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CHAPTER 65. GENERAL GRANT LAND

(CHAPTER 18., ARTICLE 3A., GENERAL GRANT LAND)

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2 Sec. 29.65.010. (Sec. 29.18.201.) DETERMINATION OF ENTITLEMENT OF
3 BOROUGH AND UNIFIED MUNICIPALITIES. The general grant land entitlement of
4 each of the municipalities in this section is the amount set out opposite
5 each:

- 6 (1) Municipality of Anchorage - 44,893 acres;
7 (2) City and Borough of Juneau - 19,584 acres;
8 (3) City and Borough of Sitka 10,500 acres;
9 (4) Bristol Bay Borough - 2,898 acres;
10 (5) Fairbanks North Star Borough - 112,000 acres;
11 (6) Haines Borough - 2,800 acres;
12 (7) Kenai Peninsula Borough - 155,780 acres;
13 (8) Ketchikan Gateway Borough 11,593 acres;
14 (9) Kodiak Island Borough - 56,500 acres;
15 (10) Matanuska-Susitna Borough - 355, 210 acres;
16 (11) North Slope Borough - 89,850 acres.

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18 Sec. 29.65.020. (Sec. 29.18.202.) DETERMINATION OF ENTITLEMENT FOR
19 CITIES. The general grant land entitlement of a city formerly eligible to
20 receive general grant land under the provisions of secs. 190 and 200 of
21 this chapter, as repealed by this act, is 10 percent of the maximum total
22 acreage of vacant, unappropriated, unreserved land within the boundaries of
23 each city at any time between the initial date of eligibility under former
24 secs. 190 and 200 of this chapter and July 1, 1978. Within six months of
25 July 1, 1978, the director shall determine the entitlement for each city
26 eligible to receive general grant land under this section and certify that
27 entitlement to the city.

28 Sec. 29.65.030. (Sec. 29.18.203.) DETERMINATION OF ENTITLEMENT FOR
29 NEWLY INCORPORATED MUNICIPALITIES. (a) The general grant land entitlement

1 of a municipality incorporated after July 1, 1978 is 10 percent of the total
2 acreage of vacant, unappropriated, unreserved land within the boundaries of
3 the municipality on the date of incorporation of that municipality.

4 (b) Within six months of the date of incorporation of a
5 municipality which is incorporated after July 1, 1978, the director shall
6 determine the entitlement of each municipality eligible to receive general
7 grant land under (a) of this section and certify the entitlement to the
8 municipality.

9 Sec. 29.65.040. (Sec. 29.18.204.) STATUS OF ENTITLEMENTS. (a) After
10 July 1, 1978, general grant land entitlements provided in AS 29.18.201 and
11 29.18.202 are vested property rights which must be fulfilled as provided in
12 AS 29.18.205 or 29.18.208.

13 (b) General grant land entitlements provided by AS 29.18.203 are
14 property rights which vest on the date of incorporation of the municipality.
15 The entitlement must be fulfilled as provided in AS 29.18.205.

16 (c) Land may be selected by a municipality to satisfy a general
17 grant land entitlement under AS 29.18.201 and 29.18.202 at any time before
18 October 1, 1980.

19 (d) Land may be selected by a municipality to satisfy a general
20 grant land entitlement under AS 29.18.203 at any time within one year after
21 the director certifies the entitlement to the municipality.

22 (e) The time limitations imposed by (c) and (d) of this section
23 for exercising a vested general grant land entitlement do not apply to

24 (1) the portion of an entitlement which cannot be satisfied
25 by that date because of a shortage of land suitable for residential,
26 commercial and industrial purposes which is vacant, unappropriated,
27 unreserved land;

28 (2) payments for land deficiency under AS 29.18.208;

1 (3) the portion of an entitlement which cannot be satisfied
2 because the land selected by a municipality has been selected by a party
3 entitled to select land owned by the United States or the state; or

4 (4) the portion of an entitlement which cannot be satisfied
5 because the land nominated for selection by the municipality is not tenta-
6 tively approved for patent to the state.

7 Sec. 29.65.050. (Sec. 29.18.205.) FULFILLMENT OF LAND ENTITLEMENTS

8 (a) The acreage of each municipality's land selections under former secs.
9 190 and 200 of this chapter for which patent has been issued before July 1,
10 1978 shall be credited toward fulfillment of the entitlement of that
11 municipality.

12 (b) All approved selections under former secs. 190 and 200 of this
13 chapter for which patent has not been issued to a municipality on July 1,
14 1978 shall be reviewed by the director within nine months of July 1, 1978.
15 Any approved selection of land which was vacant, unappropriated or
16 unreserved on the date of selection is valid as of the date of the approval
17 under former secs. 190 and 200 of this chapter, and a patent shall be issued
18 to the municipality within three months after approval by the director of a
19 plat of survey. The acreage shall be credited toward fulfillment of the
20 municipality's entitlement. No municipality is entitled to receive patent
21 under this chapter to more than its entitlement determined under secs. 201 -
22 203 of this chapter. Any prior approval by the director of municipal
23 selections for land which was not vacant, unappropriated or unreserved on
24 the date of selection shall be rescinded, and patent may not be issued
25 except when disposal to a third party by sale or lease has occurred.
26 Transfers of land to municipalities under this chapter are subject to AS
27 38.05.321. Classification actions as reflected upon the land status records
28 of the Department of Natural Resources are determinative of land
29 classification status for purposes of this chapter.

1 (c) Repealed by sec. 45 ch 85 SLA 1979.

2 (d) Repealed by sec. 45 ch 85 SLA 1979.

3 (e) Repealed by sec. 45 ch 85 SLA 1979.

4 (f) The director shall approve each selection for patent within
5 nine months of its selection by a municipality, and a patent shall be issued
6 to the municipality for land selected in satisfaction of a general grant
7 land entitlement vested under AS 29.18.201 - 29.18.203 within three months
8 after approval by the director of a plat of survey.

9 (g) Repealed by sec. 45 ch 85 SLA 1979.

10 (h) Repealed by sec. 45 ch 85 SLA 1979.

11 (i) Repealed by sec. 45 ch 85 SLA 1979.

12 Sec. 29.65.060. (Sec. 29.18.206.) SCHOOL, UNIVERSITY AND MENTAL
13 HEALTH LAND. (a) If an entitlement determined in sec. 201 or 202 of this
14 chapter results in a per capita entitlement for the municipality of less
15 than one and one-half acre, the municipality may select vacant school,
16 university or mental health land within the municipality in partial
17 fulfillment of its land entitlement under this chapter. School, university
18 or mental health land may be selected notwithstanding the fact that these
19 lands are not unappropriated and unreserved within the meaning of this
20 chapter and secs. 190 and 200 of this chapter, repealed by this act, but
21 each selection of school, university or mental health land by a municipality
22 must be vacant, unappropriated, or unreserved land as defined in this
23 chapter, except that it need not be general grant land.

24 (b) The acreage of school, university or mental health land, if
25 any, within a municipality may not be included in the determination of
26 entitlement under sec. 201 or 202 of this chapter.

27 (c) Land conveyed under this section will be credited against a
28 municipality's remaining land entitlement under this chapter.
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1 (d) Within six months after approval of a municipal selection of
2 school, university, or mental health land, the director shall identify state
3 general grant land of approximately equal value to the land requested by the
4 municipality, and shall propose the replacement land for the concurrence of
5 the appropriate board. If a proposal by the director is rejected by the
6 board, the director shall meet with the board as often as necessary to
7 determine the type and amount of equal value replacement land that would be
8 required to obtain the board's concurrence, and shall propose the
9 replacement land for consideration by the board. The replacement land shall
10 thereafter be managed for the purposes for which the land selected by the
11 municipality was acquired by the Territory and State of Alaska.

12 (e) The notice and review provisions of AS 38.05.305 and 38.05.345
13 are applicable to the designation of other general grant land as school,
14 university or mental health land in replacement of land selected under this
15 section. The provisions of AS 38.50 and AS 38.05.032 do not apply to such
16 designations under this section. The provisions of AS 38.05.030(a),
17 38.05.030(e), and 38.05.035(a)(13) which require the approval of the
18 respective trust board before disposal of lands by the director do not apply
19 to selections of school, university or mental health land by a municipality
20 under this section.

21 (f) For purposes of determining the per capita entitlement under
22 (a) of this section, the population of a municipality shall be the
23 population determined by the commissioner of the Department of Community and
24 Regional Affairs under AS 43.18.010 for the program year beginning July 1,
25 1978 for a municipality whose entitlement is determined under sec. 201 or
26 202 of this chapter.

27 Sec. 29.65.070. (Sec. 29.18.207.) SELECTION AND CONVEYANCE PROCEDURE.

28 (a) Repealed by sec. 45 ch 85 SLA 1979.
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(b) Repealed by sec. 45 ch 85 SLA 1979.

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2 (c) If land selected by a municipality is unsurveyed at the time
3 of approval, the director shall survey, or may approve the municipality's
4 survey of, the exterior boundaries of an approved selection without interior
5 subdivision, and shall issue patent in terms of the exterior boundary
6 survey. The cost of the survey shall be borne by the municipality. If land
7 selected by a municipality has been surveyed at the time of its selection,
8 the boundaries shall conform to the public land subdivisions established by
9 the approved survey.

10 (d) The director may approve municipal selections of land which
11 have been tentatively approved or patented to the state by the federal
12 government, but he may not issue patent to a municipality until the land has
13 first been patented to the state. After approval of a selection by the
14 director, but before patent to a municipality, the municipality may execute
15 conditional leases and make conditional sales only with the consent of the
16 director. Conditional sales and conditional leases made before July 1, 1978
17 do not require the consent of the director.

18 (e) Nothing in this chapter affects a valid existing claim,
19 location or entry under the laws of the state or the United States whether
20 for homestead, mineral, right-of-way or other purposes. Nothing in this
21 chapter affects the rights of an owner, claimant, locator or entryman to the
22 full use and enjoyment of the land so occupied.

23 Sec. 29.65.080. (Sec. 29.18.208.) PAYMENT FOR LAND DEFICIENCY. (a)
24 There is established within the general fund the Alaska municipal land
25 account for the following purposes:

26 (1) providing payment to the boroughs and unified
27 municipalities designated in AS 29.18.201 for a deficiency of land
28 physically suitable for residential, commercial or industrial purposes; or
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1 (2) providing payment to the boroughs and unified
2 municipalities designated in sec. 201 of this chapter for certain general
3 grant lands selected by the state and conveyed to a Native corporation under
4 the provisions of the Alaska Native Claims Settlement Act.

5 (b) A municipality shall receive payment for its land deficiency
6 from the account established in (a) of this section. A municipality's
7 eligible to receive payment for land deficiency if, after July 1, 1980, the
8 amount of land selected by a municipality which is physically suitable for
9 residential, commercial or industrial purposes amounts to less than
10 one-third acre per capita. Any entitlement under AS 29.18.201 which is less
11 than one-third acre per capita will, for the purposes of this subsection, be
12 considered a land deficiency. An unselected remaining entitlement will, for
13 the purpose of deficiency payment under this subsection, be considered as
14 land physically suitable for residential, commercial or industrial purposes.
15 A municipality eligible under this subsection is entitled to receive a
16 payment for land deficiency equal to \$1,000 per acre for a number of acres
17 equal to the difference between one-third of the population of the
18 municipality less the number of acres physically suitable for residential,
19 commercial or industrial purposes which has been selected by the
20 municipality. For the purpose of this subsection, the population of the
21 municipality shall be the population determined in accordance with AS
22 29.18.206(f). No payment may be made to a municipality under this subsection
23 in excess of \$9,000,000.

24 (c) If a municipality selected vacant, unappropriated, unreserved
25 land on or before December 18, 1971, to which the state had received
26 tentative approval or patent, and such land was also selected by a Native
27 corporation organized under the Alaska Native Claims Settlement Act (P.L.
28 92-203), and title to that land is ultimately vested in that Native
29 corporation, the municipality may, at its option, request payment for land

1 deficiency from the account established in (a) of this section. The
2 acceptance of payment under this subsection by a municipality constitutes a
3 relinquishment of any other right, title or claim to the land by that
4 municipality. The total payment to a municipality under this subsection may
5 not exceed \$1,000 per acre to a maximum of 8,000 acres.

6 (d) The governor shall annually submit to the legislature a
7 request for an appropriation to the account for the municipalities which
8 have elected to receive payments under (b) or (c) of this section. The
9 request for appropriation shall distinguish between amounts necessary to
10 make payments for land deficiency under (b) of this section and those
11 required to make payments for land deficiency under (c) of this section.

12 (e) For purposes of fulfilling entitlements under this section,
13 the legislature is authorized to appropriate

14 (1) not more than \$4,000,000 per fiscal year, and not more
15 than \$12,000,000 in total, for the purpose of paying entitlements under (b)
16 of this section;

17 (2) not more than \$1,000,000 per fiscal year, and not more
18 than \$8,000,000 in total, for the purpose of paying entitlements under (c)
19 of this section.

20 (f) If an annual appropriation is not sufficient to meet the
21 amount due to all municipalities which have elected to accept payment for
22 land deficiency under (b) or (c) of this section, the governor shall
23 apportion the appropriation among the municipalities in proportion to the
24 payment calculated for each municipality for that year. When a distribution
25 of payments is made under (c) of this section, the remaining entitlement of
26 a municipality to which payment is made shall be reduced in an amount equal
27 to the number of acres for which payment was received. An appropriation made
28 under this section is in addition to other grants and entitlements
29 authorized to eligible municipalities.

1 (g) Payments authorized by this section may not be made to a
2 municipality eligible for an entitlement under sec. 202 or 203 of this
3 chapter.

4 (h) Payments made under this section shall be used by those local
5 governments which levy property taxes to reduce those levies in proportion
6 to the amount of state payments received by a local government for a given
7 fiscal year. The governing body of each local government shall furnish a
8 notice with the tax statement describing the effect on property tax levies
9 of payments received under this section.

10 Sec. 29.65.090. (Sec. 29.18.209.) AUTHORIZATION FOR LAND EXCHANGES.

11 The director, with the concurrence of the commissioner, and any municipality
12 are authorized to exchange land or interests in land when it is in the
13 public interest. Land or interests in land exchanged under this section must
14 be of approximately equal value, including the non-monetary value of public
15 benefits. Exchange procedures shall comply with applicable law and municipal
16 ordinances. The notice and review provisions of AS 38.05.305 and 38.05.345
17 are applicable to exchanges of land under this section. The provisions of AS
18 38.50 do not apply to exchanges of land under this section.

19 Sec. 29.65.100. (Sec. 29.18.210.) PUBLIC PURPOSE AND EXPANSION NEEDS.

20 (a) Consistent with the best interests of the state, if a municipality does
21 not contain and cannot reasonably acquire sufficient nonfederal land within
22 its boundaries to meet its legitimate needs for public or private settlement
23 or development, it shall be the policy of the state to select federal land
24 reasonably necessary to meet the needs of the municipality and to make the
25 land selected available to the municipality under AS 38.05.315 or (b) of
26 this section.

27 (b) Where state land is the most logical location for demonstrated
28 municipal expansion for nonpublic settlement and development purposes, and
29 when an exchange of land under sec. 209 of this chapter is not possible or

1 is not in the public interest, it is the policy of the state to sell or
2 lease the land at public auction. The state may contract with a municipality
3 to act as its agent in an auction of state land under applicable statutes.
4 When a municipality acts as the agent of the state in an auction, the
5 municipality may retain from the proceeds of the auction the expenses which
6 the director determines to be necessary and reasonable.

7 (c) Nothing in this chapter limits or impairs the authority of the
8 director to transfer land to municipalities, without limit or consideration,
9 for public purposes in accordance with AS 38.05.315. If there is a remaining
10 entitlement of the municipality, land transferred under AS 38.05.315 shall
11 be credited toward fulfillment of the entitlement.

12 Sec. 29.65.110. (Sec. 29.18.211.) ELECTION OF BENEFITS. (a) A
13 municipality which on July 1, 1978 is engaged in litigation, or which
14 becomes engaged in litigation, regarding a claim to state land under former
15 secs. 190 and 200 of this chapter shall elect either to obtain the benefits
16 provided in secs. 201 -213 of this chapter or to pursue the litigation and
17 thereby waive any claim to entitlement under secs. 201 213 of this chapter.
18 An election shall be made by filing a motion for dismissal with prejudice in
19 the court in which the litigation is pending. If the claim involves a
20 municipality identified in sec. 201 of this chapter, the municipality shall
21 file its motion for dismissal within 60 days of July 1, 1978. If the claim
22 involves a city eligible to receive an entitlement under sec. 202 of this
23 chapter, the city shall file its motion for dismissal within 60 days after
24 receiving the certificate of entitlement provided by the director under sec.
25 202 of this chapter. Failure of the municipality to file a motion for
26 dismissal during the time period provided in this subsection shall be
27 considered a waiver of entitlement under secs. 201 - 213 of this chapter.

28 (b) A municipality which was eligible to file land selections
29 under former secs. 190 and 200 of this chapter and which does not enter

1 into litigation over a claim to rights under those sections before the
2 expiration of the time period within which it could make an election under
3 (a) of this section shall be considered to have elected to receive benefits
4 under secs. 201 - 213 of this chapter and to have waived any claim which
5 might have been raised under former secs. 190 and 200 of this chapter.

6 (c) The provisions of secs. 201 - 213 of this chapter do not
7 affect the rights, if any, of any party to litigation regarding the former
8 AS 29.18.190 29.18.200 or 29.18.420, which litigation is maintained by a
9 municipality that has elected not to obtain the benefits provided by secs.
10 201 - 213 of this chapter.

11 Sec. 29.65.120. (Sec. 29.18.212.) ADMINISTRATION. The commissioner
12 may adopt regulations in accordance with the Administrative Procedure Act
13 (AS 44.62) necessary to carry out the purposes of secs. 201 - 213 of this
14 chapter.

15 Sec. 29.65.130. (Sec. 29.18.213.) DEFINITIONS. In secs. 201 - 213 of
16 this chapter, unless the context otherwise requires,

17 (1) Repealed by sec. 45 ch 85 SLA 1979.

18 (2) "approved selection" means a municipal land selection
19 which has been approved in writing by the director for transfer by patent to
20 a municipality;

21 (3) "director" means the director of the division of lands,
22 Department of Natural Resources, or his designee;

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

26 (5) "mental health land" means land granted under Title II,
27 sec. 202 of P.L. 84-830, as amended before or after July 1, 1978;

28 (6) "municipal land selection" means a request by a
29 municipality, filed in writing with the director under authority of secs.

1 190 and 200 of this chapter repealed by this act or under secs. 201 - 213 of
2 this chapter for vacant, unappropriated, unreserved general grant land
3 within its municipal boundaries in partial fulfillment of its municipal
4 entitlement;

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

8 (8) "patent" means a document, issued by the director to a
9 municipality for a previously approved selection, which conveys and
10 quitclaims all the right, title and interest of the state without
11 reservation or condition except as may be required by law;

12 (9) "remaining entitlement" means the general grant land
13 entitlement determined in accordance with secs. 201 - 203 of this chapter,
14 reduced by the total acreage of approved selections, including both patented
15 and unpatented parcels;

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

21 (11) "university land" means all sections 33 reserved to the
22 university under 38 Stat. 1214, as amended (48 U.S.C. 353) and all land
23 granted to or reserved for the benefit of the university;

24 (12) "vacant, unappropriated, unreserved land" means general
25 grant land as defined in (4) of this section, excluding minerals as required
26 by sec. 6(i) of the Alaska Statehood Act, which

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

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(B) has not been approved for patent to a municipality under secs. 201-213 of this chapter or former secs. 190 and 200 of this chapter repealed by this act; or

(C) is unclassified or, if classified under AS 38.05.300, is classified for agricultural, grazing, commercial, industrial, private recreational, residential, utility or open-to-entry purposes,

NEW LANGUAGE

Sec. 29.65.050. FULFILLMENT OF LAND ENTITLEMENTS.

(j) Notwithstanding AS 29.65.010 - 29.65.130, a municipality which is unable to satisfy its entitlement due to a shortage of vacant, unappropriated, unreserved general grant land suitable for residential, commercial or industrial purposes may fulfill its remaining entitlement by selection of other state land which is vacant, unappropriated and unreserved.

NO OBJECTION

EXPLANATION: This added subsection addresses a problem which has come up when a municipality is formed in an area with little vacant state land nearby. This allows a municipality the option of selecting vacant state land which is not general grant land if general grant land is unavailable.