

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1952 SRES HB 31

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28 | * Sec. 3. AS 38.04 is amended by adding a new section to read:

29 | Sec. 38.04.021. IDENTIFICATION AND DISPOSAL OF MUNICIPAL ENTITL-
1 | MENT LAND. (a) Notwithstanding AS 29.18.201 - 29.18.213, the commis-
2 | sioner shall refrain from issuing patents to municipalities for
3 | approved selections under AS 29.18.201 - 29.18.213 except in accordance
4 | with the procedures established in this section.

5 | (b) The commissioner shall initiate with each municipality en-
6 | titled to receive land under AS 29.18 a review of selections for which
7 | patent has not been issued as of the effective date of this Act. By
8 | July 1, 1982, the commissioner and each municipality shall jointly
9 | designate 20 percent of the selections for which patents have not been
10 | issued as of the effective date of this Act, which are most suitable
11 | for disposal into private ownership. A municipality may substitute
12 | land patented as of the effective date of this Act with the concurrence
13 | of the commissioner. In a municipality whose entitlement under
14 | AS 29.18.201 includes substantial amounts of land containing class I,
15 | II, and III agricultural soils, one-half of the land designated for
16 | disposal under this subsection may be class I, II, or III agricultural
17 | soils and be restricted to agricultural development only. Disposals by
18 | the municipality of land for residential parcels of 10 acres or less or
19 | agricultural parcels may be counted toward the 20 percent of selections
20 | designated under this subsection, if the parcels were disposed of
21 | before the effective date of this Act on terms generally similar to
22 | comparable state disposals or if the parcels were disposed of after the
23 | effective date of this Act on terms equal to or better than those
24 | offered in comparable state disposals. If, by July 1, 1982, the commis-
25 | sioner and a municipality cannot agree on land to be designated, the
26 | commissioner shall make the designation. By September 1, 1982, the
27 | commissioner shall certify the legal descriptions of the land
28 | designated and include it as a special category of land in the land
29 | disposal bank. The land shall be made available for disposal in accord-

1 | ance with AS 38.04.020(d) - (h), except that none of the land may be
2 | proposed for remote parcel disposal and the land is not subject to
3 | AS 38.04.020(j). A municipality may submit a recommended disposal
4 | schedule for land designated under this subsection.

5 | (c) By January 15 of each year, the commissioner shall submit to
6 | the governor an appropriation request sufficient to survey all approved
7 | selections not patented, not designated under (b) of this section, and
8 | requiring survey under AS 29.18.207. The request shall be submitted by
9 | the governor to the legislature with the budget. Upon receipt of an
10 | appropriation for this purpose, the commissioner shall survey the land
11 | and issue the patents as expeditiously as possible. For approved
12 | selections not designated under (b) of this section and not in need of
13 | survey under AS 29.18.207, the commissioner shall issue patents by
14 | September 1, 1982. Patents may not be issued until land suitable for
15 | disposal into private ownership has been designated under (b) of this
16 | section.

17 | (d) Upon disposal of land designated under (b) of this section,
18 | the commissioner shall make a partial assignment to the municipality in
19 | which the land is situated of receipts from the land sale contract
20 | relating to the value of the land without improvement.

21 | (e) Notwithstanding (a) - (d) of this section, the commissioner
22 | may issue patents for approved selections otherwise in conformity with
23 | AS 29.18.201 - 29.18.213 if

24 | (1) the land to be patented is for an essential public
25 | facility or purpose for which there is an immediate need as determined
26 | by the commissioner;

27 | (2) the land has been scheduled and formally advertised for
28 | disposal by a municipality under its land disposal program; or

29 | (3) the amount of land patented to a municipality is less
1 | than 10 percent of its entitlement as of the effective date of this Act
2 | and the municipality requests an amount of patented land sufficient to
3 | bring it to the 10 percent level.

Sec. 38.04.040. Availability of school land and university land. School land and university land may be made available at fair market value for private use under the purposes of this chapter; however, any action to do so shall be in accordance with statutes pertaining to these lands and the authority of the Board of Education and the Board of Regents of the University of Alaska. (§ 5 ch 181 SLA 1978)

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* Sec. 6. AS 38.04.040 is amended to read:

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Sec. 38.04.040. AVAILABILITY OF [SCHOOL LAND AND] UNIVERSITY
LAND. University [SCHOOL LAND AND UNIVERSITY] land may be made avail-
able at fair market value for private use under the purposes of this
chapter; however, any action to do so shall be in accordance with
statutes pertaining to these lands and the authority of [THE BOARD OF
EDUCATION AND] the Board of Regents of the University of Alaska.

Sec. 38.04.055. Access through private use areas. The director shall reserve easements and rights-of-way on and across land which is made available for private use as necessary to reach or use public water and public and private land. (§ 5 ch 181 SLA 1978)

7 | * Sec. 7. AS 38.04.055 is amended to read:

8 | Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director
9 | shall reserve easements and rights-of-way on and across land which is
10 | made available for private use as necessary to reach or use public
11 | water and public and private land. An easement or right-of-way re-
12 | served under this section may include established trails traditionally
13 | used for commerce, recreation, or transportation.

4 | * Sec. 4. AS 38.04.055 is amended by adding a new subsection to read:
5 | (b) An easement or right-of-way reserved under this section may
6 | include established trails traditionally used for commerce, recreation,
7 | or transportation.

Sec. 38.05.035. Powers and duties of the director. (a) The director shall

(1) have general charge and supervision of the division and may exercise the powers specifically delegated to him; may employ and fix the compensation of assistants and employees necessary for the operations of the division; and is the certifying officer of the division, with the consent of the commissioner, and may approve vouchers for disbursements of money appropriated to the division;

(2) manage, inspect and control state lands and improvements on them belonging to the state and under the jurisdiction of the division;

(3) execute laws, rules, regulations and orders adopted by the commissioner;

(4) prescribe application procedures and practices for the sale, lease or other disposition of available lands, resources, property, or interest in them;

(5) prescribe fees or service charges, with the consent of the commissioner, for any public service rendered;

(6) under the conditions and limitations imposed by law and the commissioner, issue deeds, leases or other conveyances disposing of available lands, resources, property or any interests in them;

(7) have jurisdiction over state lands, except those lands acquired by the Alaska World War II Veterans Board and the Agricultural Loan Board or the departments or agencies succeeding to their respective functions through foreclosure or default; to this end the director possesses the powers and, with the approval of the commissioner, shall perform the duties necessary to protect the state's rights and interest in state lands, including the taking of all necessary action to protect and enforce the state's contractual or other property rights;

(8) Repealed by § 20 ch 182 SLA 1978.

(9) maintain such records as the commissioner considers necessary, administer oaths, and do all things incidental to the authority imposed; the following records and files shall be kept confidential upon request of the person supplying the information;

(A) the name of the person nominating or applying for the sale, lease, or other disposal of lands by competitive bidding;

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

(C) all geological, geophysical and engineering data supplied, whether or not concerned with the extraction or development of natural resources;

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

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

(F) requests for information or applications by public agencies for lands which are being considered for use for a public purpose;

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

(11) select and employ or obtain at reasonable compensation cadastral, appraisal, or other professional personnel he considers necessary for the proper operations of the division;

(12) be the certifying agent of the state to select, accept and secure by whatever action is necessary in the name of the state, by deed, sale, gift, devise, judgment, operation of law, or other means any lands, of whatever nature or interest, available to the state, and shall be the certifying agent of the state, to select, accept or secure by whatever action is necessary in the name of the state any lands, or title or interest to lands available, granted, or subject to being transferred to the state for any purpose;

(13) Repealed by § 15 ch 181 SLA 1978; § 20 ch 182 SLA 1978.

(14) when he makes a written finding that the interests of the state will be best served, he may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available lands, resources, property or interest in them, and in addition to the conditions and limitations imposed by law, he may impose additional conditions or limitations in the contracts as he, with the consent of the commissioner, determines will best serve the interests of the state; and no contract for the sale, lease, or other disposal of available lands or interests in them, is legally binding on the state until the commissioner formally records his consent to the contract; but if the appraised value is not greater than \$10,000 in the case of the sale of land or an interest in land, or \$1,000 in the case of the annual rental of land or interest in land, the director may approve and issue the contract without the consent or approval of the commissioner; the written finding shall be available to the public upon request; before a public hearing, if held, or in any case no less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them, the director shall make available to the public a written decision in which he sets out the facts and applicable law upon which he based his determination that the sale, lease, or other disposal will best serve the interests of the state.

(b) The director may

(1) delegate the administrative duties, functions or powers imposed upon him to a responsible employee in the division;

(2) grant preference rights for the lease or purchase of state land without competitive bid in order to correct the past or future errors or omissions of a state or federal administrative agency when inequitable detriment would otherwise result to a diligent claimant or applicant due to situations over which the claimant or applicant had no control; the exercise of this discretionary power operates only to divest the state of its title to or interests in land and may be exercised only with the express approval of the commissioner;

(3) grant a preference right to a claimant who shows bona fide improvement of state land, or federal land subsequently acquired by the state, and who has in good faith sought to obtain title to the land but who, through error or omission of others, has been denied title to it; upon a showing satisfactory to the commissioner, the claimant may lease or purchase the land at a price determined by the division to fairly represent the value of unimproved land at the time the claim was

established, but in no event less than the cost of administration including survey; the error or omission of a predecessor in interest or an agent, administrator, or executor which has clearly prejudiced the claimant may be the basis for granting a preference right;

(4) sell lands by lottery for less than their appraised value when, in his judgment, past scarcity of land suitable for private ownership in any particular area has resulted in unrealistic land values;

(5) when he determines it is in the best interest of the state and will avoid injustice to a person or his heirs or devisees, dispose of land, by direct negotiation to that person who presently uses and who used and made improvements to that land before January 3, 1959 or his heirs or devisees; the amount paid for the land shall be its fair market value as of that date, as determined by the director; a parcel of land disposed of under this paragraph shall be of a size consistent with the person's prior use, but may not exceed five acres;

(6) dispose of an interest in land limited to use for agricultural purposes by lottery. (§ 5 art II ch 169 SLA 1959; am § 1 ch 57 SLA 1960; am §§ 2 — 4 ch 61 SLA 1960; am § 1 ch 55 SLA 1962; am § 1 ch 56 SLA 1964; am § 1 ch 98 SLA 1964; am § 1 ch 5 SLA 1965; am § 1 ch 58 SLA 1965; am § 1 ch 194 SLA 1968; am § 1 ch 164 SLA 1972; am §§ 2, 3 ch 257 SLA 1976; am §§ 1, 2 ch 176 SLA 1978; am § 15 ch 181 SLA 1978; am § 20 ch 182 SLA 1978; am § 1 ch 61 SLA 1980)

Effect of amendments.

The first 1978 amendment, in subsection (b), substituted "sell lands by lottery" for "dispose of lands by competitive bid" in paragraph (4) and inserted "suitable for private ownership" in paragraph (4).

The second 1978 amendment, in subsection (a), repealed paragraph (13), which related to the powers of the director to select, administer, and dispose of mental health lands for the support of the mental health program. The third 1978 amendment, in subsection (a), repealed paragraphs (8) and (13), which related to the power of the director to administer the Land Registration Law and to select, administer, and dispose of mental health land for support of the mental health program, respectively. Section 28 of this

amendatory act makes the repeal of paragraph (13) effective July 1, 1978, while § 30 of the act makes the repeal of paragraph (8) effective July 19, 1978.

The 1980 amendment, effective June 5, 1980, added "except as provided in AS 38.05.036" at the beginning of subparagraph (a) (9) (D).

Editor's note. — The Board of Regents disapproved all matters on August 17, 1979. Consequently, this amendment was ineffective.

Section 7, ch. 182, SLA 1978, purported to amend this section by adding paragraph (7) of subsection (b). Section 27 of ch. 182 made this amendment effective on the date that the Board of Regents voted to approve the matters under consideration as provided in § 24 of the act.

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* Sec. 8. AS 38.05.035(a)(14) is amended to read:

(14) when he makes a written finding that the interests of the state will be best served, he may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available lands, resources, property or interests in them, and, in addition to the conditions and limitations imposed by law, he may impose additional conditions or limitations in the contracts as he, with the consent of the commissioner, determines will best serve the interests of the state; and no contract for the sale, lease, or other disposal of available lands or interests in them, is legally binding on the state until the commissioner formally records his consent to the contract; but if the appraised value is not greater than \$50,000 [\$10,000] in the case of the sale of land or an interest in land, or \$5,000 [\$1,000] in the case of the annual rental of land or interest in land, the director may approve and issue the contract without the consent or approval of the commissioner; the [. THE] written finding shall be available to the public upon request; before [. BEFORE] a public hearing, if held, or in any case no less than 21 days before the sale, lease, or other disposal of available land, property, resources, or interests in them, the director shall make available to the public a written decision in which he sets out the facts and applicable law upon which he based his determination that the sale, lease, or other disposal will best serve the interests of the state; a written finding is not required before the approval of

- (A) a contract for a negotiated sale authorized by AS 38.05.115;
- (B) issuance of a permit under AS 38.05.330; or
- (C) the lease of land for a shore fishery site under AS 38.05.082;
- (D) unitization of oil and gas leases;
- (E) a permit or other authorization revocable by the department.

17 * Sec. 9. AS 38.05.035(b)(3) is amended to read:

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

2 | * Sec. 10. AS 38.05.035(b)(5) is amended to read:

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

12 * Sec. 11. AS 38.05.035(b) is amended by adding new paragraphs to read:

13 (7) dispose of an adjoining land owner a parcel of land
14 created by a highway right-of-way alignment or realignment, or a parcel
15 created by the vacation of a state-owned right-of-way if

16 (A) he determines that it is in the interests of the
17 state;

18 (B) the parcel does not exceed one acre; and

19 (C) the director and the platting authority having land
20 use planning jurisdiction agree that conveyance of the parcel to
21 the adjoining land owner will result in boundaries which are con-
22 venient for the use of the land by the landowner and compatible
23 with municipal land use plans;

24 (8) for good cause extend the time for rental or installment
25 payments by a lessee or purchaser of state land under this chapter if
26 reasonable penalties and interest set by the director are paid.

27 * Sec. 12. AS 38.05.035 is amended by adding a new subsection to read:
28 (c) A parcel of land may be conveyed under (b)(7) of this section
29 without classification or reclassification under AS 38.05.300 but the
1 parcel must be sold at its fair market value as determined by the
2 director on the basis of an appraisal completed as provided in AS 38.-
3 05.310. Nothing in this subsection prevents the sale of land to a
4 person not qualifying as an adjoining landowner if the adjoining land-
5 owner declines to purchase under (b)(7) of this section.

8 * Sec. 5. AS 38.05.035(a)(14) is amended to read:

9 (14) when he makes a written finding that the interests of
10 the state will be best served, he may, with the consent of the commis-
11 sioner, approve contracts for the sale, lease, or other disposal of
12 available lands, resources, property or interest in them, and in addi-
13 tion to the conditions and limitations imposed by law, he may impose
14 additional conditions or limitations in the contracts as he, with the
15 consent of the commissioner, determines will best serve the interests
16 of the state; and no contract for the sale, lease, or other disposal of
17 available lands or interests in them, is legally binding on the state
18 until the commissioner formally records his consent to the contract;
19 but if the appraised value is not greater than \$50,000 [\$10,000] in the
20 case of the sale of land or an interest in land, or \$5,000 [\$1,000] in
21 the case of the annual rental of land or interest in land, the director
22 may approve and issue the contract without the consent or approval of
23 the commissioner; the written finding shall be available to the public
24 upon request; before a public hearing, if held, or in any case no less
25 than 21 days before the sale, lease, or other disposal of available
26 land, property, resources, or interests in them, the director shall
27 make available to the public a written decision in which he sets out
28 the facts and applicable law upon which he based his determination that
29 the sale, lease, or other disposal will best serve the interests of the
1 state; a written finding is not required before the approval of

2 (A) a contract for a negotiated sale authorized by
3 AS 38.05.115;

4 (B) issuance of a permit under AS 38.05.330; or

5 (C) the lease of land for a shore fishery site under
6 AS 38.05.082.

7 * Sec. 6. AS 38.05.035(b) is amended by adding new paragraphs to read:

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

11 (A) he determines that it is in the interest of the
12 state;

13 (B) the parcel does not exceed one acre; and

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

19 (8) for good cause extend the time for rental or installment
20 payments by a lessee or purchaser of state land under this chapter if
21 reasonable penalties and interest set by the director are paid.

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* Sec. 7. AS 38.05.035 is amended by adding a new subsection to read:
(c) A parcel of land may be conveyed under (b)(7) of this section without classification or reclassification under AS 38.05.300 but the parcel must be sold at its fair market value as determined by the director on the basis of an appraisal under AS 38.05.310. Nothing in this subsection prevents the sale of land to a person not qualifying as an adjoining landowner if the adjoining land owner declines to purchase under (b)(7) of this section.

Sec. 38.05.050. Fixing sale. The commissioner, upon recommendation of the director, shall determine the lands to be sold, the limitations and conditions which attach to the lands sold, and the terms of the sale. The director shall fix the time of sale and the manner of giving notice of the sale. The sale shall take place at the time and location specified in the notice of sale and within the recording district where the property is located or an adjacent recording district. (§ 1 art IV ch 169 SLA 1959; am § 1 ch 73 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "commissioner, upon recommendation of the director" for "director, with the approval of the commis-

sioner" near the beginning of the first sentence and added "or an adjacent recording district" to the end of the third sentence.

6 * Sec. 13. AS 38.05.050 is repealed and reenacted to read:

7 Sec. 38.05.050. DETERMINATIONS BEFORE DISPOSAL OF LAND FOR
8 PRIVATE OWNERSHIP. The commissioner, upon recommendation of the
9 director, shall determine the land to be disposed of for private use.
10 The director shall determine the time and place of disposal. An
11 auction sale, a lottery sale, or a disposal of land for homesites under
12 AS 38.08 must be held in the municipality that is closest to the land
13 to be sold or disposed of and in which regular sessions of a court of
14 the state are held.

1 * Sec. 8. AS 38.05.050 is repealed and reenacted to read:

2 Sec. 38.05.050. DETERMINATIONS BEFORE DISPOSAL OF LAND FOR PRIVATE
3 OWNERSHIP. The commissioner, upon recommendation of the director,
4 shall determine the land to be disposed of for private use. The direc-
5 tor shall determine the time and place of disposal. An auction sale, a
6 lottery sale, or a disposal of land for homesites under AS 38.08 must
7 be held in the municipality that is closest to the land to be sold or
8 disposed of and in which regular sessions of the superior court are
9 held.

Sec. 38.05.055. Sale procedures. Except as provided in AS 38.05.057, 38.05.315(d), and AS 38.08, the sale of state land shall be made at public auction to the highest qualified bidder as determined by the director. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the successful bidder shall deposit an amount equal to one-tenth of the purchase price. The director or his representative shall immediately issue a receipt containing a description of the land or property purchased, the price bid, and the terms of sale, which receipt shall be acknowledged in writing by the bidder. A contract of sale on a form approved by the attorney general shall be signed by the purchaser and, after approval of the commissioner, the contract shall also be signed by the director on behalf of the state. (§ 2 art IV ch 169 SLA 1959; am § 9 ch 61 SLA 1960, am § 2 ch 137 SLA 1962; am § 3 ch 176 SLA 1978; am § 14 ch 85 SLA 1979)

Effect of amendments. — The 1978 amendment substituted "§§ 57 and 315(d)" for "\$ 315(d)" near the beginning of the section.

The 1979 amendment substituted "AS

38.05.057, 38.05.315(d), and AS 38.08, the sale of state land" for "AS 38.05.057 and 38.05.315(d), the sale" in the first sentence.

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* Sec. 14. AS 38.05.055 is amended to read:

Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another method of sale is required under this chapter, under AS 38.07, or under [EXCEPT AS PROVIDED IN AS 38.05.057, 38.05.315(d), AND] AS 38.08, the sale of state land shall be made at public auction to the highest qualified bidder as determined by the director. A bidder must appear in person at the auction unless medical reasons or military service outside the state prevent attendance. A bidder may be represented by an attorney or agent at the auction if the land offered for disposal is commercial, industrial, or agricultural land. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the successful bidder shall deposit an amount equal to five percent [ONE-TENTH] of the purchase price, or if the purchaser elects to use land discounts granted under AS 38.05.058, five percent of the amount bid after deduction of the discount. The director or his representative shall immediately issue a receipt containing a description of the land or property purchased, the price bid, the amount deposited, and the amount of any discount allowed [TERMS OF SALE], which receipt shall be acknowledged in writing by the bidder. [A CONTRACT OF SALE ON A FORM APPROVED BY THE ATTORNEY GENERAL SHALL BE SIGNED BY THE PURCHASER AND, AFTER APPROVAL OF THE COMMISSIONER, THE CONTRACT SHALL ALSO BE SIGNED BY THE DIRECTOR ON BEHALF OF THE STATE.]

10 * Sec. 9. AS 38.05.055 is amended to read:

11 Sec. 38.05.055. AUCTION SALE PROCEDURES. Unless another
12 method of sale is authorized under this chapter, under AS 38.07, or under
13 [EXCEPT AS PROVIDED IN AS 38.05.057, 38.05.315(d), AND] AS 38.08, the
14 sale of state land shall be made at public auction to the highest
15 qualified bidder [AS DETERMINED BY THE DIRECTOR]. A bidder must appear
16 in person at the auction unless medical reasons, attendance at school
17 or military service outside the state prevent attendance. A bidder
18 may be represented by an attorney or agent at the auction if the land
19 offered for disposal is classified as commercial, industrial, or agri-
20 cultural land. An aggrieved bidder may appeal to the commissioner
21 within five days after the sale for a review of the director's deter-
22 mination. The sale shall be conducted by the director or his represent-
23 ative, and at the time of sale the successful bidder shall deposit an
24 amount equal to five percent [ONE-TENTH] of the purchase price, or
25 if the purchaser elects to use land discounts granted under AS 38.05.-
26 058, five percent of the amount bid after deduction of the discount.
27 The director or his representative shall immediately issue a receipt
28 containing a description of the land or property purchased, the price
29 bid, the amount deposited, and the amount of any discount allowed
1 [TERMS OF SALE], which receipt shall be acknowledged in writing by the
2 bidder. [A CONTRACT OF SALE ON A FORM APPROVED BY THE ATTORNEY GENERAL
3 SHALL BE SIGNED BY THE PURCHASER AND, AFTER APPROVAL OF THE COMMIS-
4 SIONER, THE CONTRACT SHALL ALSO BE SIGNED BY THE DIRECTOR ON BEHALF OF
5 THE STATE.]

Sec. 38.05.057. Disposal of land by lottery. (a) The commissioner may dispose of land, including land limited to use for agricultural purposes, by lottery. The purchase price of land sold by lottery shall be the fair market value of the land as determined by the commissioner but may not be less than \$400 per acre, or, if the land is limited to use for agricultural purposes, the purchase price may not be less than \$100 per acre. The commissioner may sell land by lottery for less than the fair market value of the land if he determines that scarcity of land for private use in the area of the land to be sold has resulted in unrealistic land values. Before the commissioner determines the purchase price for land which is located in a municipality and which is to be sold under this section, he shall consult with the assessor of the municipality. The lottery shall be conducted in public by the commissioner or his representative, and at the time of signing a contract of sale a purchaser selected by lot shall deposit an amount equal to five per cent of the purchase price, or if the purchaser elects to use land discounts granted under AS 38.05.058, five per cent of the discount purchase price.

(b) To qualify to participate in a lottery under (a) of this section, a potential purchaser shall

(1) at the time of application have attained the age of 18;

(2) submit proof, as required by regulation, that he has been a resident of the state for not less than one year immediately preceding the date his application was submitted; and

(3) certify that he has not purchased land at a sale by lottery in the state within eight years immediately preceding the sale date.

(c) The commissioner may adopt regulations under the Administrative Procedure Act (AS 44.62) which specify qualifications for lottery participants different from those specified in (b) of this section if

(1) an interest in land limited to agricultural purposes is to be sold under (a) of this section;

(2) the sale is a part of a program to develop agricultural land as a renewable resource of the state; and

(3) the regulations include residency, skill, experience, and financial requirements necessary to qualify persons who are competent and financially able to develop the land as a successful agricultural enterprise.

(d) To apply for participation in a lottery under this section an applicant shall

(1) certify that he is qualified under the applicable provisions of this section; and

(2) pay a non-refundable application fee of not more than \$25 for each application.

(e) The director shall accept applications to purchase particular parcels under the following procedures and conditions:

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

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

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

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

(f) If only one application for a parcel is received, the commissioner shall offer the parcel to the applicant who applied for the parcel if the applicant is qualified to participate in the lottery. If more than one application is received for a parcel, or if more applications are received for the right to select a remote parcel offered under AS 38.05.077 than the number of remote parcels authorized, the commissioner shall select the applicant who is entitled to receive a conveyance of the land by lottery. If the commissioner does not receive an application for a parcel of state land or if a purchaser fails to sign a lease agreement or contract of sale, the parcel shall be offered to the first eligible person to apply for the parcel. If the parcel was designated as a homesite and offered to the public under AS 38.05.047(d), the parcel shall be disposed of under the terms required by AS 38.05.

(g) After receiving the deposit required under (a) of this section, the director or his representative shall immediately issue a receipt containing a description of the land or property to be conveyed, the price of the land, and the terms of disposal. The receipt shall be acknowledged in writing by the purchaser. A contract of sale shall be executed in the same form and manner as required under AS 38.05.055.

(h) An aggrieved lottery participant may appeal to the commissioner within five days after the lottery is conducted for a review of the lottery procedures.

(i) The director may include in contracts for sale of land under this section terms which

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

(2) prohibit the resale of land purchased by the initial purchaser until the requirements imposed under (1) of this subsection, if any, are satisfied. (§ 4 ch 176 SLA 1978; am §§ 15 — 22 ch 85 SLA 1979)

Effect of amendment. — The 1979 amendment, in subsection (a), substituted "commissioner may dispose of land" for "director may sell land" in the first sentence, substituted the language beginning "shall be the fair market value" for "may not be less than the fair market value of that land unless the sale is conducted under the provisions of AS 38.05.035(b)(4)" at the end of the second sentence, added the present third and fourth sentences, and in the present fifth sentence, substituted "commissioner" for "director," inserted "signing a contract of," deleted "with the person conducting the lottery" following "shall," and added the language beginning "or if the purchaser elects" to the end. The

amendment also substituted "qualify to participate in a lottery" for "purchase land by lottery" in the introductory language of subsection (b), substituted "one year" for "three years" in paragraph (2) of subsection (b), substituted "lottery participants" for "potential purchasers" in the introductory language of subsection (c), substituted "\$25" for "\$10" in paragraph (2) of subsection (d), substituted "45 days" for "30 days" in paragraph (1) of subsection (e), substituted "AS 38.05.445(e)" for "AS 38.05.445(b)" in paragraph (3) of subsection (e), rewrote subsection (f), and substituted "to be conveyed" for "purchased" and "disposal" for "sale" in the first sentence of subsection (g).

10 * Sec. 15. AS 38.05.057(a) is amended to read:

11 (a) The commissioner may dispose of land, including land limited
12 to use for agricultural purposes, by lottery. The purchase price of
13 land sold by lottery shall be the fair market value of the land as
14 determined by the commissioner [BUT MAY NOT BE LESS THAN \$400 PER ACRE,
15 OR, IF THE LAND IS LIMITED TO USE FOR AGRICULTURAL PURPOSES, THE PUR-
16 CHASE PRICE MAY NOT BE LESS THAN \$100 PER ACRE]. The commissioner may
17 sell land by lottery for less than the fair market value of the land if
18 he determines that scarcity of land for private use in the area of the
19 land to be sold has resulted in unrealistic land values. Before the
20 commissioner determines the purchase price for land which is located in
21 a municipality and which is to be sold under this section, he shall
22 consult with the assessor of the municipality. The lottery shall be
23 conducted in public by the commissioner or his representative and an
24 applicant may not be selected to purchase land unless he is present on
25 the date and at the place that the lottery is conducted unless medical
26 reasons or military service outside the state prevent attendance. An
27 applicant may be represented by an agent on the day of the lottery if
28 the land offered for sale is commercial, industrial, or agricultural
29 land. On [, AND AT] the day of the lottery [TIME OF SIGNING A CONTRACT
1 OF SALE] a purchaser selected by lot shall deposit an amount equal to
2 five percent of the purchase price, or if the purchaser elects to use
3 land discounts granted under AS 38.05.058, five percent of the [DIS-
4 COUNT] purchase price after deduction of the discount.

6 * Sec. 10. AS 38.05.057(a) is amended to read:

7 (a) The commissioner may dispose of land, including land limited
8 to use for agricultural purposes, by lottery. The purchase price of
9 land sold by lottery shall be the fair market value of the land as
10 determined by the commissioner [BUT MAY NOT BE LESS THAN \$400 PER ACRE,
11 OR, IF THE LAND IS LIMITED TO USE FOR AGRICULTURAL PURPOSES, THE PUR-
12 CHASE PRICE MAY NOT BE LESS THAN \$100 PER ACRE]. The commissioner
13 shall [MAY] sell land by lottery for less than the fair market value of
14 the land if he determines that scarcity of land for private use in the
15 area of the land to be sold has resulted in unrealistic land values.
16 Before the commissioner determines the purchase price for land which is
17 located in a municipality and which is to be sold under this section,
18 he shall consult with the assessor of the municipality. The lottery
19 shall be conducted in public by the commissioner or his representative,
20 and an applicant may not be selected to purchase land unless he is pre-
21 sent on the date and at the place that the lottery is conducted unless
22 medical reasons, attendance at school or military service outside the
23 state prevent attendance. An applicant may be represented by an agent
24 on the day of the lottery if the land offered for sale is classified as
25 commercial, industrial, or agricultural land. On the day of the lottery
26 [AT THE TIME OF SIGNING A CONTRACT OF SALE] a purchaser selected by lot
27 shall deposit an amount equal to five percent of the purchase price, or
28 if the purchaser elects to use land discounts granted under AS 38.-
29 05.058, five percent of the [DISCOUNT] purchase price after deduction
1 of the discount.

5 * Sec. 16. AS 38.05 is amended by adding a new section to read:

6 Sec. 38.05.064. SALES PREFERENCE TO HOLDERS OF MINING CLAIMS.

7 (a) An individual who has established a mining claim on state land
8 before January 1, 1980, is entitled to a preference right to acquire
9 the surface estate to a parcel of land within the boundaries of his
10 mining claim if (1) the surface estate to the land is offered for
11 disposal to the public under AS 38.05.045 - 38.05.069, 38.05.077, or
12 AS 38.08; (2) he satisfies the eligibility requirements of the land
13 disposal program under which the land is offered; and (3) he submits
14 proof satisfactory to the commissioner that the mining claim is valid.
15 A parcel acquired under this section may only include the amount of
16 land that the individual has actually used in connection with his
17 mining claim before January 1, 1980, and may not exceed 10 acres.

18 (b) After the director determines that state land will be offered
19 for disposal to the public under AS 38.05.045 - 38.05.069, 38.05.077,
20 or AS 38.08, he shall determine if there is an individual who holds a
21 preference right to that land as provided by (a) of this section by
22 notifying, by certified mail each individual who holds a recorded mining
23 claim of his right to acquire the surface estate to land within the
24 boundaries of his mining claim. The notice required by this subsection
25 shall be sent not later than 60 days before public notice of a proposed
26 land disposal is given under AS 38.05.345 and must include

27 (1) a statement of the terms and conditions under which the
28 surface estate to the land will be offered for disposal to the public;

29 (2) a description of the parcels within the boundaries of
1 the mining claim that will be offered to the public; and

2 (3) the requirements imposed by (a) of this section for the
3 grant of a preference right under this section.

4 (c) An individual who claims a preference right under this
5 section shall provide the necessary proof to assert his preference
6 right not later than 90 days after the notice under (b) of this section
7 is sent to him by the department.

8 (d) Not later than 15 days before the date set for disposal of
9 the land to the public, the director shall either grant or reject a
10 preference right claimed under this section. If the preference right
11 is granted, the holder of the preference right may purchase the parcel
12 for either the high bid received by the department at the public auc-
13 tion, or under the terms and conditions to be offered to the public if
14 the land is disposed of by a method other than by public auction. If a
15 deposit is required, the claimant shall deposit five percent of the
16 appraised fair market value of the parcel, and if the holder of the
17 preference right fails to sign the contract of sale within 30 days
18 after it is sent to him by the department the deposit shall be for-
19 feited.

20 (e) If a mining claim is held jointly by two or more individuals,
21 the individuals may not exercise the preference right provided in this
22 section unless they either jointly exercise the preference right or
23 agree in writing which of them is entitled to exercise the preference
24 right.

25 (f) An individual may only exercise the preference right provided
26 in this section one time during his lifetime.

27 (g) In this section,

28 (1) "individual" means a natural person; and

29 (2) "mining claim" means a mining property established under
1 AS 38.05.185 - 38.05.280 and does not include a mineral lease or permit
2 for the extraction of minerals or resources under AS 38.05.135 -
3 38.05.184.

Sec. 38.05.067. Veterans preference. (a) Except as provided in (c) of this section, before offering to the general public any unoccupied residential lands, the director shall offer the land at a restricted sale at which only veterans may buy.

(b) The director shall not sell the lands under this section at less than their fair appraised market value. The director shall make regulations necessary to ensure that lands sold under this section are for bona fide residential use and not for speculation.

(c) When not in conflict with this section, other provisions of §§ 45 — 67 of this chapter apply to sales under this section.

(d) In this section "veteran" means a person with 90 days or more of active service in the armed forces of the United States who has been honorably discharged after having served during a period between

(1) April 6, 1917, and December 1, 1919,

(2) September 16, 1940, and December 31, 1947,

(3) June 27, 1950, and January 31, 1955, or

(4) August 4, 1964, and a date six months after the termination of hostilities involving forces of the United States in Viet Nam. (§ 4 art IV ch 169 SLA 1959; added by ch 102 SLA 1962; am § 1 ch 23 SLA 1963; am § 1 ch 1 SLA 1968)

(e) This section does not apply to the sale of state land under AS 38.05.047(f), 38.05.077, and 38.05.078.

(am §§ 28, 29 ch 85 SLA 1979; am § 35 ch 94 SLA 1980)

Effect of amendments. — The 1979 amendment added "Except as provided in (c) of this section" to the beginning of subsection (a) and added subsection (e).

The 1980 amendment substituted "November 7, 1975" for "a date six months after the termination of hostilities

involving forces of the United States in Viet Nam" in paragraph (4) of subsection (d).

As the rest of the section was not affected by the amendment, it is not set out.

2 | * Sec. 11. AS 38.05.067(d) is repealed and reenacted to read:

3 | (d) In this section "veteran" means a person with 90 days or more
4 | of active service in the armed forces of the United States who has been
5 | honorably discharged.

6 | * Sec. 12. AS 38.05.067(e) is amended to read:
7 | (e) This section does not apply to the sale of state land under
8 | AS 38.04.020(g)(2) [AS 38.05.047(f)], AS 38.05.077, and 38.05.078.

Sec. 38.05.069. Preference to persons for agricultural purposes. (a) If the director determines that the highest and best use of unoccupied land is for agricultural purposes, and if he determines that it is in the best interests of the state to sell or lease the land, he shall grant to an Alaskan resident owning and using or leasing and using land for agricultural purposes a 60-day first option after the date of the auction to purchase or lease the unoccupied land situated adjacent to or in the approximate vicinity of his presently held land for the amount of the high bid received at public auction. A parcel of agricultural land sold under this section may not be less than 20 acres and a parcel of agricultural land which is acquired by exercise of the option granted in this subsection may not exceed 320 acres. Agricultural land which is acquired under this section must be used for agricultural purposes as required by law.

(am § 30 ch 85 SLA 1979)

(b) If more than one person is eligible for a first option under (a) of this section, the director shall determine priority by granting precedence first to the person who demonstrates the greatest need for the unoccupied land in order to establish an economic unit and, secondly, to the eligible person who occupies land that is most readily accessible to unoccupied land to be sold or leased. In the event that two or more persons have approximately equal qualifications for priority under this section, the director shall grant priority to that person who is a veteran. If more than one person is approximately equally well qualified under this section, the director shall determine priority by lot.

(c) Under this section

(1) the director may convey or lease an interest in the land only for agricultural purposes, and all other interests in the land remain in the state; the sale or lease shall be at public auction;

(2) the remaining interests may subsequently be conveyed or leased by the director only upon the request of the grantee or lessee or his assigns and the determination of the director, with the written concurrence of the commissioner, that the conveyance or lease is in the public interest;

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

(4) by requesting the conveyance or lease of the remaining interest, the original grantee or lessee or his assigns

(A) consents to the sale or lease, and

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

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

(d) When not in conflict with this section, other provisions of §§ 45 — 105 of this chapter apply to disposals under this section.

(e) For the purposes of this section,

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

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

(f) Nothing in (e) of this section affects the disposal of minerals under §§ 165 — 183 of this chapter. (§ 1 ch 97 SLA 1965; am §§ 1, 2 ch 71 SLA 1976; am §§ 4 — 6 ch 257 SLA 1976)

Reviser's note (1976). — AS 38.05.069 was amended by both § 1 ch. 71, SLA 1976, and § 4, ch. 257, SLA 1976. Since the two amendments appear to be inconsistent, and ch. 71 is superseded by ch. 257, only the later enactment has been given effect here.

Cross reference. — For provision restricting the sale, lease or other disposal of agricultural land in a manner inconsistent with this section, see AS 38.05.321.

Effect of amendments. — The first 1976 amendment, in the first sentence of subsection (a), substituted "after the date of the auction" for "from the date the land becomes available to the public or 90 days from the effective date of this section,

whichever is later" and inserted "for the amount of the high bid received at public auction" near the middle of the sentence, substituted "320 acres" for "610 acres" near the end of that sentence, and substituted "as required by law" for "for at least one year following purchase" at the end of that sentence. The amendment also added the second sentence of subsection (a) and rewrote subsection (e).

The second 1976 amendment rewrote subsection (a), substituted "leased" for "lease" at the end of the first sentence of subsection (b), substituted "shall determine" for "may determine" in the third sentence of subsection (b), and added subsection (f).

Effect of amendments.

The 1979 amendment, in subsection (a), deleted "provided the aggregate number of acres owned and acquired under the option shall not exceed 320 acres; and further provided that the land acquired under this section is used for agricultural purposes as

required by law" from the end of the first sentence and added the second and third sentences.

As the rest of the section was not affected by the amendment, it is not set out.

4 | * Sec. 17. AS 38.05.069(c) is amended by adding a new paragraph to read:
5 | (6) the holder of a grazing lease on state land has a pre-
6 | ference to purchase an interest in that land for agricultural purposes
7 | offered under this subsection for the amount of the high bid received
8 | at public auction; the preference allowed under this paragraph extends
9 | only to an amount of the land leased for grazing purposes that is no
10 | larger than the largest parcel offered for disposal by the director
11 | within the boundaries of the grazing lease.

Sec. 38.05.077. Classification and disposal of remote parcels.

(a) The commissioner shall, under the procedures required by AS 38.05.300 and 38.05.305, classify state land which is suitable for disposal as remote parcels. The commissioner shall designate remote parcel selection areas consisting of land classified under this section. The commissioner shall set the number of remote parcels that may be selected in each remote parcel selection area. A remote parcel may not exceed 40 acres. The commissioner shall determine for each remote parcel selection area, the amount of land in each remote parcel that may be used for residential purposes. Land which may be used for residential purposes in a remote parcel may not be less than two acres and may not exceed five acres.

(b) The commissioner shall prescribe parcel selection procedures for each remote parcel selection area designated under (a) of this section. The parcel selection procedures shall include

(1) the maximum size of a remote parcel that may be selected in the parcel selection area;

(2) the maximum amount of land in a remote parcel that may be used for residential purposes;

(3) the minimum distance between remote parcels in the parcel selection area;

(4) parcel dimensions, configuration, orientation and other parcel design requirements;

(5) a description of land within the area that may not be included in a parcel;

(6) a requirement that landmarks, monuments or other points be used as points of reference for the measurement of distances within an area; and

(7) specification for the type of stakes to use to mark the corners of a parcel.

(c) A person may apply under the procedures set out in AS 38.05.057 to lease a remote parcel in a parcel selection area designated by the commissioner under (a) of this section. Each person who is entitled to select a remote parcel may enter the area for which he applied to stake the boundaries of a remote parcel.

(d) Not later than 15 days after selection and staking the exterior boundaries of a remote parcel, the person who selected the parcel shall file a sketch plat with the department which shows the location of the remote parcel and the location of the land in the parcel that he intends to use for residential purposes. At the time of filing the sketch plat, the person who selected the parcel shall apply to lease the land. An application to lease the land shall be on a standard form prepared by the department. The annual rental payment for the first year of the lease shall be submitted to the department with the application. After the application to lease a remote parcel is approved, the commissioner shall offer to lease the land to the person who selected the remote parcel. A lease granted under this section shall contain the following terms:

- (1) a remote parcel may be leased for five years;
- (2) a remote parcel lease may be renewed at the option of the lessee for a second five-year period under the same terms as provided for the first five-year period of the remote parcel lease; and
- (3) a rental payment shall be paid annually and shall be \$150 a year for five acres or less plus \$50 for each acre by which the remote parcel exceeds five acres.

(e) A remote parcel lease may not be assigned, conveyed or otherwise transferred, but rights under the lease may devolve by testate or intestate succession. An attempt to assign, convey or to otherwise transfer the lease is void and terminates the lease.

(f) After revocation and termination of a remote parcel lease, improvements or personal property remaining on the land shall be managed in the same manner as provided in AS 38.05.090 for removal or reversion of improvements upon termination of leases of state land. (§ 1 ch 157 SLA 1968; am § 1 ch 13 SLA 1973; am § 31 ch 85 SLA 1979)

Effect of amendment.

The 1979 amendment rewrote this section.

Editor's note. -- As to designation of land for disposal under the open-to-entry

program and assessment of supply and demand under such program, see §§ 1 and 2, ch. 151, SLA 1978, in the 1978 Temporary and Special Acts and Resolves.

12 | * Sec. 18. AS 38.05.077(a) is repealed and reenacted to read:

13 | (a) The commissioner shall specify the number of remote parcels
14 | that may be selected in each remote parcel selection area and shall
15 | dispose of remote parcels in accordance with AS 38.04.020. A remote
16 | parcel may not exceed 40 acres.

17 * Sec. 19. AS 38.05.077(c) is amended to read:

18 (c) A person who qualifies under (g) of this section may apply
19 [UNDER THE PROCEDURES SET OUT IN AS 38.05.057] to lease a remote parcel
20 in a parcel selection area designated by the commissioner under (a) of
21 this section if he has staked the exterior boundaries of the remote
22 parcel in accordance with the parcel selection procedures established
23 under (b) of this section during an entry period established by the
24 commissioner. A [EACH] person [WHO IS ENTITLED TO SELECT A REMOTE
25 PARCEL] may enter a remote parcel selection [THE] area [FOR WHICH HE
26 APPLIED] to stake the boundaries of a remote parcel. A person shall
27 select a remote parcel in person and may not be represented by an
28 attorney or agent.

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* Sec. 20. AS 38.05.077(d) is amended to read:

(d) Not later than 15 days after [SELECTION AND] staking the exterior boundaries of a remote parcel, the person who staked [SELECTED] the parcel shall file a sketch plat with the department which shows the location of the remote parcel [AND THE LOCATION OF THE LAND IN THE PARCEL THAT HE INTENDS TO USE FOR RESIDENTIAL PURPOSES]. At the time of filing the sketch plat, the person who staked [SELECTED] the parcel shall apply to lease the land. An application to lease the land shall be on a standard form prepared by the department. The annual rental payment for the first year of the lease shall be submitted to the department with the application. After the application to lease a remote parcel is approved, the commissioner shall offer to lease the land to the person who staked [SELECTED] the remote parcel. A lease granted under this section shall contain the following terms:

(1) a remote parcel may be leased for five years;

(2) a remote parcel lease may be renewed at the option of the lessee for a second five-year period under the same terms as provided for the first five-year period of the remote parcel lease; [AND]

(3) a rental payment shall be paid annually and shall be \$10 for each acre; [\$150 A YEAR FOR FIVE ACRES OR LESS PLUS \$50 FOR EACH ACRE BY WHICH THE REMOTE PARCEL EXCEEDS FIVE ACRES.]

(4) unless the land is surveyed, the lessee shall, within one year of approval of the lease application and continuously for the lease period, physically delineate the boundaries of the parcel by brushing a line so that they are readily visible from the ground.

25 | * Sec. 21. AS 38.05.077 is amended by adding a new subsection to read:
26 | (g) To qualify to select a remote parcel under this section, a
27 | person shall
28 | (1) at the time of application have attained the age of 18;
29 | (2) submit proof, as required by regulation, that he is a
1 | resident of the state; and
2 | (3) certify that he has not leased or purchased land, except
3 | agricultural, commercial, or industrial land from the land disposal
4 | bank within 10 years after July 1, 1978.

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* Sec. 13. AS 38.05.077(a) is amended to read:

(a) The commissioner shall, under the procedures required by AS 38.04.020, AS 38.05.300, [AND] 38.05.305, and 38.05.345, classify state land which is suitable for disposal as remote parcels. The commissioner shall designate remote parcel selection areas consisting of land classified under this section. The commissioner may [SHALL] set the number of remote parcels that may be selected in each remote parcel selection area. A remote parcel may not exceed 40 acres. [THE COMMISSIONER SHALL DETERMINE FOR EACH REMOTE PARCEL SELECTION AREA, THE AMOUNT OF LAND IN EACH REMOTE PARCEL THAT MAY BE USED FOR RESIDENTIAL PURPOSES. LAND WHICH MAY BE USED FOR RESIDENTIAL PURPOSES IN A REMOTE PARCEL MAY NOT BE LESS THAN TWO ACRES AND MAY NOT EXCEED FIVE ACRES.]

21 * Sec. 14. AS 38.05.077(c) is amended to read:

22 (c) A person who qualifies under (g) of this section may apply
23 [UNDER THE PROCEDURES SET OUT IN AS 38.05.057] to lease a remote parcel
24 in a parcel selection area designated by the commissioner under (a) of
25 this section if he has staked the exterior boundaries of the remote
26 parcel in accordance with the parcel selection procedures established
27 under (b) of this section during an entry period established by the
28 commissioner. A [EACH] person [WHO IS ENTITLED TO SELECT A REMOTE
29 PARCEL] may enter a remote parcel selection [THE] area [FOR WHICH HE
1 APPLIED] to stake the boundaries of a remote parcel. A person shall
2 select a remote parcel in person and may not be represented by an
3 attorney or agent.

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* Sec. 16. AS 38.05.077 is amended by adding a new subsection to read:

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(g) To qualify to lease a remote parcel under this section, a person shall

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(1) at the time of application be 18 years of age or older:

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(2) submit proof as required by regulation that he has been a resident of the state for not less than one year immediately preceding the date his application was submitted; and

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(3) certify that he has not previously leased a remote parcel from the state within eight years immediately preceding the date of staking a remote parcel.

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Sec. 38.05.078. Purchase of land in a remote parcel. (a) A lessee of a remote parcel may purchase the land used for residential purposes in a remote parcel if, before the expiration of the lease or a renewal of the lease, he surveys the residential land and erects a habitable dwelling on the land.

(b) A lessee of a remote parcel may purchase land in a remote parcel which is not used for residential purposes if, before the expiration of the lease or a renewal of the lease, he complies with (a) of this section, surveys the land, and constructs permanent improvements on the land. The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) which specify the type of permanent improvements that must be constructed by a lessee of a remote parcel before he may purchase the land. The improvements specified in regulations adopted by the commissioner shall be those which are compatible with the remote character of the land and may include, but are not limited to, airstrips and buildings.

(c) A lessee of a remote parcel may purchase land in a remote parcel under the terms specified in AS 38.05.065(b). The purchase price of land sold under this section shall be its fair market value as determined by the commissioner. The valuation date for determining the fair market value of land sold under this section is the date that the plat of survey is approved by the commissioner.

(d) In addition to the terms specified in AS 38.05.065(b), a contract of sale for land in a remote parcel shall contain the following conditions:

(1) the land may not be sold, leased, or otherwise conveyed before 10 years after the date that the contract of sale is signed by the purchaser, but title to the land may devolve by testate or intestate succession; and

(2) the land may not be subdivided before 10 years after the date that the contract of sale is signed.

(e) If a purchaser of land described in (a) and (b) of this section fails to comply with the conditions in the contract of sale required by (d) of this section, the contract of sale is void and the purchaser forfeits all rights in and title to the land. The commissioner shall request the attorney general to bring an action to eject the purchaser from the land and to declare the right of reentry of the state.

(f) In this section, "habitable dwelling" means a single-family dwelling, together with fixtures and facilities, including sanitary facilities required or customary in the vicinity of the land, and does not include a mobile home unless it is placed on a permanent foundation. (§ 32 ch 85 SLA 1979)

5 | * Sec. 22. AS 38.05.078(a) is repealed and reenacted to read:
6 | (a) A lessee of a remote parcel may purchase the land if, before
7 | expiration of the lease or a renewal of the lease, he surveys the land.

8 * Sec. 23. AS 38.05.078(c) is repealed and reenacted to read:

9 (c) Upon payment to the commissioner of an amount equal to five
10 percent of the fair market value, a lessee of a remote parcel may
11 purchase land in a remote parcel area under the terms specified in
12 AS 38.05.065(b). The purchase price shall be the fair market value of
13 the remote parcel as determined by the commissioner at the time of
14 lease. Rental payments made under the lease shall be applied to the
15 purchase price.

16 * Sec. 24. AS 38.05.078 is amended by adding new subsections to read:

17 (g) If a person selects a remote parcel in good faith but includes
18 land in his parcel which was previously claimed by another person eli-
19 gible to select a remote parcel, the director shall approve that part
20 of the later selection which does not conflict with the earlier selec-
21 tion and allow the person to select additional land in the remote
22 parcel selection area.

23 (h) If a person selects a remote parcel in good faith but includes
24 land in his parcel which is outside the remote parcel selection area,
25 the director shall either disapprove the selection of land outside the
26 remote parcel selection area and allow the person to select additional
27 land in the remote parcel selection area or he may approve the selec-
28 tion of the land outside the remote parcel selection area.

10 * Sec. 17. AS 38.05.078(a) is amended to read:

11 (a) A lessee of a remote parcel may purchase the land leased
12 [USED FOR RESIDENTIAL PURPOSES IN A REMOTE PARCEL] if, before the
13 expiration of the lease or [A RENEWAL OF THE] lease renewal, he pays
14 a deposit to the department equal to five percent of the fair market
15 value of the land under (c) of this section, surveys the [RESIDENTIAL]
16 land, and erects a habitable dwelling on the land. The lessee of a
17 remote parcel may prove the existence and the location of a habitable
18 dwelling by executing an affidavit as to its existence and location
19 and including with the affidavit a clear photo and an accurate drawing
20 prepared, signed, and dated by the lessee and described with refer-
21 ence to one or more survey corners of the remote parcel.

22 * Sec. 18. AS 38.05.078(c) is amended to read:

23 (c) A lessee of a remote parcel may purchase land in the [A]
24 remote parcel under the terms specified in AS 38.05.065(b). The
25 purchase price of land sold under this section shall be its fair market
26 value as determined by the commissioner, less the total amount paid to
27 the department in annual rental fees under AS 38.05.077(d)(3). The
28 valuation date for determining the fair market value of land sold under
29 this section is the date that the remote parcel was first leased to the
1 purchaser of the land [PLAT OF SURVEY IS APPROVED BY THE COMMISSIONER].

Sec. 38.05.082. Leases for shore fisheries development. (a) The director, with the approval of the commissioner, may lease tide and submerged lands for fisheries development. Fisheries development includes the utilization of shore gill nets or set nets for the taking of fish. Every lease issued under this section shall reserve to the public a right-of-way for access to navigable waters and other tide and submerged lands.

(b) The director may classify lands as subject to leases for fisheries development, and publicly invite applications for lease of the selected areas. Each application shall be accompanied by an affidavit to the effect that the applicant presently intends to personally utilize the leased area for fishing purposes the following season. If two or more applications are received for the same shore area, the director shall award the lease to the most qualified applicant. In determining the qualifications of applicants, the director shall consider the length of time during which the applicant has been engaged in set netting, the proximity of his past fishing sites to the land to be leased, his present ability to utilize the location to its maximum potential, and other factors relevant to the equitable assignment of the disputed area. If the director cannot determine a preference between conflicting applicants for the same lease site on the basis of qualifications, he shall select between the applicants by lot. An aggrieved applicant may appeal to the commissioner within five days for a review of the director's determination.

(c) A lease for set net fishing may be issued for any period not exceeding 10 years. If the commissioner determines that the land is not being utilized for the purpose for which the lease is issued, the lease may be declared void. The director shall establish a reasonable rental for the lease, equal to the administrative costs involved in processing the leasehold applications.

(d) Subleasing and renewals of leases are governed by §§ 95 — 100 of this chapter.

(e) The lease of submerged lands conveys no interest in the water above the land or in the fish in the water. (§ 2 ch 93 SLA 1963)

Editor's note. — Section 1, ch. 93, SLA 1963, provides: "Legislative findings. (a) The state has a vital interest in the fishery resources of the state, the fishing industry, and the human rights of the fishermen. In furtherance of those interests, the legislature finds that the Alaska Land Act (AS 38.05) should contain certain provisions for those vital interests:

"(b) The legislature finds as a fact that in the interest of conservation the number

of net locations is limited by regulation; that, in the interest of conservation and to provide stabilization essential to industry, to protect human rights, and as an exercise of the police power, the legislature finds it necessary to amend the Alaska Land Act (AS 38.05) so that it aids in the achievement of those purposes by providing for the orderly utilization of lands and tidelands."

29 | * Sec. 25. AS 38.05.082(a) is amended to read:

1 | (a) The director, with the approval of the commissioner, may
2 | lease riparian, tide, and submerged lands for fisheries development.
3 | Fisheries development includes the utilization of shore gill nets or
4 | set net for the taking of fish. Each [EVERY] lease issued under this
5 | section shall reserve to the public a right-of-way for access to navi-
6 | gable waters and other tide and submerged lands.

Sec. 38.05.095. Subleases. (a) Except as provided in (b) of this section, a lessee may sublease or assign the land or portion of it upon which he has a lease if, after application to the director, the director issues a permit. The director may issue a permit if he finds that it is in the best interests of the state to do so.

(b) A nonprofit organization that is exempted from paying rent on state land under AS 38.05.097 may not sublease or assign the land or a portion of it on which it has a lease. (§ 5 art V ch 169 SLA 1959; am § 10 ch 182 SLA 1978)

Effect of amendment. — The 1978 amendment designated the provisions of this section as subsection (a), added "Except as provided in (b) of this section" to the beginning of that subsection, and added subsection (b).

7 | * Sec. 26. AS 38.05.095(a) is amended to read:

8 | (a) A [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, A] lessee may
9 | sublease or assign the land or portion of it upon which he has a lease
10 | if, after application to the director, the director issues a permit.

11 | The director may issue a permit if he finds that it is in the best
12 | interest of the state to do so.

Sec. 38.05.097. Exemption from rental payments on land leased by nonprofit organizations. (a) A nonprofit organization using state land leased by it under AS 38.05.070 — 38.05.105 for a youth encampment or similar recreational purpose is exempt from lease rental payments on that land. The nonprofit organization shall meet all other terms and conditions of the lease specified under AS 38.05.070 — 38.05.105.

(b) In this section, "nonprofit organization" means nonprofit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes or for the promotion of social welfare and which have received an exemption from the payment of federal income tax.

(c) A nonprofit organization which satisfies the requirements of this section that is using land under a lease in effect before July 1, 1978 may convert its lease to a new lease with terms exempting it from the payment of rent by submitting a written request to the director. (§ 11 ch 162 SLA 1978)

13 | * Sec. 27. AS 38.05.097(a) is amended to read:

14 | (a) A nonprofit organization using state land leased by it under
15 | AS 38.05.070 - 38.05.105 and 38.05.315 for a youth encampment or similar
16 | recreational purpose is exempt from lease rental payments on that land.
17 | The nonprofit organization shall meet all other terms and conditions of
18 | the lease specified under AS 38.05.070 - 38.05.105.

19 | * Sec. 28. AS 38.05 is amended by adding a new section to read:

20 | Sec. 38.05.101. RENEWAL OF GRAZING LEASE. At the expiration of a
21 | grazing lease under AS 38.05.070 - 38.05.100 the commissioner shall
22 | review the classification of the land in the leasehold. If the commis-
23 | sioner determines that the land should remain available for lease for
24 | grazing, the lessee has an option to renew the lease for at least 10
25 | years if he has complied with the terms of the original lease.

Sec. 38.05.127. Access to navigable or public waters. (a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the Department of Natural Resources shall,

(1) under regulations, determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements or rights-of-way, or both, reasonably necessary to insure free access to and along the body of water, unless the department finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

(b) The Department of Natural Resources shall adopt regulations implementing this section.

(c) Nothing in this section affects valid existing rights. (S 2 ch 117 SLA 1976)

Editor's note. — Section 1, ch. 117, SLA 1976, provides: "Intent. It is the intent of this Act to implement the provisions of art. VIII, sec. 14, Alaska State Constitution, relating to access to the navigable or public waters of the state."

Legislative committee report. — For report on ch. 117, SLA 1976 (HCS 51 CSSB 215), see 1975 Senate Journal, p. 452; 1975 House Journal, p. 1296.

26 * Sec. 29. AS 38.05.127 is amended by adding new subsections to read:

27 (d) Notwithstanding the requirements of (a) and (b) of this sec-
28 tion, the director may, at the request of a municipality having platting
29 powers, patent land to the municipality to satisfy a general grant land

1 entitlement under AS 29.18 without reserving public access to navigable
2 or public waters if, before the municipality sells, leases, grants, or
3 otherwise disposes of an interest in the land, the municipality

4 (1) determines whether the land to be offered for disposal
5 contains navigable or public waters; and

6 (2) provides for reservation of easements or rights-of-way,
7 or both, reasonably necessary to insure free access to and along a body
8 of water determined to be navigable or public.

9 (e) A municipality may limit, vacate, or modify an easement for
10 public access to navigable or public waters contained in municipal land
11 conveyed to the municipality by the department under AS 29.18 if the
12 municipality determines that the limitation, vacation, or modification
13 of the easement for public access is necessary for the protection of
14 other beneficial uses or public purposes.

15 (f) determination or reservation under (d)(1) and (2) of this
16 section or a limitation, vacation, or modification of an easement for
17 public access under (e) of this section shall be made by the borough
18 assembly, city council, or other municipal agency or officer designated
19 by the assembly or council to act on its behalf. Before the assembly,
20 council, municipal agency, or officer takes an action under (d)(1),
21 (2), or (e) of this section, a public hearing shall be held. Notice of
22 the hearing shall be delivered to the commissioner not less than two
23 weeks before the hearing. The commissioner may overrule an action
24 taken by a municipality under (d)(1), (2), or (e) of this section by
25 notifying the municipality of his decision within 30 days after the
26 assembly, council, municipal agency, or officer makes a determination
27 to reserve a right-of-way or limit or restrict public access to muni-
28 cipal land. If the commissioner fails to overrule the action of the
29 municipality within the 30-day period, the action of the municipality

1 is approved by the commissioner.

2 (g) Management authority over navigable waters, public waters,
3 easements and rights-of-way reserved or designated by the department in
4 a conveyance to a municipality, including the power to vacate or other-
5 wise modify those easements or rights-of-way, remains with the depart-
6 ment unless exercise of all or a part of that authority has been
7 offered to and accepted by the municipality to which the land is
8 conveyed.

9 (h) Management authority over easements and rights-of-way reserved
10 by a municipality under this section remains with the municipality.

11 (i) Upon application by a municipality, the department may vacate
12 or release, under the procedures specified in (d) and (f) of this sec-
13 tion, easements and rights-of-ways for public access to or along navi-
14 gable or public waters reserved by the department in any patent issued
15 under AS 29.18 before the effective date of this section or for which
16 the first public notice of the proposed conveyance was given before the
17 effective date of this section.

Sec. 38.05.305. Notice and review. (a) No land or interest in land within the boundaries or within six linear miles of the boundaries of a general law, home rule or unified municipality, as defined under AS 29, may be classified, reclassified, sold or leased, or otherwise disposed of, including the renewal of a lease entered into after September 22, 1976, unless the following procedures have been complied with:

(1) A notice of the proposed action shall be sent to the governing body of each municipality a boundary of which is within six linear miles of the land involved.

(2) The notice shall be sent at the earliest practicable time but no less than 30 days before the proposed action.

(3) The notice must contain a statement of the proposed action, identifying the land involved and the action proposed in sufficient detail to fairly inform the recipient of the nature of the proposed action. If the land is not surveyed, a legal description need not be used; but the land must be described in sufficient detail to allow the recipient to understand its approximate size, number of tracts involved, and location. The notice must also contain a statement to the effect that the municipality is invited to comment on the proposed action and that, upon the request of the governing body, chief executive officer, or planning agency, the division will consult with the municipal officials on the proposed action. Any request by a municipality for consultation must include the name of the municipal official to be consulted and be sent no later than 15 days after receipt of the notice by the municipality, and the notice must contain a statement to this effect and name the official and address to which the municipality's request should be sent.

(4) In consulting with the municipal officials, the proposed action and the authority under which it is to be taken shall be explained and the reason for the proposed action shall be given. A public hearing need not be held, but the municipal officials may hold a public hearing or otherwise allow public participation and comment. A hearing held under this paragraph shall be attended by the commissioner of natural resources or his designee.

(5) A municipality having a right to notice or consultation under this section may appeal to the superior court and have set aside any action taken which does not conform to this section. A municipality incorporated or established less than 30 days before the action is taken has no right to notice or consultation under this section.

(b) No land or interest in land outside the boundaries of a general law, home rule, or unified municipality, as defined under AS 29, may be classified, reclassified, sold or leased, or otherwise disposed of, including the renewal of a lease entered into after September 22, 1976, unless a notice of the proposed action as required by (a)(3) of this section is (1) given to the regional corporation organized under the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. secs. 1601-1626), within the boundaries of which the land is located; (2) given to the village corporation organized under the Alaska Native Claims Settlement Act which owns land or has selected federal land which is in the vicinity of the state land to be disposed of; and (3) posted in three public places in a community with 25 or more permanent residents located in the vicinity of the state land to be disposed of. The president of the affected regional corporation or his designee has the same rights of notice, consultation, hearing and appeal as those provided for in (a)(2) — (5) of this section.

(c) When notice is given under (b) of this section, the requirements of § 345 of this chapter relating to notice apply in addition to any other applicable notice requirements. If requested, the director shall hold a hearing within the affected area under (b) of this section. No action proposed by the director which is subject to the notice requirement specified in (b) of this section is final until at least 30 days after the date the notice was published. (§ 2 art III ch 169 SLA 1959; am § 11 ch 257 SLA 1976)

(d) Before any sale, lease under AS 38.05.070 -- 38.05.105, or other disposal of state land in the unorganized borough, the commissioner shall consider the effect of the disposal and the effect of the estimated population density that would result from the disposal upon existing traditional uses by residents in the vicinity of the land to be disposed of. The commissioner shall consider any potential conflicts with the traditional uses of the land which could result from the sale, lease or disposal and, if he finds it necessary, he shall develop a plan to resolve or mitigate the conflicts in a manner consistent with the public interest and the provisions of this chapter.
(am §§ 35, 36 ch 35 SLA 1979)

18 * Sec. 30. AS 38.05.305 is repealed and reenacted to read:

19 Sec. 38.05.305. LAND DISPOSAL IN THE UNORGANIZED BOROUGH. Before
20 a sale, lease under AS 38.05.070 - 38.05.105, or other disposal of
21 state land in the unorganized borough, the commissioner shall consider
22 the effect that the sale, lease, or other disposal may be expected to
23 have on the density of the population in the vicinity of the land, and
24 any potential for conflicts with the traditional uses of the land which
25 could result from the sale, lease or disposal. If he finds it neces-
26 sary, the commissioner shall develop a plan to resolve or mitigate the
27 conflicts in a manner consistent with the public interest and the
28 provisions of this chapter.

Sec. 38.05.315. Public and charitable use. (a) The lease, sale, or other disposal of state land or resources may be made to a state or federal agency or political subdivision, or the lease, sale, or other disposal of coal deposits suitable for mining may be made to a utility owned and operated by a government agency or nonprofit cooperative association organized to participate under the Federal Rural Electrification Act for the purpose of generating electric power and energy or the production of process steam, or both, for less than the appraised value as determined by the director and approved by the commissioner to be fair and proper and in the best interests of the public, with due consideration given to the nature of the public services or function rendered by the agency, subdivision, or utility making application, and of the terms of the grant under which the land was acquired by the state.

(b) Notwithstanding §§ 70 — 80, 95, and 100 of this chapter the director, upon application filed by an applicant eligible under (b) — (d) of this section, may, by negotiation and without public auction in the manner prescribed in (b) — (d) of this section, lease state land for a term of not more than 55 years. Before leasing, the director shall prepare a land use plan and a land classification to insure that the proposed use is compatible with area utilization. Before the land may be leased under (b) — (d) of this section, it must be shown to the satisfaction of the director that the land is to be used for an established or definitely proposed project, and that the eligible applicant has the financial ability to carry out the project. The commissioner may establish limitations on the acreage which may be leased under (b) — (d) of this section to an applicant.

(c) Eligible applicants under (b) — (d) of this section are limited to nonprofit corporations, associations, clubs, or societies organized and operated exclusively for charitable, religious, scientific, or educational purposes, or for the promotion of social welfare, if the project for which the land is desired conforms to those objectives and not commercial development. No lease of land may be granted under this section for a project closed to the use and enjoyment of the general public. In every case the applicant shall submit evidence that it is exempt from payment of federal income tax. As a condition of and in consideration of the rights acquired under a lease granted under (b) — (d) of this section, each eligible organization and its parent or subsidiary organizations shall (1) maintain and preserve books, accounts, and records that the director prescribes by regulation as necessary and appropriate; and (2) accord at all reasonable times to the state and its authorized agents and auditors the right of access to those books, accounts and records for the purpose of inspecting, examining and copying them. Any information provided the state in the course of an audit becomes a matter of public record.

(d) The director may lease the land to an eligible applicant at a reasonable annual rental, taking into consideration the purposes for which the land is to be used and the financial resources of the applicant, but in no case may the rental be less than one per cent of the fair market value on lands acquired primarily for development, or less than five per cent of the fair market value on school, university, mental health, or acquired lands. Renewal leases may be issued at the discretion of the director upon the expiration of a primary or renewal term. Each lease shall contain a provision for its termination as to all or part of the lands upon a finding by the director that the land or a part of it has not been used by the lessee for the purpose specified in the lease for a period of two years. No lease may be assigned or subleased except with the

consent of the director, and in any case may only be transferred to an applicant eligible under (b) — (d) of this section. A lessee may not change the use specified in the lease to another or additional use except with the consent of the director. If, at any time after the land is leased, the lessee attempts to assign the lease or transfer control over the land to another, or if the land is devoted to a use other than that for which the land was leased without the consent of the director, the lease automatically terminates.

(e) The lease, sale, or other disposal of state land at appraised fair market value may be negotiated with a licensed public utility or a licensed common carrier by the director with the approval of the commissioner if the utility or carrier reasonably requires the land for the conduct of its business under its license. (§ 4 art III ch 169 SLA 1959; am § 1 ch 155 SLA 1960; am § 1 ch 137 SLA 1962; am § 1 ch 35 SLA 1976; am § 12 ch 257 SLA 1976)

(f) The commissioner shall lease state land for telephone or electric transmission and distribution lines for less than the appraised value of the land if the lessee is a nonprofit cooperative association organized under AS 10.25. Before he determines the annual rental, the commissioner shall consider the nature of the public service rendered by the nonprofit cooperative association and the terms of the grant under which the land was acquired by the state. A nonprofit cooperative association may not construct improvements other than transmission or distribution lines and substations on land leased under this subsection.

(am § 1 ch 76 SLA 1980)

Cross reference. — As to reservation to which contracts for sale, lease or grant of state land and deeds to state land, properties or interest to state land are subject, see AS 38.05.125.

Effect of amendments. — The first 1976 amendment, in subsection (e), added "and not commercial development" to the end of

the first sentence and added the present second, fourth and fifth sentences.

The second 1976 amendment added subsection (e).

Cited in *Moore v. State*, Sup. Ct. Op. No. 1294 (File Nos. 2554, 2557, 558 P.2d 8 (1976).

Effect of amendments.
The 1980 amendment, effective June 13, 1980, added subsection (f).

As the rest of the section was not affected by the amendment, it is not set out.

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* Sec. 31. AS 38.05.315(b) is amended to read:
(b) Notwithstanding AS 38.05.070 - 38.05.080 and [,] 38.05.095,
[AND AS 38.05.100] the director, upon application filed by an applicant
eligible under (b) - (d) of this section, may, by negotiation and
without public auction in the manner prescribed in (b) - (d) of this
section, lease state land for a term of not more than 55 years. Before
leasing, the director shall prepare a land use plan and a land classi-
fication to insure that the proposed use is compatible with area utili-
zation. Before the land may be leased under (b) - (d) of this section,
it must be shown to the satisfaction of the director that the land is
to be used for an established or definitely proposed project, and that
the eligible applicant has the financial ability to carry out the
project. The commissioner may establish limitations on the acreage
which may be leased under (b) - (d) of this section to an applicant.

14 * Sec. 32. AS 38.05.315(d) is amended to read:

15 (d) The director may lease the land to an eligible applicant at a
16 reasonable annual rental, taking into consideration the purposes for
17 which the land is to be used and the financial resources of the appli-
18 cant. The [, BUT IN NO CASE MAY THE] rental may not be less than one
19 percent of the fair market value on lands acquired primarily for
20 development, or less than five percent of the fair market value on
21 [SCHOOL,] university [, MENTAL HEALTH,] or acquired lands, except that
22 an eligible applicant is exempt from the payment of annual rent on
23 state land leased for a youth encampment as defined by the commissioner
24 by regulation. Renewal leases may be issued at the discretion of the
25 director upon the expiration of a primary or renewal term. Each lease
26 shall contain a provision for its termination as to all or part of the
27 lands upon a finding by the director that the land or a part of it has
28 not been used by the lessee for the purpose specified in the lease for
29 a period of two years. No lease may be assigned or subleased except
1 with the consent of the director, and in any case may only be trans-
2 ferred to an applicant eligible under (b) - (d) of this section. A
3 lessee may not change the use specified in the lease to another or
4 additional use except with the consent of the director. If, at any
5 time after the land is leased, the lessee attempts to assign the lease
6 or transfer control over the land to another, or if the land is devoted
7 to a use other than that for which the land was leased without the
8 consent of the director, the lease automatically terminates.

Sec. 38.05.345. Notices. (a) Public notice of a sale, lease or other disposal of land or interest in it shall be substantially as follows.

(b) Notice shall be published once a week for four consecutive weeks preceding the time of sale stated in the notice, in newspapers of general circulation in the state and by the electronic media covering the region of the state in which the land is located. If there is no newspaper of general circulation in the vicinity of the land offered for sale, notices shall be posted not later than four weeks before the public auction is to be held in three public places near the land to be sold or leased. The public auction shall be held not less than 45 days after publication of the first notice and not more than five weeks following the last appearance of the published notice.

(c) [deleted]

(d) Where the land involved is adjacent to a body of water or waterway which the department has not previously determined to be navigable or public, or not navigable or public, the notice shall state that such a determination is to be made. (§ 10 art III ch 169 SLA 1959; am § 8 ch 61 SLA 1960; am § 2 ch 74 SLA 1961; am § 3 ch 117 SLA 1976; am § 14 ch 257 SLA 1976)

(e) The director shall publish a public notice of each disposal of state land under the procedures specified in AS 38.05.057 and AS 38.08 in newspapers of general circulation in the state and by the electronic media covering the region of the state in which the land is located. The notice shall be published once each week for four consecutive weeks before the beginning date of an application period.

(f) If there is no newspaper of general circulation in the general vicinity of land offered for disposal, notices required by (e) of this section shall be posted not later than four weeks before the land is offered in three public places near the land.

(g) A notice under this section shall contain

- (1) a description of the land sufficient for identification by the public;
- (2) the date of the auction or the beginning of the application period;
- (3) a statement that a purchaser of state land offered is responsible for the construction of access roads and capital improvements that may be required by an authority having platting authority; and

(4) the location and address of places where the public may obtain information concerning the land offered for disposal.

(am §§ 39, 40 ch 85 SLA 1979)

Effect of amendments.

The 1979 amendment, in subsection (b), substituted "four consecutive weeks" for "three consecutive weeks" and the language beginning "newspapers of general circulation" for "at least one newspaper of

general circulation in the vicinity of which the land, property or interest in it is to be sold, leased or disposed of" in the first sentence, substituted "If there is no newspaper" for "Where there is no newspaper" and "or leased" for "leased or

otherwise disposed of" and inserted "of the land offered for sale" and "not later than four weeks before the public auction is to be held" in the second sentence, substituted "public auction" for "sale, lease or disposal of lands" and "45 days" for "30 days" in the third sentence, and deleted the former fourth sentence, which read: "The notice shall contain a

description of the land and interest to be sold, leased or disposed of and the time, place, and general terms of the sale, lease or disposal." The amendment also added subsections (e) - (g).

As the rest of the section was not affected by the amendment, it is not set out.

9 * Sec. 33. AS 38.05.345 is repealed and reenacted to read:

10 Sec. 38.05.345. NOTICE. (a) This section establishes the re-
11 quirements for notice given by the department for the following actions:

12 (1) classification or reclassification of state land under
13 AS 38.05.300 and the closing of land to mineral leasing or entry under
14 AS 38.05.185;

15 (2) zoning of land under applicable law;

16 (3) a decision under AS 38.05.035(a)(14) regarding the sale,
17 lease, or other disposal of an interest in state land or resources; and

18 (4) a competitive disposal of an interest in state land or
19 resources after final decision under AS 38.05.035(a)(14).

20 (b) Notice of an action described in (a) of this section shall be
21 given at least 30 days before the action by (1) publication in a news-
22 paper of general circulation in the vicinity of the proposed action,
23 (2) publication through public service announcements on the electronic
24 media serving the area affected by the action, (3) posting in a con-
25 spicuous location in the vicinity of the action, (4) notification of
26 parties known or likely to be affected by the action, or (5) another
27 method calculated to reach affected persons. A notice shall contain
28 sufficient information to inform the public of the nature of the action
29 and the opportunity of the public to comment on the action.

1 (c) Notice at least 30 days before action under (a)(2) and (3) of
2 this section shall also be given to the following:

3 (1) to a municipality if the land is within the boundaries
4 of the municipality;

5 (2) to a regional corporation if the boundaries of the
6 corporation as established by sec. 7(a) of the Alaska Native Claims
7 Settlement Act encompass the land and the land is outside a municipal-
8 ity;

9 (3) to a village corporation organized under sec. 8(a) of
10 the Alaska Native Claims Settlement Act if the land is within six miles
11 of the village for which the corporation was established and the land
12 is located outside a municipality;

13 (4) to the postmaster of a permanent settlement of more than
14 25 persons located within six miles of the land if the land is located
15 outside a municipality, with a request that the notice be posted in a
16 conspicuous location.

17 (d) A municipality or a corporation entitled to receive notice
18 under (c) of this section may hold a hearing within 30 days after
19 receipt of the notice. If a hearing is held, the commissioner shall
20 attend the hearing. The commissioner may hold a public hearing at his
21 own discretion.

22 (e) For purposes of this section an "interest in state land or
23 resources" does not include

- 24 (1) a permit or other authorization revocable by the depart-
25 ment;
- 26 (2) negotiated sales under AS 38.05.115; or
- 27 (3) unitization of oil and gas leases.

Sec. 38.08.010. Classification of land for homesite entry. (a) The director shall designate, classify and make available for homesite entry state land in amounts and at times as required in AS 38.04.020 or as may otherwise be required by law.

(b) Land classified as homesite entry land shall be divided into parcels not exceeding five acres in reasonably compact form, with boundaries conforming as nearly as practicable to natural geologic and topographic features.

(c) Repealed by § 45 ch 85 SLA 1979.

(d) The director shall, to as great an extent as possible, classify land for homesite entry based upon the distribution of population in the state. (§ 2 ch 142 SLA 1977; am §§ 7, 8, 15 ch 181 SLA 1978; am § 45 ch 85 SLA 1979)

Effect of amendments. — The 1978 amendment rewrote subsection (a) and added subsection (d). The amendment also, in former subsection (c), repealed paragraphs (1), (2), (3) and (5), which read "lacks drainage sufficient for construction of residential dwellings," "has soil which has been classified and interpreted as appropriate for agriculture in soil surveys conducted by the Soil Conservation Ser-

vice of the United States Department of Agriculture," "is known to be mineralized with commercially valuable minerals," and "is located where existing services provided by the state and political subdivisions of the state would be inaccessible," respectively.

The 1979 amendment repealed subsection (c), which described land not classifiable for homesite entry.

2 | * Sec. 19. AS 38.08.010(b) is amended to read:

3 | (b) Land classified as homesite entry land shall be divided into
4 | parcels not exceeding five acres in reasonably compact form, with
5 | boundaries conforming as nearly as practicable to natural geologic and
6 | topographic features. A parcel may exceed five acres if the director
7 | determines that a larger size is necessary to comply with local zoning
8 | ordinances or to permit the design of a viable subdivision because of
9 | topographical features, soil conditions, on-site sewage disposal re-
10 | quirements, or water drainage or supply considerations that are unique
11 | to the subdivision.

Sec. 38.08.010. Issuance of entry permit. (a) An applicant meeting the qualifications for homesite entry under § 30 of this chapter shall be issued a revocable permit to occupy and improve the homesite in order to qualify for issuance of patent as provided in this chapter. The application fee is the sole rent chargeable on the permit for its duration.

(b) If the number of applicants qualified for homesite entry exceeds the number of available homesites offered, or if several applicants apply and qualify for the same homesite, priority in award of an entry permit shall be accorded to that applicant showing proof of the longest residency in the state.

(c) The permit may not be assigned, conveyed or otherwise transferred, but rights under the permit may devolve by testate or intestate succession. An attempt to assign, convey, or to otherwise transfer the permit, is void and constitutes a substantial breach.

(d) An applicant may apply for more than one available homesite. No person holding a homesite patent may apply for a homesite entry permit, no person may simultaneously hold more than one homesite entry permit, and no person who is a member of the homesite entry permit holder's household may be issued a homesite entry permit while a member of the homesite entry permit holder's household. (§ 2 ch 142 SLA 1977)

28 | * Sec. 34. AS 38.08.040(b) is amended to read:

29 | (b) If the number of applicants qualified for homesite entry
1 | exceeds the number of available homesites offered, or if several appli-
2 | cants apply and qualify for the same homesite, priority in award of an
3 | entry permit shall be accorded to that applicant showing proof of the
4 | longest residency in the state. An applicant shall present his proof
5 | of residency to the department in person at the time and place desig-
6 | nated by the director.

12 * Sec. 20. AS 38.08.040(b) is amended to read:

13 (b) If the number of applicants qualified for homesite entry
14 exceeds the number of available homesites offered [,] or if several
15 applicants apply and qualify for the same homesite, priority in award
16 of an entry permit shall be accorded to that applicant showing proof of
17 the longest residency in the state. An applicant shall present his
18 proof of residency to the director in person at the time and place
19 designated by the director unless medical reasons or military service
20 outside the state prevent attendance.

Sec. 38.05.065. Terms of contract of sale. (a) The contract of sale for land sold at public auction shall require the remainder of the purchase price to be paid in monthly, quarterly or annual installments over a period of 10 years, with interest at the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed. Installment payments plus interest shall be set on the level-payment basis.

(b) The contract of sale for land sold under the procedures specified in AS 38.05.057 (lottery disposals) shall require the remainder of the purchase price to be paid in monthly, quarterly, or annual installments over a period of not more than 20 years. Installment payments plus interest shall be set on the level-payment basis. The interest rate to be charged on installment payments is the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed.

(c) The director shall, for contracts under (a) or (b) of this section, set for each sale the period for the payment of installments and the total purchase price plus interest. The director, with the consent of the commissioner, may also include in contracts under this section conditions, limitations and terms which he considers necessary and proper to protect the interest of the state. Violations of any provision of this chapter or the terms of the contract of sale subject the purchaser to appropriate administrative and legal action, including but not limited to specific performance, foreclosure, ejectment, or other legal remedies in accordance with applicable state law. (§ 3 art IV ch 169 SLA 1959; am § 5 ch 176 SLA 1978; am §§ 26, 27 ch 85 SLA 1979)

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

The 1979 amendment substituted the language beginning "prevailing rate for real estate mortgage loans" for "rate of not less than five per cent a year" at the end of the first sentence of subsection (a), and in subsection (b), substituted "under the procedures specified in AS 38.05.057 (lottery disposals)" for "by lottery" in the

first sentence and substituted "for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska" for "on similar land transactions" and deleted "as determined by the director, but in no case may it be below five per cent a year or above the current usury rate as set by AS 45.45.101(b) and (d)" in the third sentence.

Sec. 38.05.077. Classification and disposal of remote parcels.

(a) The commissioner shall, under the procedures required by AS 38.05.300 and 38.05.305, classify state land which is suitable for disposal as remote parcels. The commissioner shall designate remote parcel selection areas consisting of land classified under this section. The commissioner shall set the number of remote parcels that may be selected in each remote parcel selection area. A remote parcel may not exceed 40 acres. The commissioner shall determine for each remote parcel selection area, the amount of land in each remote parcel that may be used for residential purposes. Land which may be used for residential purposes in a remote parcel may not be less than two acres and may not exceed five acres.

(b) The commissioner shall prescribe parcel selection procedures for each remote parcel selection area designated under (a) of this section. The parcel selection procedures shall include

(1) the maximum size of a remote parcel that may be selected in the parcel selection area;

(2) the maximum amount of land in a remote parcel that may be used for residential purposes;

(3) the minimum distance between remote parcels in the parcel selection area;

(4) parcel dimensions, configuration, orientation and other parcel design requirements;

(5) a description of land within the area that may not be included in a parcel;

(6) a requirement that landmarks, monuments or other points be used as points of reference for the measurement of distances within an area; and

(7) specification for the type of stakes to use to mark the corners of a parcel.

(c) A person may apply under the procedures set out in AS 38.05.057 to lease a remote parcel in a parcel selection area designated by the commissioner under (a) of this section. Each person who is entitled to select a remote parcel may enter the area for which he applied to stake the boundaries of a remote parcel.

(d) Not later than 15 days after selection and staking the exterior boundaries of a remote parcel, the person who selected the parcel shall file a sketch plat with the department which shows the location of the remote parcel and the location of the land in the parcel that he intends to use for residential purposes. At the time of filing the sketch plat, the person who selected the parcel shall apply to lease the land. An application to lease the land shall be on a standard form prepared by the department. The annual rental payment for the first year of the lease shall be submitted to the department with the application. After the application to lease a remote parcel is approved, the commissioner shall offer to lease the land to the person who selected the remote parcel. A lease granted under this section shall contain the following terms:

(1) a remote parcel may be leased for five years;

(2) a remote parcel lease may be renewed at the option of the lessee for a second five-year period under the same terms as provided for the first five-year period of the remote parcel lease; and

(3) a rental payment shall be paid annually and shall be \$150 a year for five acres or less plus \$50 for each acre by which the remote parcel exceeds five acres.

(e) A remote parcel lease may not be assigned, conveyed or otherwise transferred, but rights under the lease may devolve by testate or intestate succession. An attempt to assign, convey or to otherwise transfer the lease is void and terminates the lease.

(f) After revocation and termination of a remote parcel lease, improvements or personal property remaining on the land shall be managed in the same manner as provided in AS 38.05.090 for removal or reversion of improvements upon termination of leases of state land. (§ 1 ch 157 SLA 1968; am § 1 ch 18 SLA 1973; am § 31 ch 85 SLA 1979)

Effect of amendment.

The 1979 amendment rewrote this section.

Editor's note. — As to designation of land for disposal under the open-to-entry

program and assessment of supply and demand under such program, see §§ 1 and 2, ch. 181, SLA 1978, in the 1979 Temporary and Special Acts and Resolves.

Sec. 38.05.078. Purchase of land in a remote parcel. (a) A lessee of a remote parcel may purchase the land used for residential purposes in a remote parcel if, before the expiration of the lease or a renewal of the lease, he surveys the residential land and erects a habitable dwelling on the land.

(b) A lessee of a remote parcel may purchase land in a remote parcel which is not used for residential purposes if, before the expiration of the lease or a renewal of the lease, he complies with (a) of this section, surveys the land, and constructs permanent improvements on the land. The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) which specify the type of permanent improvements that must be constructed by a lessee of a remote parcel before he may purchase the land. The improvements specified in regulations adopted by the commissioner shall be those which are compatible with the remote character of the land and may include, but are not limited to, airstrips and buildings.

(c) A lessee of a remote parcel may purchase land in a remote parcel under the terms specified in AS 38.05.065(b). The purchase price of land sold under this section shall be its fair market value as determined by the commissioner. The valuation date for determining the fair market value of land sold under this section is the date that the plat of survey is approved by the commissioner.

(d) In addition to the terms specified in AS 38.05.065(b), a contract of sale for land in a remote parcel shall contain the following conditions:

(1) the land may not be sold, leased, or otherwise conveyed before 10 years after the date that the contract of sale is signed by the purchaser, but title to the land may devolve by testate or intestate succession; and

(2) the land may not be subdivided before 10 years after the date that the contract of sale is signed.

(e) If a purchaser of land described in (a) and (b) of this section fails to comply with the conditions in the contract of sale required by (d) of this section, the contract of sale is void and the purchaser forfeits all rights in and title to the land. The commissioner shall request the attorney general to bring an action to eject the purchaser from the land and to declare the right of reentry of the state.

(f) In this section, "habitable dwelling" means a single-family dwelling, together with fixtures and facilities, including sanitary facilities required or customary in the vicinity of the land, and does not include a mobile home unless it is placed on a permanent foundation. (§ 32 ch 85 SLA 1979)

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Sec. 35

p. 24

AS 38.05.065 (a)

AS 38.05.077 (b) (2)

AS 38.05.078 (b) & (d)(1)

AS 41.01.100

7 | * Sec. 35. AS 38.05.065(a), 38.05.077(b)(2), 38.05.078(b) and (d)(1);
8 | and AS 41.01.100 are repealed.

Sec. 38.05.095. Subleases. (a) Except as provided in (b) of this section, a lessee may sublease or assign the land or portion of it upon which he has a lease if, after application to the director, the director issues a permit. The director may issue a permit if he finds that it is in the best interests of the state to do so.

(b) A nonprofit organization that is exempted from paying rent on state land under AS 38.05.097 may not sublease or assign the land or a portion of it on which it has a lease. (§ 5 art V ch 169 SLA 1959; am § 10 ch 182 SLA 1978)

Effect of amendment. — The 1978 amendment designated the provisions of this section as subsection (a), added "Except as provided in (b) of this section:" to the beginning of that subsection, and added subsection (b).

9 || * Sec. 36. AS 38.05.095(b) is repealed.

11 AAC 53.450. BUFFER STRIPS, RESERVED AREAS, AND PUBLIC EASEMENTS.

(a) When the division subdivides land adjacent to a highway that is part of the state's primary or secondary road system, a strip of land having a common boundary with the highway right-of-way must be reserved and retained in public ownership as a buffer strip. The width will be approximately 300 feet, measuring outward from the boundary of the right-of-way, but the director may require that a wider or narrower buffer strip be reserved, depending on vegetative cover, the view from the roadway, topography, highway noise levels, expected future needs for additional transportation facilities, or other relevant factors. However, no buffer strip need be reserved if

(1) the parcel being disposed of is an isolated one already surrounded by private land cleared and developed to the right-of-way, so that no reasonably continuous buffer strip is feasible; or

(2) existing land use on adjacent parcels, or existing land use policy as set forth in a local comprehensive plan or a land use plan prepared by the division, clearly indicates that retaining a buffer strip is unnecessary or undesirable.

(b) The director may dedicate open space, parks, trails, or recreation areas in the plat of a residential subdivision and will base the amount of land to be dedicated on the proposed population density of the subdivision. Land dedicated under this subsection must be reasonably adaptable to active park and recreation uses and must be in a location convenient to the subdivision's residents. Factors the director must use in evaluating the adequacy of the proposed open space, park, trail, or recreation area include

size, shape, topography, geology, tree cover, access, and location.

(c) As required by sec. 330 of this chapter, the director shall reserve public access easements to and along navigable or public water when the division subdivides land adjacent to or containing the water. In addition, if the water is coastal or if it has or is likely to have substantial present or future public use, the director shall either retain in public ownership a strip of land along the mean high water line or ordinary high water mark, or state in the preliminary written decision referred to in sec. 310 of this chapter why retaining the strip of land is not in the public interest. In determining whether the water has or is likely to have substantial present or future public use, the director shall consider information received under secs. 310(b) and 330(d) of this chapter. The strip of land must be at least 50 feet wide, but may be wider, or wider at periodic points, if appropriate because of floodplain width, bank characteristics, size of the water body, extent of present or expected future public use, the need for campsites, and other relevant factors. The strip of land must be of sufficient width to allow for public access as well as to screen the subdivision, where possible, with an undisturbed strip of vegetation. (Eff. 3/27/80, Reg. 80)

Authority: AS 38.04.005
AS 38.04.015
AS 38.04.045
AS 38.04.055

AS 38.04.900
AS 38.05.020
AS 38.05.127

10 || * 37. 11 AAC.53.450(c) is annulled.