



LAWS OF ALASKA

1978

Source

FCCS CSSB 159

Chapter No.

182

AN ACT

Relating to state land; and providing for an effective date.

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

* Section 1. REDESIGNATION AND DISPOSAL OF MENTAL HEALTH LAND. (a) Land granted to the state under the Mental Health Enabling Act of 1956, 70 Stat. 709, and patented to or approved for patent to the state on July 1, 1978 and land designated as mental health land which was received in exchange for land granted under that federal land grant is redesignated as general grant land and shall be managed consistent with applicable provisions of law.

(b) Redesignation of mental health land in (a) of this section does not affect the validity of a deed, contract for sale, lease, easement, right-of-way, permit, mineral lease disposal, or a reservation for public use of that land by statute, in effect before July 1, 1978 or land management actions including use classifications under AS 38.05.300, and interagency land management assignments of that land made by the Department of Natural Resources before July 1, 1978.

* Sec. 2. REDESIGNATION AND DISPOSAL OF SCHOOL LAND. (a) Land granted to the state in sections 16 and 36 in each township surveyed before January 3, 1959 under the Act of March 4, 1915, 48 U.S.C. 353, and patented to or approved for patent to the state on July 1, 1978 and land designated as school land which was received in exchange for land granted under that federal land grant and land granted to the state as lieu or indemnity land is redesignated as general grant land and shall be managed consistent with applicable provisions of law.

(b) The redesignation of school land in (a) of this section does not affect the validity of a deed, contract for sale, lease, easement, right-of-way, permit, mineral lease disposal, or a

reservation for public use of that land by statute, in effect before July 1, 1978 or land management actions including use classifications under AS 38.05.300, and interagency land management assignments of that land made by the Department of Natural Resources before July 1, 1978.

* Sec. 3. REDESIGNATION AND DISPOSAL OF UNIVERSITY LAND.

(a) Land granted to the state under 38 Stat. 1214, as amended, 48 U.S.C. 353, and the Act of January 21, 1929, 48 U.S.C. 354(a) which is held in the name of the University of Alaska on July 1, 1978 and land designated as university land which was received in exchange for land granted under those federal land grants is redesignated as general grant land and shall be managed consistent with applicable provisions of law.

(b) The redesignation of university land in (a) of this section does not affect the validity of a deed, contract for sale, lease, easement, right-of-way, permit, mineral lease disposal, or a reservation for public use of that land by statute, in effect before July 1, 1978 or land management actions including use classifications under AS 38.05.300, and interagency land management assignments of that land made by the Department of Natural Resources before July 1, 1978.

(c) Land in Section 6, Township 1 South, Range 1 West, Section 31, Township 1 North, Range 1 West, Section 1, Township 1 South, Range 2 West, and Section 36, Township 1 North, Range 2 West, Fairbanks Meridian granted under the Act of March 4, 1915, 48 U.S.C. 353, and all land used or occupied by the university and its associated facilities, community colleges, or subordinate campuses on or before July 1, 1978 shall be held in the name of the University of Alaska and shall be reserved and dedicated to use for the University of Alaska and title to that land shall be held by the university.

* Sec. 4. AS 37 is amended by adding a new chapter to read:

CHAPTER 14. TRUST FUNDS.

ARTICLE 1. MENTAL HEALTH FUND.

Sec. 37.14.010. MENTAL HEALTH FUND ESTABLISHED. (a) There is established as a separate fund the mental health fund.

(b) The principal of the fund established in (a) of this section consists of sums transferred under sec. 50 of this chapter.

(c) The income of the fund established in (a) of this section consists of the interest and dividends earned from investments of the principal of that fund under sec. 170 of this chapter.

Sec. 37.14.020. MENTAL HEALTH FUND ADVISORY BOARD CREATED. (a) There is created in the Department of Revenue the Mental Health Fund Advisory Board composed of the director of the division of mental health, the chairman of the Mental Health Advisory Council, and the commissioner of the Department of Revenue.

(b) The board created in (a) of this section shall elect a chairman from the membership of that board. Members

serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards.

Sec. 37.14.030. POWERS AND DUTIES OF BOARD. The board created in sec. 20 of this chapter has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary;

(2) to have prepared an annual accounting of the total principal and income of the fund established in sec. 10 of this chapter; and

(3) to prepare long-range investment plans for the fund established in sec. 10 of this chapter.

Sec. 37.14.040. FUND UTILIZATION. The principal of the fund established in sec. 10 of this chapter shall be retained in that fund for investment as specified in sec. 170 of this chapter. The income of the fund may not be appropriated for a purpose other than the support of the state mental health program.

Sec. 37.14.050. CONTRIBUTIONS. During each fiscal year, subject to legislative appropriation of sufficient funds, the commissioner of the Department of Revenue shall transfer to the fund established in sec. 10 of this chapter a sum equal to one and one-half per cent of the total revenue derived from the management of state land, including amounts paid to the state as proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue-sharing payments or bonuses.

ARTICLE 2. UNIVERSITY FUND.

Sec. 37.14.060. UNIVERSITY FUND ESTABLISHED. (a) There is established as a separate fund the university fund.

(b) The principal of the fund established in (a) of this section consists of

(1) the balance of the trust fund established in AS 14.40.400 on July 1, 1978; and

(2) sums transferred under sec. 100 of this chapter.

(c) The income of the fund established in (a) of this section consists of the interest and dividends earned from investments of the principal of that fund under sec. 170 of this chapter.

Sec. 37.14.070. UNIVERSITY FUND ADVISORY BOARD CREATED. (a) There is created in the Department of Revenue the University Fund Advisory Board composed of two members appointed by the Board of Regents of the University of Alaska from the membership of the Board of Regents, and the commissioner of the Department of Revenue.

(b) The board created in (a) of this section shall elect a chairman from the membership of that board.

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Members serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards.

Sec. 37.14.080. POWERS AND DUTIES OF BOARD. The board created in sec. 70 of this chapter has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary;

(2) to have prepared an annual accounting of the total principal and income of the fund established in sec. 60 of this chapter; and

(3) to prepare long-range investment plans for the fund established in sec. 60 of this chapter.

Sec. 37.14.090. FUND UTILIZATION. (a) The principal of the fund established in sec. 60 of this chapter shall be retained in the fund for investment as specified in sec. 170 of this chapter.

(b) The income from the fund established in sec. 60 of this chapter may not be appropriated for a purpose other than the support of programs of the University of Alaska.

(c) No part of the principal and income of the fund established in sec. 60 of this chapter may be used for the support of a sectarian or denominational college or school.

Sec. 37.14.100. CONTRIBUTIONS. During each fiscal year the commissioner of the Department of Revenue shall transfer to the fund created in sec. 60 of this chapter a sum equal to one-half of one per cent of the total receipts derived from the management of state land, including amounts paid to the state as proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue-sharing payments or bonuses.

ARTICLE 3. PUBLIC SCHOOL FUND.

Sec. 37.14.110. PUBLIC SCHOOL FUND ESTABLISHED. (a) There is established as a separate fund the public school fund.

(b) The principal of the fund established in (a) of this section consists of

(1) the balance of the public school permanent fund on July 1, 1978; and

(2) sums transferred under sec. 150 of this chapter.

(c) The income of the fund created in (a) of this section consists of the interest and dividends earned from investments of the principal of that fund under sec. 170 of this chapter.

Sec. 37.14.120. PUBLIC SCHOOL FUND ADVISORY BOARD CREATED. (a) There is created in the Department of Revenue the Public School Fund Advisory Board composed of

the commissioner of the Department of Education, three members elected by the Board of Education from among its membership, and the commissioner of the Department of Revenue.

(b) The board created in (a) of this section shall elect a chairman from the membership of the board. Members serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards.

Sec. 37.14.130. POWERS AND DUTIES OF BOARD. The board created in sec. 120 of this chapter has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary;

(2) to have prepared an annual accounting of the principal and income of the fund established in sec. 110 of this chapter; and

(3) to prepare long-range investment plans for the fund established in sec. 110 of this chapter.

Sec. 37.14.140. FUND UTILIZATION. The principal of the fund established in sec. 110 of this chapter shall be retained in the fund for investment as specified in sec. 170 of this chapter. The income of the fund may not be appropriated for a purpose other than for the support of public education programs.

Sec. 37.14.150. CONTRIBUTIONS. During each fiscal year the commissioner of the Department of Revenue shall transfer to the fund created in sec. 110 of this chapter a sum equal to one-half of one per cent of the total receipts derived from the management of state land, including amounts paid to the state as proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue-sharing payments or bonuses.

ARTICLE 4. CUSTODY AND INVESTMENT OF TRUST FUNDS.

Sec. 37.14.160. DUTIES OF COMMISSIONER OF REVENUE. The commissioner of revenue is the treasurer of the funds created in secs. 10, 60, and 110 of this chapter and shall

(1) act as official custodian of the cash and securities belonging to those funds and provide adequate safe deposit facilities for each of them;

(2) receive cash belonging to those funds;

(3) collect the principal on securities acquired for each fund established under secs. 10, 60, and 110 of this chapter and credit each fund accordingly;

(4) collect interest and dividends earned on investments of the funds established under secs. 10, 60, and 110 of this chapter and credit the income reserve account of each fund accordingly;

(5) invest and reinvest the principal of each

fund in accordance with sec. 170 of this chapter.

Sec. 37.14.170. INVESTMENTS. (a) The commissioner of revenue, with the approval of each advisory board created in secs. 20, 70, and 120 of this chapter, may invest the principal of the funds created in secs. 10, 60, and 110 of this chapter in the same manner as specified for the investment of surplus pension funds under AS 39.35.110.

(b) The commissioner of revenue may

(1) invest and reinvest the principal of the funds;

(2) sell, exchange, convey, transfer, or otherwise dispose of investments of the funds by private contract or at public auction;

(3) vote upon a stock, bond, or other security; give a general or special proxy or power of attorney with or without power of substitution; exercise a conversion privilege, subscription right, or other option and make payments incidental to it; consent to or participate in a corporate reorganization or other change affecting corporate securities, delegate discretionary power, pay an assessment or charge in connection with the delegation; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities, or other investments held in the funds;

(4) make, execute, acknowledge, and deliver documents of transfer and conveyance and instruments necessary or appropriate to carry out the powers granted;

(5) register investments held in a fund in the name of the board having the power to approve investments for a fund;

(6) do all acts whether or not expressly authorized which are considered proper for the protection of the investments held in the funds.

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

(c) In addition to the requirements specified in AS 38.50.090, the agencies referred to in (b) of this section and other state agencies with authority to acquire or dispose of land shall give written notification of the fact of acquisition, lease or exchange to the division of lands within three months after the date that they make the acquisition, lease or exchange.

* Sec. 6. AS 38.05.030(d) is amended to read:

(d) Real property acquired by, and under the management of, the agencies referred to in (b) of this section, which is no longer needed for its intended use, shall be returned to the jurisdiction of the division of lands, except that the Department of Transportation and Public Facilities may dispose of real property acquired by it under AS 19.05.040(2) and AS 19.05.080 - 19.05.120.

* Sec. 7. AS 38.05.035(b) is amended by adding a new

paragraph to read:

(6) dispose of land which is held in the name of the University of Alaska except land granted under the Act of March 4, 1915, 48 U.S.C. 353 which is reserved as the site of the University of Alaska and all land used or occupied by the university and its associated facilities, community colleges, or subordinate campuses.

* Sec. 8. AS 38.05.085(b) is repealed and re-enacted to read:

(b) When it becomes necessary to determine the fair market value of property as required by (a) of this section, the director shall have the property appraised by a qualified appraiser. If the lessee disagrees with the appraisal obtained by the director, he may appoint a qualified appraiser to make an appraisal of the property in question. If the two appraisers agree upon the fair market value, the determination is binding on the parties. In the event the two appraisers are unable to agree, they shall appoint a third qualified appraiser who shall then make his appraisal of the property in question. When the third appraisal is completed, the two of the three appraisals which are nearest each other in their determination of the fair market value shall be averaged and the resultant sum shall be the fair market value of the property in question and absolutely binding on the parties. All costs incurred in making the appraisals provided for in this subsection shall be borne by the state and the lessee equally.

* Sec. 9. AS 38.05.085(g) is amended by adding a new paragraph to read:

(3) "qualified appraiser" means a senior member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, a person meeting the requirements for certification as an appraiser II by the division of personnel, Department of Administration, or a person qualified according to regulations adopted by the commissioner under the Administrative Procedure Act (AS 44.62).

* Sec. 10. AS 38.05.095 is amended to read:

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 sec. 97 of this chapter may not sublease or assign the land or a portion of it on which it has a lease.

* Sec. 11. AS 38.05 is amended by adding a new section to read:

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 secs. 70 - 105 of this chapter for a youth encampment or similar

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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 secs. 70 - 105 of this chapter.

(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 has 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.

* Sec. 12. AS 38.05.105(b)(1) is amended to read:

(1) subject to the provisions of (c) of this section, changes in property value due to governmental actions, including zoning reclassifications, shall be included; and

* Sec. 13. AS 38.05.105 is amended by adding a new subsection to read:

(c) Changes or adjustments of annual rent on land under lease and used for single-family residential purposes in an area zoned for commercial or other nonresidential uses shall be based on an adjusted fair market value determined by reference to the actual use of the property and not by reference to the other uses permissible under the zoning ordinance.

* Sec. 14. AS 38.05.310 is amended to read:

Sec. 38.05.310. APPRAISAL. No land may be sold or leased, or a renewal lease issued, except in the case of an oil or gas or mineral lease, unless it has been appraised within 120 days before the date fixed for the sale or lease. When land is offered at public sale but is not sold and is available at private sale, no reappraisal is required unless the director considers that a change in value of the lands may have occurred. A grazing lease may be granted to a lessee of federal grazing lands without prior appraisal, if his federal lease was cancelled to allow the state to select the lands under lease. No land may be sold or leased for less than the approved, appraised market value, except as provided in secs. 315 and 320 of this chapter, secs. 75 - 85 and sec. 97 of this chapter.

* Sec. 15. AS 38.05.340 is amended to read:

Sec. 38.05.340. ASSIGNMENT. (a) Except as provided in (b) of this section, all contracts of purchase or lease of lands or interest in lands may be, on the affirmative approval of the director, assigned or subleased in whole or in part in writing by the contract holder or lessee, and the assignee or sublessee is subject to the provisions of laws and regulations applicable to the contract or lease.

(b) A nonprofit organization that is exempted from paying rent on state land under sec. 97 of this chapter may not assign or sublease the land or a portion of it on which it has a lease.

* Sec. 16. AS 38.35.140(a) is amended to read:

(a) The lease price for a right-of-way lease shall be the annual fair market rental of the state lands included in the right-of-way based on the appraised fair market value of the land. The lease price is payable annually in advance on or before the anniversary of the lease. The appraised fair market rental value shall be adjusted at five-year intervals and charges or adjustments shall be based on a reappraised annual rental value. Rental may not be charged for any land acquired by the lessee under sec. 130(b) of this chapter and conveyed without cost to the state.

* Sec. 17. AS 38.50.040 is amended to read:

Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise provided in this chapter, the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state. The conveyance of university land shall be approved in the manner prescribed in AS 38.05.030.

* Sec. 18. AS 38.50.040 is amended to read:

Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise provided in this chapter, the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state.

* Sec. 19. AS 14.40.280 is amended to read:

Sec. 14.40.280. ENDOWMENTS AND DONATIONS. All monetary gifts, bequests or endowments which are made to the university for the purpose of the separate fund created under AS 37.14.110 shall be transferred to the Department of Revenue. The Department of Revenue shall manage that money in accordance with AS 37.14.060 - 37.14.100. Title to and control or possession of land, personal property, and all money other than that transferred to the Department of Revenue, which is devised, bequeathed or given to the university shall be taken by the university in its corporate capacity acting by and through the regents or an authorized agent, and shall be entered in the perpetual inventory of the university.

* Sec. 20. The following laws are repealed: AS 14.40.350, 14.40.360, 14.40.400; AS 34.10.010 - 34.10.160, 34.10.180 - 34.10.240; AS 38.05.030(a) and (e), 38.05.032, 38.05.035(a)(8) and (13), 38.05.365(8), (14) and (20); and AS 38.50.110(a)(6).

* Sec. 21. Sec. 12, ch. 138, SLA 1977 is amended to read:

Sec. 12. CONVERSION OF LEASES. The provisions of secs. 9 - 11 of this Act are applicable to state leases which are in existence on or before the effective date of this Act if a lessee under a lease elects, in writing, to

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be bound by this Act. When a lessee elects to be bound by the provisions of this Act, the state shall enter into an amended lease with the lessee for a term equal to the remaining period of the original lease which is being converted, and that amended lease shall be consistent with the provisions of this Act but shall not otherwise alter the terms of the original lease. However, for purposes of determining the annual rent by the state, the fair market value of the property which is used to establish the fixed base annual rent for the initial period of the lease may not exceed the fair market value as it was last appraised on or before January 1, 1975, brought forward to the date of the first day of the quarter following the date of a request for conversion at the rate of 10 per cent a year, or, if the lease was entered into after January 1, 1975, the fair market value used to establish the annual rent for the initial period of the new lease is the fair market value of the last appraisal brought forward to the date of conversion at the rate of 10 per cent per year.

* Sec. 22. A request for conversion permitted under sec. 12, ch. 138, SLA 1977, given before the effective date of this Act remains in effect.

* Sec. 23. Chapter 144, SLA 1961 is amended by adding new sections to read:

Sec. 4. The director of the division of lands of the Department of Natural Resources is empowered and directed to offer, by noncompetitive sale, to Alyeska Ski Corporation, an Alaska corporation or to a sublessee, under the lease provided for in sec. 1 of this chapter, the following described real property or any portion of it lying in the vicinity of Girdwood, in the Anchorage Recording District: Beginning at a point vicinity of Girdwood, in the Anchorage Recording District: Beginning at a point being the southwest corner, Cor. #4, of U.S. Survey 3569, thence West 20 chs., North 60 chs., East 65 1/2 chs. m/1 to the Chugach National Forest boundary line, thence South 60 chs. along the Chugach National Forest boundary line, thence West 5 1/2 chs. m/1, to the southeast corner, Cor. #3, of U.S. Survey 3569, thence North 40 chs. along the east boundary of U.S. Survey 3569 to the northeast corner of the survey, Cor. #2, thence West 40 chs. along northern boundary of U.S. Survey 3569 to the northwest corner of the survey, Cor. #1, thence South 40 chs. along western border of U.S. Survey 3569 to point of beginning, containing approximately 233 acres.

Sec. 5. The sale price of land offered under sec. 4 of this chapter shall be the fair market value of the land on July 1, 1978 which shall be determined in the same manner as specified for the determination of adjusted market value for leased land in AS 38.05.105(b).

* Sec. 24. ELECTION BY BOARD OF REGENTS. The Board of Regents shall hold a special meeting not later than September 1, 1978 to determine whether it is in the best interests of the University of Alaska to relinquish the authority to approve of the management and disposal of university land by the Department of Natural Resources, and to accept the benefits of the university fund established in AS 37.14.060 - 37.14.100 contained in sec. 4 of this Act. The Act of approval or disapproval shall be

recorded by resolution of the Board of Regents. A majority of the whole board shall determine whether the matter under consideration is approved or disapproved.

* Sec. 25. The Department of Natural Resources may not initiate any foreclosure action under AS 34.10 after the effective date of this section.

* Sec. 26. A right of repurchase created by former AS 34.10.-220 and existing on the effective date of this section may be exercised only if it is exercised under that statute within three years following the effective date of this section. The division of lands shall publish notice of the expiration of all such repurchase rights in the manner provided by AS 38.05.345 before January 1, 1979 and again before January 1, 1980 and before January 1, 1981.

* Sec. 27. Sections 3, 5 - 7, 18, 19, and AS 37.14.060 - 37.14.100 contained in sec. 4 of this Act, and the repeal of AS 14.40.350, 14.40.360, 14.40.400; AS 38.05.030(a) and 38.05.365-(20) contained in sec. 20 of this Act, take effect on the date that the Board of Regents votes to approve the matters under consideration as provided in sec. 24 of this Act.

* Sec. 28. Sections 1, 2, 8 - 16, and AS 37.14.010 - 37.14.-050 and 37.14.110 - 37.14.170 contained in sec. 4 of this Act, and the repeal of AS 38.05.030(e), 38.05.032, 38.05.035(a)(13), 38.05.365(8) and (14) contained in sec. 20 of this Act take effect July 1, 1978.

* Sec. 29. Section 17 of this Act takes effect on the date that the Board of Regents votes to disapprove the matters under consideration as provided in sec. 25 of this Act.

* Sec. 30. Sections 22 and 24 - 26 of this Act and the repeal of AS 34.10.010 - 34.10.160, 34.10.180 - 34.10.240 and AS 38.-05.035(a)(8) contained in sec. 20 of this Act take effect immediately in accordance with AS 01.10.070(c).

* Sec. 31. Section 21 of this Act takes effect immediately in accordance with AS 01.10.070(c) and is retroactive to September 21, 1977.

Approved by the Governor: July 18, 1978
Actual Effective Date: Secs. 1, 2, 8-16, 22 and 24-26 take effect July 1, 1978, secs. 3, 5-7, 18 and 19 take effect as provided in sec. 27 of this Act; sec. 17 takes effect as provided in Sec. 29 of this Act; sec. 4 takes effect as provided in secs. 27 and 28, and repeals provided in sec. 20 take effect as provided in secs. 27, 28, and 29. Sec. 21 takes effect July 19, retroactive to September 21, 1977.