



LAWS OF ALASKA

1987

Source

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Chapter No.

75

AN ACT

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

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 15, 1987
Actual Effective Date: June 16, 1987

AN ACT

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

* Section 1. AS 38.04.065(a) is amended to read:

(a) Except as provided in (d) and (h) of this section, the [THE] commissioner shall, with local governmental and public involvement under [IN ACCORDANCE WITH] AS 38.05.945, adopt [DEVELOP], maintain, and, when appropriate, revise regional land use plans that [WHICH] provide [, BY REGIONS OR AREAS,] for the use and management of [THE] state-owned land.

* Sec. 2. AS 38.04.065(b) is amended to read:

(b) In the adoption [DEVELOPMENT] and revision of regional and site-specific land use plans, the commissioner shall

(1) use and observe the principles of multiple use and sustained yield;

(2) consider physical, economic, and social factors affecting the [REGION OR] area and involve other agencies and the public in achieving a systematic interdisciplinary approach;

(3) give priority to planning and classification in areas of potential settlement, renewable and nonrenewable resource development, and critical environmental concern;

(4) rely, to the extent that it is available, on the inventory of the state land, its resources, and other values;

(5) consider present and potential uses of state land;

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1 (6) consider the supply, resources, and present and poten-
2 tial use of land under other ownership within the area [OR REGION] of
3 concern;

4 (7) plan for compatible surface and mineral land use clas-
5 sifications; and

6 (8) provide for meaningful participation in the planning
7 process by affected local governments, state and federal agencies,
8 adjacent landowners, and the general public.

9 * Sec. 3. AS 38.04.065(c) is amended to read:

10 (c) The [AS A BASIS FOR MORE DETAILED LAND USE PLANNING AND
11 CLASSIFICATION, THE] commissioner shall adopt [DEVELOP] regional land
12 use plans for [THE USE OF ALL] state land. Each regional land use
13 plan [THESE REGIONAL PLANS] shall identify and delineate

14 (1) areas of settlement and settlement impact, where land
15 must be classified for various private uses, renewable and nonrenew-
16 able resource development, and for public recreation, open space, and
17 other public uses desirable in and around settlement; and

18 (2) areas that [WHICH] must be retained in state ownership
19 and planned and classified for various uses and purposes under [IN
20 ACCORDANCE WITH] AS 38.04.015.

21 * Sec. 4. AS 38.04.065(d) is repealed and reenacted to read:

22 (d) The commissioner may adopt as a land use plan a comprehen-
23 sive plan adopted by a municipality of the state having planning and
24 zoning powers or a land management plan adopted by another govern-
25 mental entity if the commissioner determines that the plan adequately
26 recognizes and protects state interests. A decision to adopt the plan
27 must be preceded by public hearings in affected and interested commu-
28 nities and by a draft decision, available for public review, that
29 describes the state's interests and how the state will implement the

plan.

- * Sec. 5. AS 38.04.065(f) is amended to read:

(f) Each decision [DECISIONS] about the location of easements and rights-of-way, other than for minor access, shall be integrated with land use planning and classification [FOR THE APPROPRIATE AREA OR REGION].

- * Sec. 6. AS 38.04.065(g) is amended to read:

(g) Each land use plan [LAND USE PLANS] adopted by the commissioner under this section shall be consistent with municipal [LOCAL GOVERNMENTAL] land use plans to the maximum extent determined consistent with the state interests and the purposes of this chapter.

- * Sec. 7. AS 38.04.065 is amended by adding new subsections to read:

(h) Before the commissioner adopts a regional land use plan, a land classification may be made on the basis of a site-specific land use plan, except a classification for a land disposal under AS 38.-05.057, AS 38.08, AS 38.09, or a new commercial agriculture project under AS 38.05.020(b)(6). After adoption of a regional land use plan, land classifications shall be made under the plan.

(i) An oil and gas lease sale is not subject to this section. Oil and gas lease sales are subject to the planning process established under AS 38.05.180.

- * Sec. 8. AS 38.04.910(7) is amended to read:

(7) "short-term lease" means a lease for a term of 10 [FIVE] years or less;

- * Sec. 9. AS 38.05.035(b) is amended by adding a new paragraph to read:

(10) negotiate the sale or lease of state land at fair market value to a person who acquired by contract, purchase, or lease rights to improvements on the land from another state agency or who leased the land from another state agency.

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* Sec. 10. AS 38.05.035(e) is amended to read:

(e) Upon a written finding that the interests of the state will be best served, the director may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available land, resources, property or interests in them, and, in addition to the conditions and limitations imposed by law, may impose additional conditions or limitations in the contracts as the director determines, with the consent of the commissioner, will best serve the interests of the state. A contract for the sale, lease, or other disposal of available land or an interest in land is not legally binding on the state until the commissioner approves the contract but if the appraised value is not greater than \$50,000 in the case of the sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or interest in land, the director may execute the contract without the approval of the commissioner. 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 finding that sets out the facts and applicable law upon which the determination that the sale, lease, or other disposal will best serve the interests of the state was based. A written finding is not required before the approval of

(1) a contract for a negotiated sale authorized under AS 38.05.115;

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

(3) a permit or other authorization revocable by the commissioner;

(4) a mineral claim located under AS 38.05.195;

(5) a mineral lease issued under AS 38.05.205; [OR]

(6) a production license issued under AS 38.05.207; or

(7) an exempt oil and gas sale under AS 38.05.180(d) for which a written best interest finding has been issued for the area of the sale within the 36 months before the date of the sale unless the commissioner determines that new information has become available that justifies a revision of the best interest finding.

* Sec. 11. AS 38.05.810 is amended by adding a new subsection to read:

(g) The commissioner shall retain a reversionary interest on each sale or other disposal granted under (a) or (e) of this section. The commissioner may waive the reversionary interest on a written determination that the waiver is in the public interest.

* Sec. 12. AS 38.05.940(b) is amended to read:

(b) To be eligible for a discount under this section, a veteran shall submit proof, as required by regulation, that the veteran

(1) is 18 years of age or older on the date of sale;

(2) has been a state resident for a period of not less than one year immediately preceding the date of sale;

(3) has served on active duty in the U.S. Armed Forces at least 90 days [TWO YEARS], unless tenure was shortened due to a service connected disability or due to receiving an early separation upon return from a tour of duty overseas; and

(4) has received an honorable discharge or a general discharge under honorable conditions.

* Sec. 13. AS 38.09.030(c) is amended to read:

(c) The homestead entry permit may not be assigned, conveyed, or in any manner transferred except

(1) by testate or intestate succession;

(2) to a spouse during marriage;

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(3) by order of a court as part of a divorce settlement;

(4) to either a member of the immediate family or a grantee of the applicant in the case of an extreme emergency or illness which disables the applicant; or

(5) after the approval of the commissioner, by an exchange between parties in the same homestead area.

* Sec. 14. AS 38.09.040(a) is amended to read:

(a) A homestead entry permit may be revoked by the commissioner for a [ANY] substantial breach of the permit conditions or the requirements of this chapter, including

(1) an assignment, conveyance, or transfer of the permit not authorized under AS 38.09.030(c);

(2) failure of the permit holder to submit a plat of survey to the commissioner within five [TWO] years after the issuance of the permit [OR UNDER (b) OF THIS SECTION];

(3) failure of the permit holder to erect a dwelling in the time required under AS 38.09.050(a), except that if the commissioner finds that the dwelling has been nearly completed and progress toward completion is being made at the expiration of the time required, the commissioner may extend the time required for completion for not more than one year;

(4) failure to brush the boundaries of the land not described by aliquot parts or as a lot of record within 90 days after issuance of the homestead entry permit;

(5) failure to clear and either put into production or prepare for cultivation either 25 percent of the land classified for agricultural use or 50 percent of the cropland soils, whichever is less, within five years after the issuance of the permit.

* Sec. 15. AS 38.09.050(a) is amended to read:

(a) The commissioner shall issue a patent to homestead entry land if the permit holder

(1) resides and lives on the homestead entry land for not less than 25 months within five years after the issuance of the homestead entry permit;

(2) completes an approved survey of the land within five [TWO] years after the issuance of the permit [OR UNDER AS 38.09.-040(b)];

(3) erects a habitable, permanent dwelling on the homestead within three years after the issuance of the homestead entry permit;

(4) brushes the boundaries of the land not described by aliquot parts or as a lot of record within 90 days after the issuance of the permit;

(5) clears and either puts into production or prepares for cultivation either 25 percent of the land classified for agricultural use or 50 percent of the cropland [LAND HAVING CLASS II OR III] soils, whichever is less, within five years after issuance of the permit.

* Sec. 16. Land that was classified for disposal or other purposes before August 29, 1986, remains subject to the classification order in effect on that date until the land is reclassified under AS 38.04.065, as amended in secs. 1 - 7 of this Act, and AS 38.05.300.

* Sec. 17. A land management and disposal decision, including a disposal under AS 38.05.057, AS 38.08, or AS 38.09, or a commercial agriculture project under AS 38.05.020(b)(6), made before the effective date of this Act under a classification order under AS 38.05.300 is valid, notwithstanding the adoption of the classification order before the adoption of the regional land use plan, if other requirements of law were met.

* Sec. 18. A minerals management or disposal decision made before the effective date of this Act is valid, whether or not the land was classified

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1 if other requirements of law were met.

2 * Sec. 19. Nothing in this Act affects the Chase III Agricultural
3 Homestead disposal decision of the Department of Natural Resources, remand-
4 ed by the courts for reconsideration by the department.

5 * Sec. 20. AS 38.09.040(b) is repealed.

6 * Sec. 21. This Act takes effect immediately under AS 01.10.070(c).
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