



# LAWS OF ALASKA

1990

**Source**

HCS CSSE 108(Fin)

**Chapter No.**

181

**AN ACT**

Relating to public finance, including lease-financing, and to the disposal of certain property; repealing certain lease-purchasing approval; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 11

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TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.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 21, 1990  
Actual Effective Date: Section 11 takes effect June 22, 1990;  
remainder of Act takes effect July 1, 1990

AN ACT

Relating to public finance, including lease-financing,  
and to the disposal of certain property; repealing  
certain lease-purchasing approval; and providing for  
an effective date.

\* Section 1. AS 14.40.040 is amended to read:

Sec. 14.40.040. GENERAL POWERS OF THE UNIVERSITY. There is  
created and established a corporation to be called the University of  
Alaska. It may in that name

- (1) sue and be sued;
- (2) receive and hold real and personal property;
- (3) contract and be contracted with;
- (4) adopt, use, and alter a corporate seal;
- (5) borrow money, issue debt, or enter into long-term

obligations, for the purchase of facilities, goods, or services; the  
obligations may secure, in whole or in part, debt issued by another  
party;

(6) do and have done all matters necessary for the purpose  
of any function set out [FORTH] in this chapter.

\* Sec. 2. AS 14.40 is amended by adding a new section to read:

Sec. 14.40.253. FINANCING NOTICE AND APPROVAL. If the Universi-  
ty of Alaska intends to enter into an obligation, except for refinan-  
cing obligations, under AS 14.40.040(5) with an annual payment by the  
university anticipated to exceed \$1,000,000, the university shall

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1 provide notice to the legislature. The notice must include the antic-  
2 ipated annual payment amount, the anticipated financing, and the total  
3 construction, acquisition, or other costs of the project. The univer-  
4 sity may not enter into an obligation requiring a financing notice  
5 under this section, other than a refinancing obligation, unless the  
6 project has been approved by the legislature by law. An appropriation  
7 for the project does not constitute approval of the project for the  
8 purpose of this section.

9 \* Sec. 3. AS 18.55.255 is amended to read:

10 Sec. 18.55.255. DISPOSAL OF SURPLUS PROPERTY [PROCEDURE FOR SALE  
11 OF LAND]. The authority may convey real or personal property that it  
12 determines is in excess of its needs. Except as provided in (b) and  
13 (c) of this section, the sale [SALE OF LAND] shall be by public auc-  
14 tion or by sealed bids at a price not lower than the fair market value  
15 determined by an appraisal made within 180 days before [OF] the sale  
16 by a qualified appraiser. Public notice shall be given by publishing  
17 notice of the sale at least once a week for two consecutive weeks in a  
18 newspaper of general circulation within the area in which the property  
19 to be sold is located and by posting notice of sale in at least two  
20 public places in the area. In no event may [SHALL] the auction be  
21 held less than 30 days after the last day of publication. If no  
22 acceptable bids are received the authority may sell the property at  
23 negotiated sale [,] within six months after [OF] the date of the  
24 auction. A negotiated sale may not be made on an appraisal made more  
25 than nine months before the date of sale. The price at a negotiated  
26 sale may not be less than the appraised value.

27 \* Sec. 4. AS 18.55.255 is amended by adding new subsections to read:

28 (b) Real or personal property of the authority may be conveyed  
29 to a state or federal agency or political subdivision for less than

1 the appraised value without competitive bidding, upon a determination  
2 by the board that the terms are fair and proper and in the best inter-  
3 ests of the state. The board shall consider both the nature of the  
4 agency's or political subdivision's public services or functions and  
5 the terms under which the property was acquired by the authority.

6 (c) Property acquired or renovated to provide mental health  
7 community housing is not subject to the procedures of (a) or (b) of  
8 this section and may be conveyed for less than the fair market value  
9 to grantees selected by the Department of Health and Social Services  
10 upon terms and conditions consistent with grants administered by the  
11 Department of Health and Social Services under AS 47.30.520 - 47.30.-  
12 620.

13 (d) This section does not apply to property that is covered by  
14 AS 18.55.320 or 18.55.540.

15 \* Sec. 5. AS 22.05.025(a) is amended to read:

16 (a) Subject to AS 36.30.080, the [THE] supreme court has author-  
17 ity over all matters relating to the planning, design, construction,  
18 maintenance, occupancy, leasing, and operation of all court facilities  
19 and shall cooperate and coordinate with the Department of Transporta-  
20 tion and Public Facilities so that court facility construction proj-  
21 ects are carried out in accordance with the statutes and regulations  
22 applicable to state public works projects.

23 \* Sec. 6. AS 36.30.020 is amended to read:

24 Sec. 36.30.020. LEGISLATURE. The Legislative Council shall  
25 adopt and publish procedures to govern the procurement of supplies,  
26 services, professional services, and construction by the legislative  
27 branch. The procedures must be based on the competitive principles  
28 consistent with this chapter and must be adapted to the special needs  
29 of the legislative branch as determined by the Legislative Council.

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1       The procedures must be consistent with the provisions of AS 36.30.-  
2       080(b) - (c).

3       \* Sec. 7. AS 36.30.030 is amended to read:

4               Sec. 36.30.030.   COURT SYSTEM. The administrative director of  
5       courts shall adopt and publish procedures to govern the procurement of  
6       supplies, services, professional services, and construction by the  
7       judicial branch. The procedures must be based on the competitive  
8       principles consistent with this chapter and must be adapted to the  
9       special needs of the judicial branch as determined by the administra-  
10       tive director [ADMINISTRATOR] of courts. The procedures must be  
11       consistent with the provisions of AS 36.30.080(b) - (c).

12       \* Sec. 8. AS 36.30.080(b) is amended to read:

13               (b) The department, legislative branch, or judicial branch may  
14       enter into lease-purchase [LEASE-FINANCING] agreements, including  
15       lease-financing [LEASE-PURCHASE] agreements [AND AGREEMENTS RELATED TO  
16       THE ISSUANCE OF CERTIFICATES OF PARTICIPATION]. A lease-purchase  
17       [LEASE-FINANCING] agreement must provide that lease payments are  
18       subject to annual appropriation.

19       \* Sec. 9. AS 36.30.080(c) is amended to read:

20               (c) If the department, legislative branch, or judicial branch  
21       intends to enter into a lease or lease-purchase [LEASE-FINANCING]  
22       agreement, except an agreement related to a refinancing, with an  
23       annual rent to the department, legislative branch, or judicial branch  
24       that is [STATE] anticipated to exceed \$1,000,000, the department,  
25       legislative branch, or judicial branch shall provide notice to the  
26       legislature. The notice must include the anticipated annual lease  
27       obligation amount and the anticipated total construction, acquisition,  
28       or other costs of the project. The department may not enter into an  
29       agreement requiring notice under this subsection unless the project

1 has been approved by the legislature by law. An appropriation for the  
2 project does not constitute approval of the project for purposes of  
3 this subsection.

4 \* Sec. 10. AS 36.30.990 is amended by adding new paragraphs to read:

5 (19) "lease-financing agreement" means a lease-purchase  
6 agreement that secures or is related to financing instruments of the  
7 lessor, including revenue bonds or certificates of participation;

8 (20) "lease-purchase agreement" means a lease that

9 (A) transfers ownership of the property to the lessee  
10 by the end of the lease term;

11 (B) contains a purchase option at a price less than  
12 the fair market value of the property on the date the option is  
13 exercisable;

14 (C) has a term, at inception, equal to 75 percent or  
15 more of the economic life of the property; or

16 (D) contains minimum lease payments, including minimum  
17 lease payments during a renewal provided for in the agreement,  
18 whose present value at the inception of the agreement equals 90  
19 percent or more of the fair market value at the inception of the  
20 agreement of the real property that is the subject of the agree-  
21 ment; the present value shall be determined by using as a dis-  
22 count rate the most recent Bond Buyer 20-Bond G.O. Index;

23 (21) "public building" means improved real property leased  
24 to the state for governmental, public, or educational use, but does  
25 not include improved real property owned by the University of Alaska  
26 Heating Corporation and leased to the University of Alaska for a  
27 purpose within the scope, as of July 1, 1986, of the heating corpora-  
28 tion's charter;

29 \* Sec. 11. Section 2, ch. 78, SLA 1984, is repealed.

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1 \* Sec. 12. AS 14.40.253, as enacted by sec. 2 of this Act, and AS 36.-  
2 30.080(c), as amended by sec. 9 of this Act, do not apply to projects au-  
3 thorized by law before July 1, 1990.

4 \* Sec. 13. Section 11 of this Act takes effect immediately under  
5 AS 01.10.070(c).

6 \* Sec. 14. Sections 1 - 10 and 12 of this Act take effect July 1, 1990.  
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