the commissioner determines that it is in the best
23 interests of the state;

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

26 (C) the commissioner and the platting authority having
27 land use planning jurisdiction agree that conveyance of the
28 parcel to the adjoining landowner will result in boundaries that
29 are convenient for the use of the land by the landowner and

1 compatible with municipal land use plans;

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

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

8 (d) A parcel of land described in (b)(6) of this section must be
9 sold at its fair market value as determined by the commissioner on the
10 basis of an appraisal completed as provided in AS 38.05.310. Nothing
11 in this subsection prevents the sale of land under AS 38.05.055 or
12 38.05.057 to a person not qualifying as an adjoining landowner if the
13 adjoining landowner declines to purchase the land.

14 (e) Upon a written finding, which shall be available to the
15 public on request, that the interests of the state will be best
16 served the commissioner may approve contracts for the sale, lease, or
17 other disposal of available land, resources, property or interests in
18 them, and, in addition to the conditions and limitations imposed by
19 law, may impose additional conditions or limitations in the contracts
20 as the commissioner determines will best serve the interests of the
21 state. Before a public hearing, if held, or in any case no less than
22 21 days before the sale, lease, or other disposal of available land,
23 property, resources, or interests in them, the commissioner shall make
24 available to the public a written decision which sets out the facts
25 and applicable law upon which the commissioner based the determination
26 that the sale, lease, or other disposal will best serve the interests
27 of the state. A written finding is not required before the approval
28 of

29 (1) a contract for a negotiated sale authorized by AS 38.-

1 05.115;

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

4 (3) a permit or other authorization revocable by the de-
5 partment.

6 * Sec. 42. AS 38.05.037 is amended to read:

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

12 (b) The department [DIVISION OF LANDS] may exercise its zoning
13 power

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

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

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

24 * Sec. 43. AS 38.05.040 is amended to read:

25 Sec. 38.05.040. COMMISSIONER [DIRECTOR] SHALL BE BONDED. Before
26 performing any [HIS] duties, the commissioner [DIRECTOR] shall execute
27 a corporate surety bond to the state in the sum of \$150,000, condi-
28 tioned upon the faithful performance of all [HIS] duties under this
29 chapter and upon the prompt and faithful accounting of all money

1 collected by the commissioner [HIM] or [HIS] deputies, assistants,
2 employees or agents of the commissioner. The bond, together with
3 additional conditions or limitations considered necessary, shall be
4 approved by the attorney general and filed in the office of the gover-
5 nor. The premium upon the bond is payable from money appropriated for
6 operation of the department [DIVISION].

7 * Sec. 44. AS 38.05.050 is amended to read:

8 Sec. 38.05.050. DISPOSAL OF LAND FOR PRIVATE OWNERSHIP. The
9 commissioner [, UPON THE RECOMMENDATION OF THE DIRECTOR,] shall deter-
10 mine the land to be disposed of for private use. The commissioner
11 [DIRECTOR] shall determine the time and place of disposal. An auction
12 sale, a lottery sale, or a disposal of land for homesites under
13 AS 38.04.020(g)(2)(C) must be held in the municipality that is closest
14 to the land to be sold or disposed of and in which regular sessions of
15 a court of the state are held.

16 * Sec. 45. AS 38.05.055 is amended to read:

17 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method
18 of sale is required under AS 38.05.005 - 38.05.370, [UNDER] AS 38.07.-
19 010 - 38.07.060, or [UNDER] AS 38.08.010 - 38.08.120, the sale of
20 state land shall be made at public auction to the highest qualified
21 bidder as determined by the commissioner [DIRECTOR]. A bidder must
22 appear in person at the auction unless medical reasons, attendance at
23 school, or military service outside the state prevent attendance. A
24 bidder may be represented by an attorney or agent at the auction if
25 the land offered for disposal is commercial, industrial, or agricul-
26 tural land. An aggrieved bidder may appeal to the commissioner within
27 five days after the sale for a review of the commissioner's [DIREC-
28 TOR'S] determination. The sale shall be conducted by the commissioner
29 [DIRECTOR OR HIS REPRESENTATIVE], and at the time of sale the success-

1 ful bidder shall deposit an amount equal to five percent of the pur-
2 chase price, or if the purchaser elects to use land discounts granted
3 under AS 31.05.058, five percent of the amount bid after deduction of
4 the discount. The commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall
5 immediately issue a receipt containing a description of the land or
6 property purchased, the price bid, the amount deposited, and the
7 amount of any discount allowed. The receipt shall be acknowledged in
8 writing by the bidder.

9 * Sec. 46. AS 38.05.057(e) is amended to read:

10 (e) The commissioner [DIRECTOR] shall accept applications to
11 purchase particular parcels under the following procedures and
12 conditions:

13 (1) the application period may not be less than 45 days;

14 (2) no application may be accepted less than 15 days before
15 each lottery;

16 (3) notice of the application period and the date of the
17 lottery shall be published once each week for four consecutive weeks
18 before the beginning date of an application period in newspapers of
19 general circulation in the state and by the electronic media covering
20 the region of the state in which the land is located [GIVEN IN ACCOR-
21 DANCE WITH AS 38.05.345(e)]; and

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

24 * Sec. 47. AS 38.05.057(g) is amended to read:

25 (g) After receiving the deposit required under (a) of this
26 section, the commissioner [DIRECTOR OR HIS REPRESENTATIVE] shall
27 immediately issue a receipt containing a description of the land or
28 property to be conveyed, the price of the land, and the terms of
29 disposal. The receipt shall be acknowledged in writing by the pur-

1 chaser. [A CONTRACT OF SALE SHALL BE EXECUTED IN THE SAME FORM AND
2 MANNER AS REQUIRED UNDER AS 38.05.055.]

3 * Sec. 48. AS 38.05.057(i) is amended to read:

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

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

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

11 * Sec. 49. AS 38.05.058(c) is amended to read:

12 (c) A person seeking to establish eligibility for a discount
13 under this section shall present proof meeting the criteria set out in
14 (b) of this section to the commissioner [DIRECTOR]. A person who
15 submits information to the commissioner [DIRECTOR] under this section
16 knowing it to be false is guilty of a felony and, upon conviction, is
17 punishable by imprisonment for not more than five years, or by a fine
18 of not more than \$50,000, or by both.

19 * Sec. 50. AS 38.05.058(d) is amended to read:

20 (d) A person is entitled to not more than one discount on the
21 purchase price of land under this section in the person's [HIS] life-
22 time. A discount granted under this section may be applied only to
23 the acquisition of surface rights to state land. A discount may not
24 be applied to costs such as survey costs, road development costs,
25 utility assessments, or other costs as determined by the commissioner
26 [DIRECTOR] which are reimbursable to the state. In all cases, a cash
27 down payment of at least five percent of the discounted purchase price
28 of the land shall be made at the time of sale.

29 * Sec. 51. AS 38.05 0 is amended to read:

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

6 * Sec. 52. AS 38.05.065(c) is amended to read:

7 (c) The commissioner [DIRECTOR] shall, for contracts under (a)
8 or (b) of this section, set for each sale the period for the payment
9 of installments and the total purchase price plus interest. The
10 [DIRECTOR, WITH THE CONSENT OF THE] commissioner [,] may also include
11 in contracts under this section conditions, limitations and terms
12 considered [WHICH HE CONSIDERS] necessary and proper to protect the
13 interest of the state. Violations of any provision of this chapter or
14 the terms of the contract of sale subject the purchaser to appropriate
15 administrative and legal action, including but not limited to specific
16 performance, foreclosure, ejectment, or other legal remedies in accor-
17 dance with applicable state law.

18 * Sec. 53. AS 38.05.067(a) is amended to read:

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

23 * Sec. 54. AS 38.05.067(b) is amended to read:

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

29 * Sec. 55. AS 38.05.068(a) is amended to read:

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

8 * Sec. 56. AS 38.05.069 is amended to read:

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

10 (a) If the commissioner [DIRECTOR] determines that the highest and
11 best use of unoccupied land is for agricultural purposes [,] and [IF
12 HE DETERMINES] that it is in the best interests of the state to sell
13 or lease the land, the commissioner [HE] shall grant to an Alaskan
14 resident owning and using or leasing and using land for agricultural
15 purposes a 60-day first option after the date of the auction to pur-
16 chase or lease the unoccupied land situated adjacent to or in the
17 approximate vicinity of land presently held by the Alaska resident
18 [HIS PRESENTLY HELD LAND] for the amount of the high bid received at
19 public auction. A parcel of agricultural land sold under this section
20 may not be less than 20 acres and a parcel of agricultural land which
21 is acquired by exercise of the option granted in this subsection may
22 not exceed 320 acres. Agricultural land which is acquired under this
23 section must be used for agricultural purposes as required by law.

24 (b) If more than one person is eligible for a first option under
25 (a) of this section, the commissioner [DIRECTOR] shall determine
26 priority by granting precedence first to the person who demonstrates
27 the greatest need for the unoccupied land in order to establish an
28 economic unit and, secondly, to the eligible person who occupies land
29 that is most readily accessible to unoccupied land to be sold or

1 leased. In the event that two or more persons have approximately
2 equal qualifications for priority under this section, the commissioner
3 [DIRECTOR] shall grant priority to that person who is a veteran. If
4 more than one person is approximately equally well qualified under
5 this section, the commissioner [DIRECTOR] shall determine priority by
6 lot.

7 (c) Under this section

8 (1) the commissioner [DIRECTOR] may convey or lease an
9 interest in the land only for agricultural purposes, and all other
10 interests in the land remain in the state; the sale or lease shall be
11 at public auction;

12 (2) the remaining interests may subsequently be conveyed or
13 leased by the commissioner [DIRECTOR] only upon the request of the
14 grantee or lessee or their [HIS] assigns and the determination of [THE
15 DIRECTOR, WITH THE WRITTEN CONCURRENCE OF] the commissioner [,] that
16 the conveyance or lease is in the public interest;

17 (3) the conveyance or lease of the remaining interests
18 shall be at public auction; the original grantee or lessee or their
19 [HIS] assigns have a preference right to meet the high bid within 30
20 days after the day of the auction; if the right is exercised, the
21 value of improvements owned by the holder of the preference right,
22 included with the remaining interests sold, shall be deducted from the
23 purchase price;

24 (4) by requesting the conveyance or lease of the remaining
25 interest, the original grantee or lessee or their [HIS] assigns

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

27 (B) if the preference right provided by (3) of this
28 subsection is not exercised, consents to sell at fair market
29 value the improvements related to the remaining interest, as

1 appraised by the commissioner [DIRECTOR];

2 (5) the remaining interests in the land may not be conveyed
3 or leased for less than their appraised value together with improve-
4 ments except for the deduction allowed by (3) of this subsection.

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

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

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

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

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

17 * Sec. 57. AS 38.05.070(b) is amended to read:

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

26 * Sec. 58. AS 38.05.070(c) is amended to read:

27 (c) A lease may be issued for a period up to 55 years, if it
28 appears to be in the best interests of the state [AND IF THE COMMIS-
29 SIONER APPROVES]. However, a nonrenewable lease for school land may

1 be issued for a period not to exceed 99 years. If the commissioner
2 determines that the land or a part of it which is the subject of a
3 grazing lease is not being used for the purpose issued, the lease may
4 be declared void. [HOWEVER, A NONRENEWABLE LEASE FOR SCHOOL LANDS MAY
5 BE ISSUED FOR A PERIOD NOT TO EXCEED 99 YEARS.]

6 * Sec. 59. AS 38.05.075 is amended to read:

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

27 * Sec. 60. AS 38.05.077(g) is amended to read:

28 (g) If a person stakes a remote parcel in good faith but in-
29 cludes land in the [HIS] parcel that was previously claimed by another

1 person eligible to stake a remote parcel, the commissioner [DIRECTOR]
2 shall approve that part of the later staking that does not conflict
3 with the earlier staking and allow the person to stake additional land
4 in the remote parcel staking area.

5 * Sec. 61. AS 38.05.077(h) is amended to read:

6 (h) If a person stakes a remote parcel in good faith but in-
7 cludes land in the [HIS] parcel that is outside the remote parcel
8 staking area, the commissioner [DIRECTOR] shall either disapprove the
9 staking of land outside the remote parcel staking area and allow the
10 person to stake additional land in the remote parcel staking area or
11 the commissioner [HE] may approve the staking of the land outside the
12 remote parcel staking area.

13 * Sec. 62. AS 38.05.080 is amended to read:

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

17 * Sec. 63. AS 38.05.082 is amended to read:

18 Sec. 38.05.082. LEASES FOR SHORE FISHERIES DEVELOPMENT. (a)
19 The [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,] may lease
20 tide and submerged land [LANDS] for fisheries development. Fisheries
21 development includes the utilization of shore gill nets or set nets
22 for the taking of fish. Every lease issued under this section shall
23 reserve to the public a right-of-way for access to navigable waters
24 and other tide and submerged land [LANDS].

25 (b) The commissioner [DIRECTOR] may classify land [LANDS] as
26 subject to leases for fisheries development, and publicly invite
27 applications for lease of the selected areas. Each application shall
28 be accompanied by an affidavit to the effect that the applicant pres-
29 ently intends to personally utilize the leased area for fishing pur-

1 poses the following season. If two or more applications are received
2 for the same shore area, the commissioner [DIRECTOR] shall award the
3 lease to the most qualified applicant. In determining the qualifica-
4 tions of applicants, the commis ioner [DIRECTOR] shall consider the
5 length of time during which the .pplicant has been engaged in set
6 netting, the proximity of the [HIS] past fishing sites of the appli-
7 cant to the land to be leased, the [HIS] present ability of the appli-
8 cant to utilize the location to its maximum potential, and other
9 factors relevant to the equitable assignment of the disputed area. If
10 the commissioner [DIRECTOR] cannot determine a preference between
11 conflicting applicants for the same lease site on the basis of
12 qualifications, the commissioner [HE] shall select between the appli-
13 cants by lot. An aggrieved applicant may appeal to the commissioner
14 within five days for a review of the [DIRECTOR'S] determination.

15 (c) A lease for set net fishing may be issued for any period not
16 exceeding 10 years. If the commissioner determines that the land is
17 not being utilized for the purpose for which the lease is issued, the
18 lease may be declared void. The commissioner [DIRECTOR] shall estab-
19 lish a reasonable rental for the lease, equal to the administrative
20 costs involved in processing the leasehold applications.

21 (d) Subleasing and renewals of leases are governed by AS 38.05.-
22 095 and AS 38.05.102 [SECS. 95 - 100 OF THIS CHAPTER].

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

25 * Sec. 64. AS 38.05.085(b) is amended to read:

26 (b) When it becomes necessary to determine the fair market value
27 of property as required by (a) of this section, the commissioner
28 [DIRECTOR] shall have the property appraised by a qualified appraiser.
29 If the lessee disagrees with the appraisal obtained by the commis-

1 sioner, the lessee [DIRECTOR, HE] may appoint a qualified appraiser to
2 make an appraisal of the property in question. If the two appraisers
3 agree upon the fair market value, the determination is binding on the
4 parties. In the event the two appraisers are unable to agree, they
5 shall appoint a third qualified appraiser who shall then make an [HIS]
6 appraisal of the property in question. When the third appraisal is
7 completed, the two of the three appraisals which are nearest each
8 other in their determination of the fair market value shall be
9 averaged and the resultant sum shall be the fair market value of the
10 property in question and absolutely binding on the parties. All costs
11 incurred in making the appraisals provided for in this subsection
12 shall be borne by the state and the lessee equally.

13 * Sec. 65. AS 38.05.085(c) is amended to read:

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

17 * Sec. 66. AS 38.05.087(a) is amended to read:

18 (a) Before offering to the public any land for lease which is
19 subject to a valid existing United States Forest Service permit in
20 effect in a state-selected area on the day before the area was tenta-
21 tively approved for patent to the state, the commissioner [DIRECTOR]
22 shall offer the land for leasing to the permittee at not less than its
23 fair appraised market value before offering it to the general public.

24 * Sec. 67. AS 38.05.090 is amended to read:

25 Sec. 38.05.090. REMOVAL OR REVERSION OF IMPROVEMENTS UPON TER-
26 MINATION OF LEASES. (a) Improvements owned by a lessee on state land
27 shall, within 60 days after the termination of the lease, be removed
28 by the lessee [HIM] if removal will not cause injury or damage to the
29 land. The commissioner [DIRECTOR] may extend the time for removing

1 improvements in cases where hardship is proven. The retiring lessee
2 or permittee may, with the consent of the commissioner [DIRECTOR],
3 sell [HIS] improvements to the succeeding lessee or permittee.

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

18 (c) If improvements or chattels, or both, having an appraised
19 value of \$10,000 or less, as determined by the commissioner [DIREC-
20 TOR], are not removed within the time allowed, they revert to the
21 state and absolute title vests in the state. The preference right
22 lessees of grazing or forest land [LANDS] may follow the provisions
23 for removal of improvements upon termination of the lease as autho-
24 rized in the cancelled federal lease or permit.

25 (d) Improvements of the lessee which have become fixtures of the
26 land shall be purchased by the subsequent purchaser or lessee of the
27 land if the improvements were authorized in the former lease or by
28 permit from the commissioner [DIRECTOR]. Upon the termination of a
29 lease, and at additional times which may be necessary, the value of

1 the authorized fixtures remaining on the land shall be set by agree-
2 ment between the former lessee and the commissioner [DIRECTOR] or, if
3 agreement cannot be reached, by an independent appraisal made at cost
4 to the former lessee.

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

7 (1) the value of the authorized fixtures remaining on the
8 land;

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

12 * Sec. 68. AS 38.05.095(a) is amended to read:

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

19 * Sec. 69. AS 38.05.097(c) is amended to read:

20 (c) A nonprofit organization which satisfies the requirements of
21 this section that is using land under a lease in effect before July 1,
22 1978 may convert its lease to a new lease with terms exempting it from
23 the payment of rent by submitting a written request to the commis-
24 sioner [DIRECTOR].

25 * Sec. 70. AS 38.05.102 is amended to read:

26 Sec. 38.05.102. LESSEE PREFERENCE. If land within a leasehold
27 created under AS 38.05.070 - 38.05.105 [38.05.100] is offered for sale
28 or long-term lease at the termination of the existing leasehold, the
29 commissioner [DIRECTOR] may, upon a finding [IF HE FINDS] that it is

1 in the best interest of the state, allow the holder in good standing
2 of that leasehold to purchase or lease the land for its appraised fair
3 market value at the time of the sale or long-term lease.

4 * Sec. 71. AS 38.05.103 is amended to read:

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

18 (b) If a lessee fails to cure or remedy a breach or default
19 within the time allowed in (a) of this section, a holder of a security
20 interest who has received notice under (a) of this section may cure or
21 remedy the breach or default if the breach or default can be cured by
22 the payment of money or, if this cannot be done, by performing or
23 undertaking in writing to perform the terms, covenants, restrictions
24 and conditions of the lease capable of performance by the holder. The
25 holder shall act within 60 days from the date of receipt of notice
26 under (a) of this section, or within an additional period as the
27 commissioner [DIRECTOR] may allow for good cause.

28 * Sec. 72. AS 38.05.105(a) is amended to read:

29 (a) Each lease shall stipulate that at the conclusion of the

1 initial 25-year period of the lease and at intervals of 10 years
2 thereafter the annual rent payment is subject to adjustment. Charges
3 or adjustments shall be based primarily on an adjusted fair market
4 value. However, if the commissioner [DIRECTOR OF THE DIVISION OF
5 LANDS] determines that single-family residential development is the
6 best use of the land, the reappraisal period may be lengthened or the
7 readjustment waived in accordance with regulations adopted by the
8 department. Before a waiver of rent adjustment is issued, the land
9 shall have a current reappraisal. A waiver is valid only if single-
10 family residential development actually occurs. The regulations
11 adopted under this section shall ensure that the state receives a fair
12 return from the land.

13 * Sec. 73. AS 38.05.110 is amended to read:

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

20 * Sec. 74. AS 38.05.115(a) is amended to read:

21 (a) The commissioner [, UPON RECOMMENDATION OF THE DIRECTOR,]
22 shall determine the timber and other materials to be sold, and the
23 limitations, conditions and terms of sale. The limitations, condi-
24 tions and terms shall include the utilization, development and mainte-
25 nance of the sustained yield principle subject to preference among
26 other beneficial uses. The commissioner [DIRECTOR] may negotiate
27 sales of timber or materials without advertisement and on the limita-
28 tions, conditions, and terms which [HE CONSIDERS] are in the best
29 interests of the state [, SUBJECT TO THE APPROVAL OF THE COMMIS-

1 SIONER]. However, not more than 500 M.B.M. or equivalent other
2 measure of timber or more than 25,000 cubic yards of materials may be
3 sold by nonadvertised, negotiated sale to the same purchaser within a
4 one-year period.

5 * Sec. 75. AS 38.05.118 is amended to read:

6 Sec. 38.05.118. NEGOTIATED TIMBER SALES IN AREAS OF HIGH UNEM-
7 PLOYMENT. (a) Notwithstanding any other provision of AS 38.05.110 -
8 38.05.120, the [DIRECTOR, WITH THE APPROVAL OF THE] commissioner [,]
9 may negotiate a sale of timber to a local manufacturer at appraised
10 value. The period of a contract for a sale of timber negotiated under
11 this section may not exceed 25 years. The contract shall provide that
12 the appraised value of timber remaining to be harvested under the
13 provisions of the contract shall be redetermined at least once every
14 five years.

15 (b) Notice of intent to negotiate a contract authorized by (a)
16 of this section shall be given in accordance with AS 38.05.345
17 [AS 38.05.305].

18 (c) No sale of timber may be negotiated by the commissioner
19 [DIRECTOR] under this section unless the commissioner [HE] first finds
20 that, within an area proximate to the business site which the manufac-
21 turer may economically serve, there exists

- 22 (1) a high level of local unemployment;
- 23 (2) an underutilized timber manufacturing capacity; and
- 24 (3) an underutilized allowable cut of state timber.

25 * Sec. 76. AS 38.05.120 is amended to read:

26 Sec. 38.05.120. DISPOSAL PROCEDURE. Timber and other materials
27 shall be sold either by sealed bids or public auction, depending on
28 which method is determined by the commissioner to be in the best
29 interests of the state, to the highest qualified bidder as determined

1 by the commissioner [DIRECTOR]. An aggrieved bidder may appeal to the
2 commissioner within five days after the sale for a review of the
3 [DIRECTOR'S] determination. The sale shall be conducted by the com-
4 missioner [DIRECTOR OR HIS REPRESENTATIVE], and at the time of sale
5 the successful bidder shall deposit the amount specified in the terms
6 of sale. The means by which the amount of deposit is determined shall
7 be prescribed by appropriate regulation. The commissioner [DIRECTOR
8 OR HIS REPRESENTATIVE] shall immediately issue a receipt containing a
9 description of the timber or materials purchased, the price bid, and
10 the terms of sale. The receipt shall be acknowledged in writing by
11 the bidder. A contract of sale, on a form approved by the attorney
12 general, shall be signed by the purchaser and [, FOLLOWING THE AP-
13 PROVAL OF THE COMMISSIONER,] the contract shall be signed by the
14 commissioner [DIRECTOR] on behalf of the state. The [DIRECTOR, WITH
15 THE APPROVAL OF THE] commissioner [,] may impose conditions, limita-
16 tions, and terms considered [WHICH HE CONSIDERS] necessary and proper
17 to protect the interests of the state. Violation of any provision of
18 this chapter or the terms of the contract of sale subjects the pur-
19 chaser to appropriate legal action.

20 * Sec. 77. AS 38.05.130 is amended to read:

21 Sec. 38.05.130. DAMAGES AND POSTING OF BOND. No rights shall be
22 exercised by the state, its lessees, successors or assigns under the
23 reservation as set out in AS 38.05.125 until the state, its lessees,
24 successors, or assigns make provision to pay the owner of the land
25 full payment for all damages sustained by the owner, by reason of
26 entering upon the land. If the owner for any cause refuses or ne-
27 glects to settle the damages, the state, its lessees, successors,
28 assigns, or an applicant for a lease or contract from the state for
29 the purpose of prospecting for valuable minerals, or option, contract

1 or lease for mining coal or lease for extracting geothermal resources,
2 petroleum or natural gas, may enter upon the land in the exercise of
3 the reserved rights after posting a surety bond determined by the
4 commissioner [DIRECTOR], after notice and an opportunity to be heard,
5 to be sufficient as to form, amount, and security to secure to the
6 owner payment for damages, and may institute legal proceedings in a
7 court where the land is located, as may be necessary to determine the
8 damages which the owner may suffer.

9 * Sec. 78. AS 38.05.140(e) is amended to read:

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

16 * Sec. 79. AS 38.05.145(a) is amended to read:

17 (a) Deposits of coal, phosphates, oil shale, sodium, potassium,
18 oil, gas, geothermal resources and state land [LANDS] containing these
19 deposits are subject to disposition under [RULES AND] regulations [,
20 RECOMMENDED BY THE DIRECTOR AND] adopted by the commissioner, and the
21 provision of AS 38.05.145 - 38.05.181. In applying the acreage limi-
22 tations the commissioner may apply the rule of approximation. The
23 uses of the rule of approximation made before March 31, 1960, by the
24 commissioner are ratified.

25 * Sec. 80. AS 38.05.185(a) is amended to read:

26 (a) The acquisition and continuance of rights in and to deposits
27 on state land [LANDS] of minerals which on January 3, 1959, were
28 subject to location under the mining laws of the United States shall
29 be governed by AS 38.05.185 - 38.05.280. Nothing in AS 38.05.185 -

1 38.05.280 affects the law pertaining to the acquisition of rights to
2 mineral deposits owned by any other person or government. The [DIREC-
3 TOR, WITH THE APPROVAL OF THE] commissioner [,] shall determine that
4 land [THOSE LANDS] from which mineral deposits may be mined only under
5 lease, and, subject to the limitations of AS 38.05.300, that land
6 [THOSE LANDS] which shall be closed to mining. State land may not be
7 closed to mining or mineral location unless the commissioner makes a
8 finding that mining would be incompatible with significant surface
9 uses on the state land. State land may not be restricted to mining
10 under lease unless the commissioner determines that potential use
11 conflicts on the state land require that mining be allowed only under
12 written leases issued under AS 38.05.205 or the commissioner has
13 determined that the land was mineral in character at the time of state
14 selection. The determinations required under this subsection shall be
15 made in compliance with land classification orders and land use plans
16 developed under AS 38.05.300.

17 * Sec. 81. AS 38.05.205(a) is amended to read:

18 (a) Prior discovery, location and filing shall initiate prior
19 rights to mineral deposits subject to AS 38.05.185 - 38.05.280 in or
20 on state land [LANDS], other than submerged land [LANDS], which is
21 [ARE] open to mining leasing. Locations shall be made and certifi-
22 cates of location recorded in accordance with AS 38.05.195. If the
23 located land is [LANDS ARE] available only for leasing, the commis-
24 sioner [DIRECTOR] shall publish in a paper of general circulation in
25 the area of the location, notice of the filing of the location and
26 notice that a mineral lease will be issued. The notice may be com-
27 bined with notices of locations either in the same general area or
28 statewide. Unless a conflicting location exists, no later than two
29 weeks after publication of the notice, an application form for a

1 mining lease shall be mailed to the locator by the commissioner [DIREC
2 TOR]. A lease application shall be filed with the commissioner [DI-
3 RECTOR] by the locator within 90 days after receipt of the form. If
4 the located land is [LANDS ARE] not available for leasing, notice
5 shall be given the locator by the commissioner [DIRECTOR] and the
6 locator's prior rights shall terminate. A mining lessee has the
7 exclusive rights of possession and extraction of all minerals subject
8 to AS 38.05.185 - 38.05.280 lying within the boundaries of the [HIS]
9 lease or location. Mining leases may be issued for one location or
10 for a group of contiguous locations held in common. Minerals may not
11 be mined and marketed or used until a lease is issued, except for
12 limited amounts necessary for sampling or testing.

13 * Sec. 82. AS 38.05.205(c) is amended to read:

14 (c) A mining lease shall be for any period up to 55 years, and
15 the lessee has a right to a new lease at the end of each lease period.
16 The commissioner may make reasonable adjustments of the rental rate at
17 the end of each 20 year period, based upon changed conditions in
18 production costs and markets. A valid mining claim located and held
19 under AS 38.05.195 may be converted to a lease at any time upon appli-
20 cation by the owner, and issuance by the commissioner [DIRECTOR]. No
21 rights granted by a mining lease may be exercised until the lease has
22 been filed for record in the recording district where the land is
23 located.

24 * Sec. 83. AS 38.05.245(a) is amended to read:

25 (a) Before the discovery of valuable minerals, an exclusive
26 right to prospect by geophysical, geochemical and similar methods may
27 be acquired by marking boundaries and posting a notice of location of
28 a prospecting site in a manner and containing such information as the
29 commissioner requires. A prospecting site may not exceed 2,640 feet

1 in its longest dimension and its boundaries shall run in the four
2 cardinal directions. A certificate of location shall be filed for
3 record in the recording district where the prospecting site is located
4 within 90 days after posting the notice of location, and a copy of the
5 certificate shall also be mailed to the commissioner [DIRECTOR] within
6 the 90 day period. The locator of a prospecting site has the exclu-
7 sive right to stake mining claims or leasehold locations within the
8 boundaries of the prospecting [HIS] site.

9 * Sec. 84. AS 38.05.245(c) is amended to read:

10 (c) No person may locate more than six prospecting sites in one
11 calendar year in one recording district. A prospecting site remains
12 in effect for one year after the notice of location is posted and may,
13 at the discretion of the commissioner [DIRECTOR], be extended for one
14 year periods. During each year, work of a type compatible with the
15 purpose of this section and acceptable to the commissioner [DIRECTOR]
16 shall be done. The minimum expenditure for the work shall be estab-
17 lished by the commissioner uniformly for all prospecting sites. Where
18 adjacent prospecting sites are held in common the expenditure may be
19 made on any one or more locations. If a prospecting site expires,
20 neither the locator nor a [HIS] successor in interest of the locator
21 may again locate the same prospecting site or any portion of it, as a
22 prospecting site, for a period of two years following the date of
23 expiration or abandonment; nor may the locator [HE], during the two
24 years, either directly or indirectly, obtain a beneficial interest in
25 the same prospecting site or a portion of it.

26 * Sec. 85. AS 38.05.250(a) is amended to read:

27 (a) The exclusive right to prospect for deposits of minerals
28 subject to AS 38.05.185 - 38.05.275 in or on tide and submerged state
29 land [LANDS] may be granted by a permit issued by the commissioner

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

18 * Sec. 86. AS 38.05.250(b) is amended to read:

19 (b) Upon discovery, the right to possess and extract the min-
20 erals may be acquired by noncompetitive lease. A noncompetitive lease
21 shall be granted to a holder of a prospecting permit for so much of
22 the land subject to the permit as is shown to the satisfaction of the
23 commissioner [DIRECTOR] to contain workable mineral deposits. Sub-
24 merged land [LANDS] containing known deposits of minerals subject to
25 AS 38.05.185 - 38.05.275 may, in the discretion of the commissioner
26 [DIRECTOR], be offered by competitive bid. The land [THESE LANDS]
27 shall be leased to the responsible qualified person offering the
28 highest amount of cash bonus.

29 * Sec. 87. AS 38.05.255 is amended to read:

1 Sec. 38.05.255. SURFACE USE OF LAND OR WATER. Surface uses of
2 land or water [WATERS] included within mining properties by owners of
3 those properties shall be limited to those necessary for the prospect-
4 ing for, extraction of, or basic processing of mineral deposits and
5 shall be subject to reasonable concurrent uses. Permits for millsites
6 and tailings disposal may be granted by the commissioner [DIRECTOR].
7 The permits shall be conditioned upon payment of a reasonable charge
8 for the use and continuance of the limited use. Timber from land
9 [LANDS] open to mining without lease, except timberland [TIMBERLANDS],
10 may be used by a mining claimant or prospecting site locator for the
11 mining or development of the [HIS] location or adjacent claims under
12 common ownership. On other land [LANDS], timber may be acquired as
13 provided [ELSEWHERE] in this chapter. Use of water shall be made in
14 accordance with AS 46.15 [SEC. 260 OF THIS CHAPTER AND RULES AND
15 REGULATIONS ADOPTED UNDER IT OR IN ACCORDANCE WITH ANY LAW AMENDING OR
16 SUPERSEDING THAT SECTION].

17 * Sec. 88. AS 38.05.265 is amended to read:

18 Sec. 38.05.265. ABANDONMENT. Failure to (1) properly file for
19 record a certificate of location or a statement of annual labor, or
20 (2) file with the commissioner [DIRECTOR] within the time prescribed a
21 lease application or a copy of a prospecting site location certifi-
22 cate, or (3) pay rental or receive credit for rental, or (4) keep
23 location boundaries clearly marked, all as required by AS 38.05.185 -
24 38.05.280 [SECS. 185 - 280 OF THIS CHAPTER] and by regulations adopted
25 under these sections, constitutes abandonment of all rights acquired
26 under the mining lease, location, or site involved, and it is subject
27 to relocation by others. If a location is not relocated by another
28 person with one year after such failure, or, in the case of a pros-
29 pecting site, two years, the locator or claimant of the abandoned

1 location, or the [HIS] successor in interest of the locator or claim-
2 ant, may return to relocate it as though it had never been located. A
3 statement of annual labor which does not accurately set out the essen-
4 tial facts is void and of no effect.

5 * Sec. 89. AS 38.05.270 is amended to read:

6 Sec. 38.05.270. TRANSFERS. The sale, lease or other transfer of
7 mining property or interest in mining property shall be recorded or
8 shall be approved by the commissioner under adopted regulations [DIREC
9 TOR IN COMPLIANCE WITH SUCH REGULATIONS AS THE COMMISSIONER MAY
10 ADOPT]. The heirs and assigns of mining property or interest in
11 mining property have the same rights and duties as their predecessors.

12 * Sec. 90. AS 38.05.275 is amended to read:

13 Sec. 38.05.275. RECOGNITION OF LOCATIONS. Mining locations made
14 on state land [LANDS], including shoreland, tideland [SHORELANDS,
15 TIDELANDS], or submerged land [LANDS], or state selected land [LANDS],
16 under AS 38.05.185 - 38.05.280 [SECS. 185 - 280 OF THIS CHAPTER], or
17 in the manner described in AS 27.10.010 - 27.10.240 acquire for the
18 locator mining rights under AS 38.05.185 - 38.05.280 [SECS. 185 - 280
19 OF THIS CHAPTER], subject to existing claims and to any denial of or
20 restriction in the tentative approval of state selection of the patent
21 of the land [LANDS] to the state. If shoreland, tideland [SHORELANDS,
22 TIDELANDS] or submerged land is [LANDS ARE] included in a mining
23 location or within the projected boundaries of a mining location made
24 in accordance with this section, the locator is required to file a
25 certificate of location with the department [DIVISION OF LANDS] within
26 90 days following the date of posting the notice of location, in
27 addition to filing a certificate of location as required by AS 38.-
28 05.195 [SEC. 195 OF THIS CHAPTER]. The certificate of location must
29 identify the position of the mining location in the system of rec-

1 tangular or protracted surveys.

2 * Sec. 91. AS 38.05.310 is amended to read:

3 Sec. 38.05.310. APPRAISAL. (a) No land may be sold or leased,
4 or a renewal lease issued, except in the case of an oil or gas or
5 mineral lease, unless it has been appraised within 120 days before the
6 date fixed for the sale or lease. When land is offered at public sale
7 but is not sold and is available at private sale, no reappraisal is
8 required unless the commissioner [DIRECTOR] considers that a change in
9 value of the land [LANDS] may have occurred. A grazing lease may be
10 granted to a lessee of federal grazing land [LANDS] without prior
11 appraisal, if the [HIS] federal lease was cancelled to allow the state
12 to select the land [LANDS] under lease. No land may be sold or leased
13 for less than the approved, appraised market value, except as provided
14 in AS 38.05.315, 38.05.320, 38.05.057, 38.05.075 - 38.05.085 and
15 38.05.097.

16 * Sec. 92. AS 38.05.315 is amended to read:

17 Sec. 38.05.315. PUBLIC AND CHARITABLE USE. (a) The lease,
18 sale, or other disposal of state land or resources may be made to a
19 state or federal agency or political subdivision, or the lease, sale,
20 or disposal of coal deposits suitable for mining may be made to a
21 utility owned and operated by a government agency or nonprofit cooper-
22 ative association organized to participate under the Federal Rural
23 Electrification Act for the purpose of generating electric power and
24 energy or the production of process steam, or both, for less than the
25 appraised value as determined by [THE DIRECTOR AND APPROVED BY] the
26 commissioner to be fair and proper and in the best interests of the
27 public, with due consideration given to the nature of the public
28 services or function rendered by the agency, subdivision, or utility
29 making application, and of the terms of the grant under which the land

1 was acquired by the state.

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

16 (c) Eligible applicants under (b) - (d) of this section are
17 limited to nonprofit corporations, associations, clubs, or societies
18 organized and operated exclusively for charitable, religious, scien-
19 tific, or educational purposes, or for the promotion of social wel-
20 fare, if the project for which the land is desired conforms to those
21 objectives and not commercial development. No lease of land may be
22 granted under this section for a project closed to the use and enjoy-
23 ment of the general public. In every case the applicant shall submit
24 evidence that it is exempt from payment of federal income tax. As a
25 condition of and in consideration of the rights acquired under a lease
26 granted under (b) - (d) of this section, each eligible organization
27 and its parent or subsidiary organizations shall (1) maintain and
28 preserve books, accounts, and records that the commissioner [DIRECTOR]
29 prescribes by regulation as necessary and appropriate; and (2) accord

1 at all reasonable times to the state and its authorized agents and
2 auditors the right of access to those books, accounts and records for
3 the purpose of inspecting, examining and copying them. Any informa-
4 tion provided the state in the course of an audit becomes a matter of
5 public record.

6 (d) The commissioner [DIRECTOR] may lease the land to an eli-
7 gible applicant at a reasonable annual rental, taking into considera-
8 tion the purposes for which the land is to be used and the financial
9 resources of the applicant. The rental may not be less than one
10 percent of the fair market value on land [LANDS] acquired primarily
11 for development, or less than five percent of the fair market value on
12 university or acquired land [LANDS]. Rent may not be charged for
13 state land leased for a youth encampment. For the purposes of this
14 subsection, "youth encampment" shall be defined by the commissioner by
15 regulation. Renewal leases may be issued at the discretion of the
16 commissioner [DIRECTOR] upon the expiration of a primary or renewal
17 term. Each lease shall contain a provision for its termination as to
18 all or part of the land [LANDS] upon a finding by the commissioner
19 [DIRECTOR] that the land or a part of it has not been used by the
20 lessee for the purpose specified in the lease for a period of two
21 years. No lease may be assigned or subleased except with the consent
22 of the commissioner [DIRECTOR], and in any case may only be trans-
23 ferred to an applicant eligible under (b) - (d) of this section. A
24 lessee may not change the use specified in the lease to another or
25 additional use except with the consent of the commissioner [DIRECTOR].
26 If, at any time after the land is leased, the lessee attempts to
27 assign the lease or transfer control over the land to another, or if
28 the land is devoted to a use other than that for which the land was
29 leased without the consent of the commissioner [DIRECTOR], the lease

1 automatically terminates.

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

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

17 * Sec. 93. AS 38.05.320(b) is amended to read:

18 (b) Home rule cities and cities of the first class incorporated
19 on or before April 1, 1964, may apply, in the manner prescribed by the
20 commissioner [DIRECTOR], and in accordance with [SUCH] regulations
21 [AS] the commissioner [DIRECTOR] may adopt, for a conveyance to them
22 of all land [LANDS] seaward of the home rule cities and cities of the
23 first class which is [ARE] between the mean high tide line in, or
24 forming the boundary of, the home rule cities and cities of the first
25 class, and a line to be shown on a plat made a part of the application
26 which shall be the pierhead line established under the Act of Septem-
27 ber 7, 1957, or the harbor line established under the Act of March 3,
28 1899, or if no pierhead line or harbor line is established then a line
29 subject to approval by [THE DIRECTOR, WITH THE CONCURRENCE OF] the

1 commissioner [,] which shall be seaward of all tideland [TIDELANDS]
2 and submerged land [LANDS] occupied or suitable for occupation and
3 development without unreasonable interference with navigation. The
4 commissioner [DIRECTOR] shall convey that [THESE] tide and submerged
5 land [LANDS] to home rule cities and cities of the first class.
6 Applications by preference right claimants filed with the commissioner
7 [DIRECTOR] before June 30, 1964, shall continue to be processed to a
8 final determination and conveyance, if any by the commissioner [DIREC-
9 TOR], if such preference right claimants are entitled to a conveyance
10 from the commissioner [DIRECTOR] under the existing previous to
11 July 22, 1964.

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

25 (2) An occupant of land included in the conveyance to home
26 rule cities and cities of the first class, who occupied or developed
27 the land on and before September 7, 1957, has a class I preference
28 right to the land [LANDS] from the home rule cities and cities of the
29 first class upon the execution of a waiver to the state and the home

1 rule cities and cities of the first class of all rights the occupant
2 may have acquired under Public Law 85-303 (71 Stat. 623).

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

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

19 (5) In making a conveyance to an occupant, the home rule
20 cities and cities of the first class shall include as a part of the
21 tract conveyed and in addition to the occupied or developed land
22 [LANDS], such additional tide and submerged land as is [LANDS AS ARE]
23 reasonably necessary in the opinion of the governing body of the home
24 rule cities and cities of the first class for the occupant's use and
25 enjoyment of the occupied or developed land, but the conveyance shall
26 not include any area which would unjustly deprive an occupant of
27 adjoining land [LANDS] from reasonable use and enjoyment of it [THOSE
28 LANDS] or which, if developed, will interfere with navigation.

29 (6) Each home rule city and city of the first class receiv-

1 ing conveyances shall by ordinance provide for reasonable regulations
2 governing the filing and processing of applications, publication of
3 notices, and the adjudication of disputes between claimants by the
4 governing body of the home rule cities and cities of the first class.
5 A party aggrieved by its determination may appeal to the superior
6 court.

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

13 * Sec. 94. AS 38.05.320(c) is amended to read:

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

21 (1) A person who has a class II preference right in the
22 disposition of land by the state not provided for under paragraph
23 (b)(3), and who is unwilling to waive that right, has a preference
24 right to the land [LANDS] which it is mandatory for the commissioner
25 [DIRECTOR] to expeditiously honor upon application from the occupant
26 after the Secretary of the Army has submitted to the Secretary of the
27 Interior and the governor [OF THE STATE] maps showing the pierhead
28 line established by the corps of engineers with respect to the tract
29 so granted.

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

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

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

26 (5) In making a conveyance to an occupant, the commissioner
27 [DIRECTOR] shall include as a part of the tract conveyed, and in
28 addition to the occupied or developed land [LANDS], such additional
29 tide and submerged land as is [LANDS AS ARE] reasonably necessary in

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

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

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

16 * Sec. 95. AS 38.05.321(b) is amended to read:

17 (b) State land classified as agricultural land which has been
18 selected by a municipality under former AS 29.18.190 - 29.18.200 or
19 AS 29.18.205(e) may be approved by the commissioner [DIRECTOR] for
20 patent under AS 29.18.205(f); however, only rights in the land for
21 agricultural purposes may be transferred and all other interests in
22 the land will remain with the state. Agricultural land approved for
23 patent to a municipality under AS 29.18.205(f) shall be credited, acre
24 for acre, toward fulfillment of that municipality's entitlement under
25 AS 29.18.201 - 29.18.203. If the commissioner [DIRECTOR] later deter-
26 mines it to be in the best interests of the state to transfer some or
27 all of the additional rights in that approved or patented agricultural
28 land, those rights shall pass without consideration to the municipal-
29 ity in which the land is located. The notice and review provisions of

1 AS [38.05.305 AND] 38.05.345 are applicable to conveyance of rights
2 under this section.

3 * Sec. 96. AS 38.05.323(a) is amended to read:

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

13 * Sec. 97. AS 38.05.330(a) is amended to read:

14 (a) The [DIRECTOR, WITHOUT THE PRIOR APPROVAL OF THE] commis-
15 sioner [,] may issue permits, rights-of-way or easements on state land
16 for roads, trails, ditches, field gathering lines or transmission and
17 distribution pipelines not subject to AS 38.35.010 - 38.35.260, tele-
18 phone or electric transmission and distribution lines, log storage,
19 oil well drilling sites and production facilities for the purposes of
20 recovering minerals from adjacent land [LANDS] under valid lease, and
21 other similar uses or improvements, or for the limited personal use of
22 timber or materials. The commissioner [, UPON RECOMMENDATION OF THE
23 DIRECTOR,] shall establish a reasonable rate or fee schedule to be
24 charged for these uses, subject to the exception for nonprofit cooper-
25 ative associations specified in (b) of this section. In the granting,
26 suspension or revocation of a permit or easement of land [LANDS], the
27 commissioner [DIRECTOR] shall give preference to that use of the land
28 which will be of greatest economic benefit to the state and the devel-
29 opment of its resources. However, first preference shall be granted

1 to the upland owner for the use of a tract of tideland, or tideland
2 and contiguous submerged land, which is seaward of the upland property
3 of the upland owner and which is needed by the upland owner for any of
4 the purposes for which the use may be granted.

5 * Sec. 98. AS 38.05.335 is amended to read:

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

16 (b) Except as provided in (c) of this section, if a competitive
17 sale or lease of state land, minerals, timber or materials is to be
18 made by sealed bid, the commissioner [DIRECTOR] may require each
19 bidder to submit an earnest money deposit with each [HIS] bid. If the
20 sale or lease is by public auction, the commissioner [DIRECTOR] may
21 require each person desiring to bid to make an earnest money deposit
22 before bidding. The earnest money deposit of the highest qualified
23 bidder shall be applied toward the sale or lease price. If the suc-
24 cessful bidder defaults in the payment of the amount [HIS] bid, the
25 [HIS] deposit shall be forfeited to the state. All other earnest
26 money deposits shall be returned unless the commissioner decides to
27 award the contract to the second highest qualified bidder upon default
28 by the highest bidder rather than call for new bids, in which case the
29 commissioner may retain the deposit of the second highest qualified

1 bidder until final deposition of the land is made. A successful
2 bidder for a mineral lease who can prove to the satisfaction of the
3 commissioner within 45 days after notification of the lease award that
4 there is a reasonable doubt as to the ability of the state to grant a
5 valid lease to the land may withdraw the amount bid and have the
6 earnest money deposit returned [MAY WITHDRAW HIS BID AND HAVE HIS
7 EARNEST MONEY DEPOSIT RETURNED IF, WITHIN 45 DAYS AFTER NOTIFICATION
8 OF THE LEASE AWARD, HE CAN PROVE TO THE SATISFACTION OF THE COMMIS-
9 SIONER THAT THERE IS A REASONABLE DOUBT AS TO THE STATE'S ABILITY TO
10 GRANT A VALID LEASE TO THE LAND].

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

14 * Sec. 99. AS 38.05.340(a) is amended to read:

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

21 * Sec. 100. AS 38.05.348(a) is amended to read:

22 (a) The commissioner [DIRECTOR OF THE DIVISION OF LANDS] may
23 make grants of state land to persons and municipal corporations to
24 replace land which is rendered unusable by a natural disaster for the
25 purposes for which it was used before the natural disaster. The
26 commissioner [DIRECTOR] shall designate state land which is available
27 to replace land rendered unusable.

28 * Sec. 101. AS 38.05.348(c) is amended to read:

29 (c) An application for a grant of state land shall be filed with

1 the commissioner [DIRECTOR], and shall contain
2 (1) the name and address of the applicant;
3 (2) a legal description of the land rendered unusable;
4 (3) proof of ownership of the land; and
5 (4) a statement of the purpose for which the land was used
6 before the natural disaster rendered it unusable.

7 * Sec. 102. AS 38.05.348(d) is amended to read:

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

18 * Sec. 103. AS 38.05.349 is amended to read:

19 Sec. 38.05.349. DISPOSITION OF STATE LAND FOR FLOOD CONTROL
20 PROJECTS. The department [DIVISION OF LANDS] may make conveyances of
21 title or other interests in state land, provide for exchange of land,
22 or make other arrangements with respect to state land, as necessary to
23 meet federally established requirements of flood control projects
24 authorized inside the state by the United States before or after
25 June 6, 1971.

26 * Sec. 104. AS 38.05.351 is amended to read:

27 Sec. 38.05.351. BONA FIDE PURCHASERS. No right, title, or
28 interest of a bona fide purchaser of any lease, interest in a lease,
29 option to acquire a lease or an interest in it, acquired after the

1 effective date of issuance of the lease and held by a qualified per-
2 son, association, or corporation in conformity with this chapter shall
3 be canceled or forfeited or otherwise adversely affected by reason of
4 the fact that the holding of the person, association, or corporation
5 from which the lease, interest, or option was acquired, or of a [HIS]
6 predecessor in title (including the original lessee of the state) may
7 have been canceled or forfeited, or may be or have been subject to
8 cancellation or forfeiture. If, in any proceeding for cancellation or
9 forfeiture, an underlying lease, interest, or option is canceled or
10 forfeited to the state and there are valid interests therein or valid
11 options to acquire the lease or an interest therein which are not
12 subject to cancellation or forfeiture, the underlying lease, interest,
13 or option shall be sold by the commissioner [DIRECTOR] to the highest
14 responsible qualified bidder by competitive bidding under general
15 competitive leasing regulations subject to all outstanding valid
16 interests therein and valid options pertaining thereto. Likewise if,
17 in any such proceeding, less than the whole interest in a lease,
18 interest, or option is canceled or forfeited to the state, the partial
19 interests so canceled or forfeited shall be sold by the commissioner
20 [DIRECTOR] to the highest responsible qualified bidder under general
21 competitive leasing regulations.

22 * Sec. 105. AS 38.05.362(a) is amended to read:

23 (a) Notwithstanding any other provision of law, [THE DIRECTOR,
24 WITH THE APPROVAL OF] the commissioner, in consultation with other
25 appropriate agencies and entities, shall classify for agricultural
26 purposes

27 (1) no less than 650,000 acres of state patented or tenta-
28 tively approved land which is appropriate for agricultural purposes
29 but in no event less than 50 percent of the state patented or tenta-

1 tively approved land which on September 22, 1976 [THE EFFECTIVE DATE
2 OF THIS ACT] has been classified as Class II or Class III in detailed
3 soil surveys of the National Cooperative Soil Survey;

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

6 * Sec. 106. AS 38.05.365(5) is repealed.

7 * Sec. 107. AS 38.07.030(a) is amended to read:

8 (a) An owner of agricultural land, or a lessee from the state of
9 agricultural land, in the general vicinity of the land to be cleared
10 or drained under AS 38.07.010(a) [SEC. 10(a) OF THIS CHAPTER] may
11 apply to the commissioner to have the [HIS] land cleared or drained or
12 both along with the state land. The applicant's land shall be in-
13 cluded in the contract of land to be cleared or drained if, in the
14 discretion of the commissioner, the inclusion is feasible and furthers
15 the agricultural policies of the Department of Natural Resources
16 [DIVISION].

17 * Sec. 108. AS 38.08.010 is amended to read:

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

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

28 (1) comply with local zoning ordinances; or

29 (2) permit the design of a subdivision because of topo-

1 graphical features, soil conditions, on-site sewage disposal require-
2 ments, or water drainage or supply considerations unique to the sub-
3 division.

4 (c) Repealed.

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

8 * Sec. 109. AS 38.08.020 is amended to read:

9 Sec. 38.08.020. PUBLIC NOTICE. The commissioner [DIRECTOR]
10 shall publish notice of the availability of the land in newspapers of
11 general circulation in the state and by the electronic media covering
12 the region of the state in which the land is located. The notice
13 shall be published once each week for four consecutive weeks before
14 the beginning date of an application period [THE SAME MANNER AS PRO-
15 VIDED IN AS 38.05.345(e)].

16 * Sec. 110. AS 38.08.040(b) is amended to read:

17 (b) If the number of applicants qualified for homesite entry
18 exceeds the number of available homesites offered, or if several
19 applicants apply and qualify for the same homesite, priority in award
20 of an entry permit shall be accorded to that applicant showing proof
21 of the longest residency in the state. An applicant shall present
22 [HIS] proof of residency to the department in a manner designated by
23 the commissioner [DIRECTOR].

24 * Sec. 111. AS 38.08.060(a) is amended to read:

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

28 (1) occupies the land for a cumulative total of 35 months
29 within the seven-year period following issuance of the homesite entry

1 permit;

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

8 (3) reimburses the state for the survey and platting under-
9 taken in accordance with AS 38.08.010 - 38.08.120; the commissioner
10 [DIRECTOR] shall provide by regulation for installment payments of
11 this requirement.

12 * Sec. 112. AS 38.08.100 is amended to read:

13 Sec. 38.08.100. SUBSTANTIAL COMPLETION OF DWELLING. An entry
14 permit may not be revoked for failure to erect a dwelling in the time
15 required under AS 38.08.060(a)(2) [SEC. 60(a)(2) OF THIS CHAPTER] if
16 the commissioner [DIRECTOR] finds that erection of the dwelling has
17 been substantially completed and progress toward completion is being
18 made at the expiration of the time required.

19 * Sec. 113. AS 38.10.010 is amended to read:

20 Sec. 38.10.010. APPLICATION FOR TRANSFER. Upon application by a
21 municipal corporation with a population of less than 5,000 persons
22 according to the latest United States census entitled to a conveyance
23 of tide and submerged land [LANDS] under AS 38.05.320(b), the commis-
24 sioner of natural resources [DIRECTOR OF THE DIVISION OF LANDS OF THE
25 DEPARTMENT OF NATURAL RESOURCES] may make or provide for the making of
26 surveys that may be required for the transfer of tide and submerged
27 land [LANDS] to the municipal corporation, and as may be required for
28 subsequent conveyance of the tide and submerged land [LANDS] by the
29 municipal corporations to occupants of the land [THOSE LANDS] who hold

1 preference rights. When the application by the municipal corporation
2 is accepted, the governing body of the municipal corporation shall
3 execute a contract on a form approved by the attorney general provid-
4 ing for the survey under the sole management and supervision of the
5 commissioner [DIRECTOR] and for repayment according to the provisions
6 of this chapter.

7 * Sec. 114. AS 38.10.020 is amended to read:

8 Sec. 38.10.020. SURVEYS. The survey provided for in AS 38.10.-
9 010 [SEC. 10 OF THIS CHAPTER] shall define the outside boundary of the
10 land [LANDS] to be conveyed to the municipal corporation and shall, on
11 the same or separate plats, show all structures and improvements and
12 the boundaries of each tract occupied or developed, together with the
13 name of the owner or claimant, and shall contain sufficient data to
14 permit preparation of adequate legal descriptions of the tracts to be
15 conveyed. The plats shall provide the same information as to all
16 tracts adjoining the outside boundary of the land [LANDS] to be con-
17 veyed to the municipal corporation. A sketch plat, sufficient for its
18 purpose in the opinion of the commissioner of natural resources
19 [DIRECTOR], shall indicate the boundaries of each occupied or devel-
20 oped tract as determined by the governing body of the municipal corpo-
21 ration and the sketch plat shall be prepared and submitted to the
22 commissioner [DIRECTOR] before actual surveying shall begin. Nothing
23 in this chapter and nothing in a plat or sketch showing interior
24 subdivision of the land [LANDS] to be conveyed to the municipal corpo-
25 ration shall be construed as a determination of any preference right,
26 nor shall it prohibit adjustment and resurvey [RE-SURVEY] of the
27 interior subdivision.

28 * Sec. 115. AS 38.10.030 is amended to read:

29 Sec. 38.10.030. COSTS AND EXPENSES OF SURVEYS. Money shall be

1 appropriated from the general fund in an amount to be determined from
2 time to time by the legislature to facilitate the [SUCH] work. Ac-
3 counting of all costs and expenses of the surveys shall be made to the
4 municipal corporation by the commissioner of natural resources [DIREC-
5 TOR] periodically and a final accounting shall be made upon patent of
6 the land [LANDS] to the municipal corporation. Costs and expenses
7 chargeable to the city shall include the actual amount expended for
8 the survey and a reasonable allocation of overhead, travel and equip-
9 ment expense. The total amount of costs and expenses shall be repaid
10 to the fund through the commissioner [DIRECTOR] by the municipal
11 corporation for whom the survey was made, with interest at six percent
12 a year from the date of patent. The actual cost of survey of each
13 interior subdivision shall be determined by the commissioner [DIREC-
14 TOR]. For tracts conveyed to a preference right holder, the state
15 shall be reimbursed by the municipal corporation in the amount of the
16 survey costs of that tract as determined by the commissioner [DIREC-
17 TOR] within 30 days after the transfer of each tract. For tracts
18 conveyed, leased or otherwise disposed of by the municipal corpora-
19 tion, the fund shall be reimbursed by the municipal corporation in an
20 amount equal to 90 percent of the gross proceeds of the sale, lease or
21 other disposal of each tract until the total amount of the costs and
22 expenses of the survey, with interest, due the state is paid. The
23 total amount, with interest, shall be reimbursed to the state within
24 five years from the date of patent.

25 * Sec. 116. AS 38.10.050 is amended to read:

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

1 * Sec. 117. AS 38.35.220(c) is amended to read:

2 (c) Applications for pipeline permits which have been filed with
3 the Department of Natural Resources [DIVISION OF LANDS] before May 20,
4 1972 shall be considered as filed under this chapter but this does not
5 otherwise restrict the authority of the commissioner in acting on
6 these applications under this chapter; however, if the department
7 [DIVISION OF LANDS] has, before May 20, 1972, granted right-of-entry
8 to an applicant or issued a letter of no-objection to an applicant,
9 and the applicant thereafter fully complies with all of the terms and
10 conditions originally specified by the department [DIVISION OF LANDS]
11 or other agency, these applications are existing valid permits or
12 easements on May 20, 1972.

13 * Sec. 118. AS 38.50.010 is amended to read:

14 Sec. 38.50.010. AUTHORIZATION. Subject to the requirements of
15 this chapter, [THE DIRECTOR, WITH THE CONCURRENCE OF] the commissioner
16 [,] is authorized to dispose of state land or interest in land by
17 exchanging it for land, interest in land, or other consideration.
18 Exchanges shall be for the purpose of consolidating state land hold-
19 ings, creating land ownership and use patterns which will permit more
20 effective administration of the state public domain, facilitating the
21 objectives of state programs, or other public purposes.

22 * Sec. 119. AS 38.50.020 is amended to read:

23 Sec. 38.50.020. VALUE OF PROPERTIES EXCHANGED. (a) The land,
24 interest in land, and other consideration which the state receives in
25 an exchange made under this chapter shall be equal to or exceed the
26 appraised fair market value of the land, interest in land or property
27 exchanged by the state; however, the commissioner [DIRECTOR] may
28 accept cash from, or pay cash to, any other party to an exchange in
29 order to equalize the value of the property or other consideration

1 conveyed and received by the state. If the commissioner [DIRECTOR]
2 determines that the property to be exchanged is not equal in appraised
3 fair market value or if the value cannot be ascertained with reason-
4 able certainty, the commissioner [DIRECTOR] may enter into an exchange
5 upon a finding [IF HE FINDS] that the appraised fair market value of
6 the property to be received, together with the value of other public
7 benefits, equals or exceeds the value of the property which the state
8 will relinquish. An exchange for other than equal appraised fair
9 market value is subject to legislative review as provided in AS 38.-
10 50.140 [SEC. 140 OF THIS CHAPTER].

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

17 * Sec. 120. AS 38.50.030 is amended to read:

18 Sec. 38.50.030. PARTIES. (a) The commissioner [DIRECTOR] may
19 exchange land and interests [INTEREST] in land with a government
20 agency, organization, corporation, individual, or other person. At
21 the beginning of discussions concerning a proposed exchange, the
22 commissioner [DIRECTOR] shall require proof that each party to the
23 negotiations is the owner of, or is legally entitled to, the property
24 which the party desires to exchange and proof that a person acting as
25 an agent for a principal [THE PARTY] has the authority to negotiate an
26 exchange in behalf of the [HIS] principal.

27 (b) The commissioner [DIRECTOR] may negotiate an exchange in-
28 volving more than one party; however, in order to ascertain whether
29 the equal value requirements of this chapter have been met, the com-

1 missioner [DIRECTOR] shall consider only the land and other considera-
2 tion which the state would convey and receive if the exchange were
3 executed.

4 * Sec. 121. AS 38.50.040 is amended to read:

5 Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise
6 provided in AS 38.50.010 - 38.50.170, the commissioner [DIRECTOR] is
7 authorized to convey for purposes of exchange any state land or inter-
8 est in land regardless of the authority under which the land or inter-
9 est was obtained by the state. The conveyance of university land
10 shall be approved in the manner prescribed in AS 38.05.030.

11 * Sec. 122. AS 38.50.050 is amended to read:

12 Sec. 38.50.050. CONVEYANCE OF MINERAL RIGHTS. Subject to the
13 requirements of this chapter, the commissioner [DIRECTOR] is autho-
14 rized to exchange mineral rights in state land to the extent that the
15 conveyance is authorized by the state constitution and applicable
16 federal law. The commissioner [DIRECTOR] may not exchange or receive
17 the surface estate of land or the mineral rights in it, one without
18 the other, unless the separation of estate is necessitated by a prior
19 separation of ownership or by restrictions in applicable law, or the
20 commissioner [DIRECTOR] otherwise finds that the conveyance or receipt
21 of the surface or mineral estates, one without the other, is necessary
22 to achieve a significant public purpose.

23 * Sec. 123. AS 38.50.060 is amended to read:

24 Sec. 38.50.060. RESERVATIONS AND COVENANTS. The commissioner
25 [DIRECTOR] may include in any patent or other instrument issued under
26 this chapter any reservations and covenants relating to the land which
27 the commissioner [HE] he considers necessary to protect or promote the
28 public interest. Reservations and covenants may include, but are not
29 limited to, those relating to access, environmental protection, and

1 use or development rights. The commissioner [DIRECTOR] may receive
2 land which is subject to reservations and covenants if the commis-
3 sioner [HE] finds that the reservations and covenants are consistent
4 with the public interest.

5 * Sec. 124. AS 38.50.080 is amended to read:

6 Sec. 38.50.080. PROHIBITION AGAINST FUTURE CONSIDERATIONS AND
7 ALIENATION OF SELECTION RIGHTS. (a) The commissioner [DIRECTOR] may
8 not negotiate or enter into a land exchange agreement which requires
9 the identification of land, interest in land, or other consideration,
10 except for the performance of necessary survey work, at any time after
11 the agreement is initially executed.

12 (b) The commissioner [DIRECTOR], in implementing the provisions
13 of this chapter, may not alienate or agree not to exercise selection
14 rights granted to the state in the Alaska Statehood Act or other
15 applicable law authorizing the state to select land or interest in
16 land.

17 * Sec. 125. AS 38.50.090 is amended to read:

18 Sec. 38.50.090. COORDINATION WITH OTHER STATE AGENCIES. (a)
19 During the negotiation of a land exchange, the commissioner [DIRECTOR]
20 shall consult with other departments [AND OTHER DIVISIONS OF THE
21 DEPARTMENT OF NATURAL RESOURCES] relative to matters which are within
22 their jurisdiction. If land under the jurisdiction of a state agency
23 other than the Department of Natural Resources may be involved in a
24 proposed exchange, the commissioner [DIRECTOR] shall afford the head
25 of that agency an opportunity to participate in the discussions re-
26 specting the land.

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

1 * Sec. 126. AS 38.50.100 is amended to read:

2 Sec. 38.50.100. FINDING REQUIREMENT AS TO ALTERNATIVES. Before
3 circulating notice under AS 38.50.110 [SEC. 110 OF THIS CHAPTER], the
4 commissioner [DIRECTOR] shall consider other alternatives to achieve
5 the objectives of the proposed exchange in an effort to determine
6 whether the proposed exchange will best serve the public interest. In
7 making this determination, the commissioner [DIRECTOR] shall consider,
8 among other things, the advantages and disadvantages of acquiring the
9 land or interest in land for the state by means of purchase, lease, or
10 selection under the Alaska Statehood Act, or condemnation. In addi-
11 tion, the commissioner [HE] shall consider alternatives to the dis-
12 posal through exchange of the state land or interest in land, includ-
13 ing, but not limited to, lease or sale.

14 * Sec. 127. AS 38.50.110(a) is amended to read:

15 (1) Not more than 60 days nor less than 30 days before a public
16 hearing is scheduled under AS 38.50.120 the commissioner [DIRECTOR]
17 shall circulate a notice containing the information specified in (b)
18 of this section. The commissioner [DIRECTOR] shall

19 (1) publish or post the notice as provided in AS 38.05.345,
20 except as otherwise specified in this section; the commissioner [.
21 THE DIRECTOR] shall publish the notice in a newspaper of general
22 circulation in the vicinity of the land which the state will receive
23 and in the three most populated cities of the state;

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

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

27 (4) mail the notice to each municipality the boundaries of
28 which encompass or are located within six linear miles of land
29 involved in the proposed exchange;

1 (5) circulate the notice to the Office of the Governor and
2 to all state departments;

3 (6) Repealed.

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

8 (8) mail the notice to any other party, including an orga-
9 nization of land users, that the commissioner [HE] considers appropri-
10 ate.

11 * Sec. 128. AS 38.50.120 is amended to read:

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

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

20 * Sec. 129. AS 38.50.130 is amended to read:

21 Sec. 38.50.130. REPORT ON PROPOSED EXCHANGE. (a) In conjunc-
22 tion with the public notice required by AS 38.50.110, the commissioner
23 [DIRECTOR] shall prepare and distribute the report required by this
24 section to the parties listed in AS 38.50.110(a)(2) - (8) and to any
25 other party who requests it. The report shall contain, among other
26 things, a copy of the notice required by AS 38.50.110 and a discussion
27 in a concise format designed to facilitate public understanding of the
28 issues of

29 (1) the physical characteristics of the land involved,

1 including the surface and mineral resources associated with the land;

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

5 (3) the benefits and detriments which can be expected to
6 accrue, including possible social, economic, and environmental im-
7 pacts; and

8 (4) alternatives to the proposed exchange.

9 (b) Upon termination of the period provided for agency and
10 public comment, the report and the proposed land exchange may be
11 revised, if appropriate, to reflect comments or other information
12 which has come to the commissioner's [DIRECTOR'S] attention. A brief
13 summary of all comments and information received shall be appended to
14 the report.

15 * Sec. 130. AS 38.50.140 is amended to read:

16 Sec. 38.50.140. LEGISLATIVE REVIEW. Within 10 days of the
17 convening of a regular legislative session, the governor shall trans-
18 mit to the president of the senate and the speaker of the house of
19 representatives any proposal for a land exchange for other than equal
20 appraised fair market value which is scheduled to occur before the
21 next legislative session. If, in the view of the governor [HIS VIEW],
22 exigent circumstances seriously affecting state interests so require,
23 the governor may submit the proposed exchange to the legislature at
24 some other time. A finding of exigent circumstances shall be care-
25 fully documented in the letter of transmittal. The commissioner
26 [DIRECTOR] is authorized to conclude a proposed exchange agreement
27 unless either house of the legislature by simple resolution disap-
28 proves of the exchange within 60 legislative days of transmittal by
29 the governor. A decision by the legislature to disapprove a proposed

1 exchange shall be accompanied by a recommendation to the governor with
2 respect to future actions which the commissioner [DIRECTOR] should
3 take concerning the exchange.

4 * Sec. 131. AS 38.50.150 is amended to read:

5 Sec. 38.50.150. EXECUTION OF EXCHANGE. If a deed, contract of
6 exchange, or other instrument of conveyance which the commissioner
7 [DIRECTOR] receives to effectuate an exchange is properly executed,
8 acknowledged, and authorized by the appropriate party, the commis-
9 sioner [DIRECTOR] shall accept conveyance of title to the land and
10 other property which the state is to receive as consideration, and
11 [HE] shall issue a patent, contract of exchange or other instrument of
12 conveyance to the appropriate party for the property which the commis-
13 sioner [HE] is then obligated to convey. Before acceptance by the
14 commissioner [DIRECTOR] of a deed, contract of exchange or other
15 instrument, no action taken by the commissioner [HIM] or by any other
16 state official creates a right against the state with respect to state
17 land.

18 * Sec. 132. AS 38.50.170(2) is repealed.

19 * Sec. 133. AS 38.95.080(a) is amended to read:

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

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

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

28 * Sec. 134. AS 38.95.080(b) is amended to read:

29 (b) Nothing in (a) of this section prevents the commissioner

1 [DIRECTOR] from issuing a permit to more than one qualified person for
2 the construction and use of the same trapping cabin.

3 * Sec. 135. AS 38.95.080(c) is amended to read:

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

7 (1) permits shall be issued for a period of not more than
8 10 years, with succeeding 10-year renewal options, if periodic use and
9 occupancy is established, and the qualifications of (a) of this sec-
10 tion continue to be met;

11 (2) a cabin shall be constructed and maintained according
12 to reasonable specifications established by the commissioner [DIREC-
13 TOR]; one cabin constructed under a permit may contain not more than
14 400 square feet; however, in no case may another cabin constructed
15 under the same permit exceed 192 square feet;

16 (3) a permit shall specify the number of cabins allowed to
17 be constructed and indicate their specific geographical location; the
18 commissioner [DIRECTOR] may establish a maximum number of cabins per
19 person or otherwise limit their number because of the probability of
20 adverse consequences;

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

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

24 * Sec. 136. AS 40.15.070 is amended to read:

25 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be
26 subdivided or dedicated is situated within a first or second class
27 borough the proposed subdivision or dedication shall be submitted to
28 the borough planning commission for approval. If the land is situated
29 within a city in the unorganized borough or the third class borough

1 the proposed subdivision or dedication shall be submitted to the city
2 planning commission for approval. The borough planning commission is
3 the platting authority for the first or second class borough, the city
4 planning commission is the platting authority for the city, and the
5 Department of Natural Resources [DIVISION OF LANDS] is the platting
6 authority in the remaining areas of the state and third class borough
7 for the change or vacation of existing plats or a portion of such
8 plats, as provided in AS 40.15.075 [SEC. 75 OF THIS CHAPTER]. If the
9 borough or the city does not have a planning commission, the borough
10 assembly or the city governing body, respectively, is the platting
11 authority and the proposed subdivision or dedication shall be submit-
12 ted to it. No subdivision may be filed for record until it is ap-
13 proved by the platting authority.

14 * Sec. 137. AS 40.15.075 is amended to read:

15 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD
16 CLASS BOROUGHS. The Department of Natural Resources [DIVISION OF
17 LANDS] is the platting authority in the area outside organized bor-
18 oughs and outside cities in the unorganized borough and in the third
19 class borough for only the purposes of hearing and acting on petitions
20 for the change or vacation of plats and shall execute this function
21 substantially in conformity with the provisions of AS 29.33.210 -
22 29.33.240. Costs of publication and mailing as well as other costs
23 authorized in AS 29.33.210 shall be paid to the department [DIVISION]
24 by the petitioner. The commissioner of natural resources [DEPARTMENT
25 OF NATURAL RESOURCES] shall adopt reasonable regulations governing the
26 exercise of the authority conferred by this section upon the depart-
27 ment [DIVISION OF LANDS].

28 * Sec. 138. AS 41.15.040 is amended to read:

29 Sec. 41.15.040. RIGHT OF ENTRY TO CONTROL AND SUPPRESS FIRES.

1 Upon approval by the commissioner or an [HIS] authorized agent, em-
2 ployees of the Department of Natural Resources [DIVISION OF LANDS], or
3 of any organization authorized to prevent, control or suppress fires
4 or destructive agents, and others assisting in the control or sup-
5 pression of fires upon request of an officer or employee of the United
6 States or the state may at any time enter upon any land [LANDS],
7 whether publicly or privately owned, for the purpose of preventing,
8 suppressing or controlling forest fires and destructive agents.

9 * Sec. 139. AS 41.17.030(a) is amended to read:

10 (a) The division shall manage state forests and, as directed by
11 the commissioner, provide technical advice to the department [DIVISION
12 OF LANDS] on sound forest practices necessary to ensure the continuous
13 growing and harvesting of commercial forest species on other state
14 land.

15 * Sec. 140. AS 44.19.056 is amended to read:

16 Sec. 44.19.056. COMPOSITION. The State Geographic Board con-
17 sists of the commissioner [DIRECTOR] of the Department of Community
18 and Regional Affairs, the curator of the state museum, the state
19 historical librarian, the commissioner of the Department of Transpor-
20 tation and Public Facilities, the commissioner of the Department of
21 Natural Resources, the commissioner of the Department of Education,
22 [THE DIRECTOR OF THE DIVISION OF LANDS,] and two [ONE] other persons
23 [PERSON] appointed by the governor.

24 * Sec. 141. AS 44.62.330(a)(9) is amended to read:

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

27 * Sec. 142. AS 45.50.235(b) is amended to read:

28 (b) Timber property which becomes state property under the
29 provisions of this section may be sold under terms and conditions

1 established by the commissioner [DIRECTOR OF THE DIVISION OF LANDS].

2 * Sec. 143. AS 46.15.133(a) is amended to read:

3 (a) Upon receipt of an application, the commissioner shall
4 prepare a notice containing the location and extent of the proposed
5 appropriation, the name and address of the applicant and other infor-
6 mation the commissioner [HE] considers pertinent. The notice shall
7 state that within 15 days of publication or service of notice, persons
8 may file with the commissioner [DIRECTOR] written objections, stating
9 the name and address of the objector, and any facts tending to show
10 that rights of the objector or the public interest would be adversely
11 affected by the proposed appropriation.

12 * Sec. 144. AS 46.15.133(b) is amended to read:

13 (b) The commissioner shall publish the notice at the applicant's
14 expense in one issue of a newspaper of general distribution in the
15 area of the state in which the water is to be appropriated. The
16 commissioner shall also have notice served personally or by certified
17 mail upon an appropriator of water or applicant for or holder of a
18 permit who, according to the records of the Department of Natural
19 Resources [DIVISION OF LANDS], may be affected by the proposed appro-
20 priation and may serve notice upon any governmental agency, political
21 subdivision or person; notice shall also be served upon the Department
22 of Fish and Game and the Department of Environmental Conservation.

23 * Sec. 145. AS 46.15.260(7) is repealed.

Offered: 3/13/84
Referred: Finance

Original sponsor: Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 222 (2d Resources)
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 providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 19.30.070 is amended to read:

11 Sec. 19.30.070. CONTRACTS FOR CONSTRUCTION OF ROADS. The com-
12 missioner of natural resources [DIRECTOR OF THE DIVISION OF LANDS] may
13 contract with private persons for the construction of roads to and on
14 state land [LANDS] programmed for surface disposal which are not more
15 than six miles from existing roads or highways.

16 * Sec. 2. AS 19.30.080 is amended to read:

17 Sec. 19.30.080. CONSTRUCTION STANDARDS AND MAINTFNANCE. An
18 access road constructed under AS 19.30.060 - 19.30.100 shall be of low
19 standard, not necessarily suitable for all weather use. The state is
20 not under obligation to maintain an access road constructed under
21 AS 19.30.060 - 19.30.100. If an access road is constructed outside a
22 municipality that has zoning ordinances, the right-of-way width for
23 the road shall be determined by the Department of Natural Resources
24 [DIVISION OF LANDS] and the Department of Transportation and Public
25 Facilities. If an access road is constructed within the boundaries of
26 a municipality that has zoning ordinances, the right-of-way width
27 shall conform to the subdivision control ordinances of the municipal-
28 ity. Contracts for the work on an access road shall be awarded to the
29 lowest responsible bidder qualified to contract with the state.

1 * Sec. 3. AS 19.30.090 is amended to read:

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

16 * Sec. 4. AS 29.18.202 is amended to read:

17 Sec. 29.18.202. DETERMINATION OF ENTITLEMENT FOR CITIES. The
18 general grant land entitlement of a city formerly eligible to receive
19 general grant land under the provisions of former AS 29.18.190 and
20 29.18.200 [, AS REPEALED BY THIS ACT,] is 10 percent of the maximum
21 total acreage of vacant, unappropriated, unreserved land within the
22 boundaries of each city at any time between the initial date of eligi-
23 bility under former AS 29.18.190 and 29.18.200 and July 1, 1978.
24 Within six months of July 1, 1978, the commissioner [DIRECTOR] shall
25 determine the entitlement for each city eligible to receive general
26 grant land under this section and certify that entitlement to the
27 city.

28 * Sec. 5. AS 29.18.203(b) is amended to read:

29 (b) Within six months of the date of incorporation of a munic-

1 ipality which is incorporated after July 1, 1978, the commissioner
2 [DIRECTOR] shall determine the entitlement of each municipality eli-
3 gible to receive general grant land under (a) of this section and
4 certify the entitlement to the municipality.

5 * Sec. 6. AS 29.18.204(c) is amended to read:

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

14 * Sec. 7. AS 29.18.204(d) is amended to read:

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

19 * Sec. 8. AS 29.18.205(b) is amended to read:

20 (b) All approved selections under former AS 29.18.190 and
21 29.18.200 for which patent has not been issued to a municipality on
22 July 1, 1978 shall be reviewed by the commissioner [DIRECTOR] within
23 nine months of July 1, 1978. Any approved selection of land which was
24 vacant, unappropriated or unreserved on the date of selection is valid
25 as of the date of the approval under former AS 29.18.190 and 29.18.-
26 200, and a patent shall be issued to the municipality within three
27 months after approval by the commissioner [DIRECTOR] of a plat of
28 survey. The acreage shall be credited toward fulfillment of the
29 municipality's entitlement. No municipality is entitled to receive

1 patent under AS 29.18.011 - 29.18.610 to more than its entitlement
2 determined under AS 29.18.201 - 29.18.203. Any prior approval by the
3 commissioner [DIRECTOR] of municipal selections for land which was not
4 vacant, unappropriated or unreserved on the date of selection shall be
5 rescinded, and patent may not be issued except when disposal to a
6 third party by sale or lease has occurred. Transfers of land to
7 municipalities under AS 29.18.011 - 29.18.610 are subject to AS 38.-
8 05.321. Classification actions as reflected upon the land status
9 records of the Department of Natural Resources are determinative of
10 land classification status for purposes of AS 29.18.011 - 29.18.610.

11 * Sec. 9. AS 29.18.205(f) is amended to read:

12 (f) The commissioner [DIRECTOR] shall approve each selection for
13 patent within nine months of its selection by a municipality, and a
14 patent shall be issued to the municipality for land selected in satis-
15 faction of a general grant land entitlement vested under AS 29.18.-
16 201 - 29.18.203 within three months after approval by the commissioner
17 [DIRECTOR] of a plat of survey.

18 * Sec. 10. AS 29.18.206(d) is amended to read:

19 (d) Within six months after approval of a municipal selection of
20 school, university, or mental health land, the commissioner [DIRECTOR]
21 shall identify state general grant land of approximately equal value
22 to the land requested by the municipality, and shall propose the
23 replacement land for the concurrence of the appropriate board. If a
24 proposal by the commissioner [DIRECTOR] is rejected by the board, the
25 commissioner [DIRECTOR] shall meet with the board as often as neces-
26 sary to determine the type and amount of equal value replacement land
27 that would be required to obtain the board's concurrence, and shall
28 propose the replacement land for consideration by the board. The
29 replacement land shall thereafter be managed for the purposes for

1 which the land selected by the municipality was acquired by the
2 Territory and State of Alaska.

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

4 (e) The notice and review provisions of AS [38.05.305 AND]
5 38.05.345 are applicable to the designation of other general grant
6 land as school, university or mental health land in replacement of
7 land selected under this section. The provisions of AS 38.50 [AND
8 38.05.032] do not apply to such designations under this section. [THE
9 PROVISIONS OF AS 38.05.030(a), 38.05.030(e), AND 38.05.035(a)(13)
10 WHICH REQUIRE THE APPROVAL OF THE RESPECTIVE TRUST BOARD BEFORE
11 DISPOSAL OF LANDS BY THE DIRECTOR DO NOT APPLY TO SELECTIONS OF
12 SCHOOL, UNIVERSITY OR MENTAL HEALTH LAND BY A MUNICIPALITY UNDER THIS
13 SECTION.]

14 * Sec. 12. AS 29.18.207(c) is amended to read:

15 (c) If land selected by a municipality is unsurveyed at the time
16 of approval, the commissioner [DIRECTOR] shall survey, or may approve
17 the municipality's survey of, the exterior boundaries of an approved
18 selection without interior subdivision, and shall issue patent in
19 terms of the exterior boundary survey. The cost of the survey shall
20 be borne by the municipality. If land selected by a municipality has
21 been surveyed at the time of its selection, the boundaries shall
22 conform to the public land subdivisions established by the approved
23 survey.

24 * Sec. 13. AS 29.18.207(d) is amended to read:

25 (d) The commissioner [DIRECTOR] may approve municipal selections
26 of land which have been tentatively approved or patented to the state
27 by the federal government, but the commissioner [HE] may not issue
28 patent to a municipality until the land has first been patented to the
29 state. After approval of a selection by the commissioner [DIRECTOR],

1 but before patent to a municipality, the municipality may execute
2 conditional leases and make conditional sales only with the consent of
3 the commissioner [DIRECTOR]. Conditional sales and conditional leases
4 made before July 1, 1978 do not require the consent of the commis-
5 sioner [DIRECTOR].

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

7 Sec. 29.18.209. AUTHORIZATION FOR LAND EXCHANGES. The [DIREC-
8 TOR, WITH THE CONCURRENCE OF THE] commissioner [,] and any municipali-
9 ty are authorized to exchange land or interests in land when it is in
10 the public interest. Land or interests in land exchanged under this
11 section must be of approximately equal value, including the non-
12 monetary value of public benefits. Exchange procedures shall comply
13 with applicable law and municipal ordinances. The notice and review
14 provisions of AS [38.05.305 AND] 38.05.345 are applicable to exchanges
15 of land under this section. The provisions of AS 38.50.010 - 38.50.-
16 170 do not apply to exchanges of land under this section.

17 * Sec. 15. AS 29.18.210(b) is amended to read:

18 (b) Where state land is the most logical location for demon-
19 strated municipal expansion for nonpublic settlement and development
20 purposes, and when an exchange of land under AS 29.18.209 is not
21 possible or is not in the public interest, it is the policy of the
22 state to sell or lease the land at public auction. The state may
23 contract with a municipality to act as its agent in an auction of
24 state land under applicable statutes. When a municipality acts as the
25 agent of the state in an auction, the municipality may retain from the
26 proceeds of the auction the expenses that [WHICH] the commissioner
27 [DIRECTOR] determines to be necessary and reasonable.

28 * Sec. 16. AS 29.18.210(c) is amended to read:

29 (c) Nothing in AS 29.18.011 - 29.18.610 limits or impairs the

1 authority of the commissioner [DIRECTOR] to transfer land to
2 municipalities, without limit or consideration, for public purposes in
3 accordance with AS 38.05.315. If there is a remaining entitlement of
4 the municipality, land transferred under AS 38.05.315 shall be cred-
5 ited toward fulfillment of the entitlement.

6 * Sec. 17. AS 29.18.211(a) is amended to read:

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

23 * Sec. 18. AS 29.18.213 is amended to read:

24 Sec. 29.18.213. DEFINITIONS. In AS 29.18.201 - 29.18.213,
25 unless the context otherwise requires,

26 [(1) Repealed]

27 (1) [(2)] "approved selection" means a municipal land
28 selection that [WHICH] has been approved in writing by the
29 commissioner [DIRECTOR] for transfer by patent to a municipality;

1 (2) [(3)] "commissioner" ["DIRECTOR"] means the
2 commissioner [DIRECTOR] of the [DIVISION OF LANDS,] Department of
3 Natural Resources, or the commissioner's [HIS] designee;

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

7 (4) [(5)] "mental health land" means land granted under
8 Title II, sec. 202 of P.L. 84-830, as amended before or after July 1,
9 1978;

10 (5) [(6)] "municipal land selection" means a request by a
11 municipality, filed in writing, with the commissioner [DIRECTOR] under
12 authority of AS 29.18.190 and 29.18.200 repealed by this Act or under
13 AS 29.18.201 - 29.18.213 for vacant, unappropriated, unreserved
14 general grant land within its municipal boundaries in partial
15 fulfillment of its municipal entitlement;

16 (6) [(7)] "municipality" means a home rule or general law
17 city or organized borough of any class, and includes unified
18 municipalities established under AS 29.68.240 - 29.68.440;

19 (7) [(8)] "patent" means a document, issued by the
20 commissioner [DIRECTOR] to a municipality for a previously approved
21 selection, which conveys and quitclaims all the right, title and
22 interest of the state without reservation or condition except as may
23 be required by law;

24 (8) [(9)] "remaining entitlement" means the general grant
25 land entitlement determined in accordance with AS 29.18.201 -
26 29.18.213, reduced by the total acreage of approved selections,
27 including both patented and unpatented parcels;

28 (9) [(10)] "school land" means those rectangular sections
29 16 and 36 within each township surveyed on or before January 3, 1959,

1 and confirmed and transferred to the State of Alaska upon its
2 admission under sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any
3 other land designated solely for school revenues;

4 (10) [(11)] "university land" has the meaning given that
5 term in AS 38.05.365 [MEANS ALL SECTIONS 33 RESERVED TO THE UNIVERSITY
6 UNDER 38 STAT. 1214, AS AMENDED (48 U.S.C. 353) AND ALL LAND GRANTED
7 TO OR RESERVED FOR THE BENEFIT OF THE UNIVERSITY];

8 (11) [(12)] "vacant, unappropriated, unreserved land" means
9 general grant land as defined in (4) of this section, excluding
10 minerals as required by sec. 6(i) of the Alaska Statehood Act, that
11 [WHICH]

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

14 (B) has not been approved for patent to a municipality
15 under AS 29.18.201 - 29.18.213 or former AS 29.18.190 and
16 29.18.200 repealed by this act; or

17 (C) is unclassified or, if classified under
18 AS 38.05.300, is classified for agricultural, grazing,
19 commercial, industrial private recreational, residential,
20 utility or open-to-entry purposes, or where classified in
21 accordance with an agreement between a municipality and the state
22 providing for state management of land of the municipality.

23 * Sec. 17. AS 30.15.040 is amended to read:

24 Sec. 30.15.040. DISPOSITION OF STATE LAND FOR PORT FACILITIES
25 DEVELOPMENT PROJECTS. The [DIVISION OF LANDS IN THE] Department of
26 Natural Resources, subject to the applicable provisions of AS 38.05
27 and AS 38.10, may convey title or other interests in state land,
28 provide for the exchange of state land, or make other arrangements
29 with respect to state land that may be necessary to complete a project

1 for which a state grant is approved under this chapter.

2 * Sec. 20. AS 38.04.005(b) is amended to read:

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

16 * Sec. 21. AS 38.04.010(a) is amended to read:

17 (a) The primary public interest in conveying rights to state
18 land surface to private parties is to make them available to individ-
19 uals and other persons for direct use in areas classified as suitable
20 for these purposes. In making state land available for private use,
21 the commissioner [DIRECTOR] shall seek to guide year-round settlement
22 to areas where public services already exist, or can be extended with
23 reasonable economy, or where development of a viable economic base is
24 probable.

25 * Sec. 22. AS 38.04.025 is amended to read:

26 Sec. 38.04.025. VARIETY OF USES. In making state land available
27 for private use, the commissioner [DIRECTOR] shall endeavor to accom-
28 modate persons with a current need and anticipated use for the land.
29 To this end, the commissioner [DIRECTOR] shall assess the nature of

1 the supply and demand for state land in different regions and
2 locations of the state, taking into account the supply of available
3 land under other ownership, and shall make land available in locations
4 and under programs suited to the differing needs of prospective users
5 throughout the state.

6 * Sec. 23. AS 38.04.030 is amended to read:

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

15 * Sec. 24. AS 38.04.035 is amended to read:

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

20 (1) To cover public costs associated with private land use
21 and to provide the public with a fair return for publicly owned prop-
22 erty, conveyance of state land to private parties should be at fair
23 market value except where otherwise authorized by statute, or by an
24 administrative regulation the adoption of which is specifically per-
25 mitted by statute.

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

1 (3) Sale programs are preferred but lease programs should
2 be used

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

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

7 (C) in commercial or industrial situations where a
8 leasehold can provide cash flow advantages to the lessee;

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

12 (E) where current demand for private use is high, but
13 projections suggest that, in the future, the land may be more
14 valuable for public use as in accessible waterfront recreation
15 areas.

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

19 (5) Limited or conditional title may be granted when the
20 state's best interest so dictates. Among other things, title limita-
21 tions may include grants of agricultural interest only, retention of
22 development rights, and retention of scenic or other easements. A
23 conditional title may be tied to a development schedule or other
24 standards of performance.

25 * Sec. 25. AS 38.04.045(b) is amended to read:

26 (b) Before the conveyance of surface rights to state land, an
27 official cadastral survey shall be accomplished, unless a comparable,
28 acceptable survey exists that has been conducted by the federal Bureau
29 of Land Management. The rectangular survey section corner positions

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

21 * Sec. 26. AS 38.04.050 is amended to read:

22 Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state
23 land is surveyed for purposes of private use, adequate rights-of-way
24 and easements shall be reserved as necessary for access and, where
25 appropriate, for power and telephone service to each parcel of land.
26 Where necessary and appropriate for the use intended, the commissioner
27 [DIRECTOR] shall arrange for the development of surface access as part
28 of the land availability program. The direct cost of local access
29 development shall be borne by the recipient of the land unless other-

1 wise provided by state statutes or regulations.

2 * Sec. 27. AS 38.04.055 is amended to read:

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

9 * Sec. 28. AS 38.04.910(2) is amended to read:

10 (2) "department" means ["DIRECTOR" MEANS THE DIRECTOR OF
11 THE DIVISION OF LANDS (F) the Department of Natural Resources;

12 * Sec. 29. AS 38.04.910(5) is amended to read:

13 (5) "official cadastral survey" means a United States
14 public land survey or a survey executed under survey instructions
15 issued by the department [DIVISION] for the purpose of preparing a
16 cadastral survey plat, and approved and accepted by the department
17 [DIVISION] for the state's official records;

18 * Sec. 30. AS 38.04.910(6) is amended to read:

19 (6) "official control survey" means a position marked on
20 the ground by triangulation or traverse stations established in con-
21 formity with standards adopted by United States Coastal and Geodetic
22 Survey for first, second and third order work, whose geodetic posi-
23 tions have been rigidly adjusted on the North American datum of 1927
24 and approved by the department [DIVISION];

25 * Sec. 31. AS 38.05.020(b) is amended to read:

26 (b) The commissioner may

27 (1) establish reasonable procedures and adopt reasonable
28 [RULES AND] regulations necessary to carry out this chapter [AND MAY,
29 WHENEVER NECESSARY, ISSUE DIRECTIVES OR ORDERS TO THE DIRECTOR TO

1 CARRY OUT SPECIFIC FUNCTIONS AND DUTIES]; all [RULES AND] regulations
2 adopted by the commissioner shall be adopted under the Administrative
3 Procedure Act (AS 44.62); orders classifying land by the commissioner
4 [CLASSIFYING LANDS] issued after January 3, 1959, are not required to
5 be adopted under the Administrative Procedure Act (AS 44.62);

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

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

10 (3) [(4)] exercise the powers and do the acts necessary to
11 carry out the provisions and objectives of this chapter;

12 (4) [(5)] notwithstanding the provisions of any other
13 section of this chapter, grant an extension of the time within which
14 payments due on any lease or sale of state land, minerals, or
15 materials may be made, including payment of rental and royalties, if
16 the commissioner [HE] finds that compliance with the requirements is
17 or was prevented by reason of war, riots, or acts of God; [.]

18 (5) [(6)] classify tracts for agricultural uses and require
19 the prequalification, including the submission of conservation plans,
20 development plans, or other plans, schedules, or programs, of persons
21 who apply to participate in an agricultural development project under
22 AS 44.33.475.

23 * Sec. 32. AS 38.05.030 b) is amended to read:

24 (b) The provisions of this chapter do not apply to any power,
25 duty or authority now or in the future granted to the Department of
26 Transportation and Public Facilities [PUBLIC WORKS AND THE DEPARTMENT
27 OF HIGHWAYS] in the name of the state, to acquire, use, lease, dispose
28 of, or exchange real property, or any interest in real property.
29 Lands assigned by the department [DIVISION OF LANDS] to the Department

1 of Transportation and Public Facilities [PUBLIC WORKS AND THE
2 DEPARTMENT OF HIGHWAYS] shall be returned to the management of the
3 department [DIVISION OF LANDS] when they are no longer needed for the
4 purposes assigned.

5 * Sec. 33. AS 38.05.030(c) is amended to read:

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

12 * Sec. 34. AS 38.05.030(d) is amended to read:

13 (d) Real property acquired by, and under the management of, the
14 agencies referred to in (a) and (b) of this section, which is no
15 longer needed for its intended use, shall be returned to the jurisdic-
16 tion of the department [DIVISION OF LANDS], except that the Department
17 of Transportation and Public Facilities [HIGHWAYS] may dispose of real
18 property acquired by it under AS 19.05.040(2) and AS 19.05.080 -
19 19.05.120.

20 * Sec. 35. AS 38.05.035 is repealed and reenacted to read:

21 Sec. 38.05.035. POWERS AND DUTIES OF THE COMMISSIONER. (a) The
22 commissioner shall

23 (1) manage, inspect and control state land and improvement
24 on it belonging to the state and under the jurisdiction of the depart-
25 ment;

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

29 (3) prescribe fees or service charges for any public ser-