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Second Special Session

Source
SB 382

Chapter No.
1

AN ACT

Relating to the mental health land trust, the mental health trust income account, and the mental health land trust litigation, Weiss v. State, 4FA-82-2208 Civil, and amending ch. 66, SLA 1991, and ch. 5, FSSLA 1994 relating to the trust, the account, and the litigation; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: September 28, 1994

Actual Effective Date: Sections 1 and 17 take effect December 16, 1994;
remainder of Act takes effect September 29, 1994; section 3 is retroactive
to June 24, 1994

AN ACT

1 Relating to the mental health land trust, the mental health trust income account, and the mental
2 health land trust litigation, Weiss v. State, 4FA-82-2208 Civil, and amending ch. 66, SLA
3 1991, and ch. 5, FSSLA 1994 relating to the trust, the account, and the litigation; and
4 providing for an effective date.

5

6 * **Section 1.** AS 37.14.036(a), as added by sec. 11, ch. 66, SLA 1991 and amended by sec.
7 15, ch. 5, FSSLA 1994, is further amended to read:

8 (a) The mental health trust settlement income account is established as a
9 separate account of the Alaska Mental Health Trust Authority. The mental health trust
10 settlement income account consists of

11 (1) fees, charges, income earned on assets, and other money received
12 by the trust that is not attributable to the principal of the trust under AS 37.14.031(d);
13 and

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(2) money deposited in the account in accordance with appropriations or allocations made by law.

* **Sec. 2.** Section 58, ch. 66, SLA 1991, as repealed and reenacted by sec. 37, ch. 5, FSSLA 1994, is amended to read:

Sec. 58. (a) This Act takes effect only if, not later than December 15, 1994,

(1) the superior court of the State of Alaska has made a [FINAL] determination that the state has satisfied its obligation to reconstitute the mental health trust under State v. Weiss, 706 P.2d 681 (Alaska 1985); **and**

(2) the superior court has entered **an** [A FINAL] order dismissing Weiss v. State, 4FA-82-2208 Civil []; AND

(3) THE TIME FOR APPEALS OF THAT DETERMINATION AND THAT ORDER HAS EXPIRED WITH NO APPEALS HAVING BEEN TAKEN OR ANY APPEALS TAKEN HAVE BEEN FINALLY RESOLVED AND THE ORDER DISMISSING WEISS V. STATE, 4FA-82-2208 CIVIL, HAS BEEN AFFIRMED ON APPEAL].

(b) The attorney general shall advise the lieutenant governor and the revisor of statutes whether the determination required by (a)(1) of this section has been made **and** [, whether the [FINAL] order required by (a)(2) of this section has been entered [, AND WHETHER, AS REQUIRED BY (a)(3) OF THIS SECTION, THE TIME FOR APPEALS OF THAT DETERMINATION AND THAT ORDER HAS EXPIRED WITH NO APPEALS HAVING BEEN TAKEN AS OF THAT DATE OR ANY APPEALS TAKEN HAVE BEEN FINALLY RESOLVED AND THE ORDER DISMISSING WEISS V. STATE, 4FA-82-2208 CIVIL, HAS BEEN AFFIRMED ON APPEAL].

* **Sec. 3.** (a) Section 39, ch. 5, FSSLA 1994, is amended to read:

Sec. 39. AS 37.14.009(b), **37.14.011(b)**, **37.14.011(c)** [37.14.011], 37.14.021, 37.14.036(c); AS 38.05.800; AS 47.30.031(b)(2); secs. 1, 2, 4, and 5, ch. 132, SLA 1986; secs. 7 - 10, ch. 48, SLA 1987; and secs. 49, 50, 53 - 57, ch. 66, SLA 1991, are repealed.

(b) The amendment made by (a) of this section is intended to revive AS 37.14.011(a), establishing the mental health trust income account in the general fund. This subsection

1 provides the expression of intent to revive required by AS 01.10.100(c).

2 * Sec. 4. Section 40(a), ch. 5, FSSLA 1994, is amended to read:

3 (a) For the purpose of reconstituting the mental health trust established under
4 the Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709 (1956), as required
5 by the Alaska Supreme Court's decision in State v. Weiss [WEISS V. STATE], 706
6 P.2d 681 (Alaska 1985), the following land is designated as mental health trust land:

7 (1) the original mental health land listed in "Original Mental Health
8 Land To Be Designated as Mental Health Trust Land, April 28, 1994," as amended
9 by the additions and deletions listed in the September 23, 1994, addendum to the
10 April 28, 1994, list described in this paragraph, both of which are located in the
11 office of the director of the division of lands, Department of Natural Resources, in
12 Anchorage, Alaska; and

13 (2) the state land listed in "Other State Land To Be Designated as
14 Mental Health Trust Land, April 28, 1994," as amended by the additions and
15 deletions listed in the September 23, 1994, addendum to the April 28, 1994, list
16 described in this paragraph, both of which are located in the office of the director
17 of the division of lands, Department of Natural Resources, in Anchorage, Alaska.

18 * Sec. 5. Section 40(b), ch. 5, FSSLA 1994, is amended to read:

19 (b) All land designated as mental health trust land under this section remains
20 subject to all encumbrances or interests of record, noted on records maintained by the
21 Department of Natural Resources, or otherwise existing on the date that the land is
22 designated as mental health trust land [EFFECTIVE DATE OF THIS SECTION].

23 * Sec. 6. Section 41(a), ch. 5, FSSLA 1994, is amended to read:

24 (a) Except for the land described in sec. 40 of this Act,

25 (1) the conversion to general grant land by sec. 3(a), ch. 181, SLA
26 1978, and sec. 1(a), ch. 182, SLA 1978, of all land obtained by the state under the
27 Alaska Mental Health Enabling Act, P.L. 84-830, 70 Stat. 709 (1956), and not listed
28 in "Original Mental Health Land To Be Designated as Mental Health Trust Land,
29 April 28, 1994," as amended by the additions and deletions listed in the
30 September 23, 1994, addendum to the April 28, 1994, list described in this
31 paragraph, both of which are located in the office of the director of the division of

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lands, Department of Natural Resources, in Anchorage, Alaska, is confirmed and ratified; and

(2) land patented to or approved for patent to the state under the Alaska Mental Health Enabling Act after July 1, 1978, and not listed in "Original Mental Health Land To Be Designated as Mental Health Trust Land, April 28, 1994," as amended by the additions and deletions listed in the September 23, 1994, addendum to the April 28, 1994, list described in this paragraph, both of which are located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska, is redesignated as general grant land if it was not converted to general grant land by sec. 3(a), ch. 181, SLA 1978, and sec. 1(a), ch. 182, SLA 1978.

* Sec. 7. Section 41(b), ch. 5, FSSLA 1994, is amended to read:

(b) The land affected by this section includes the land listed in "Original Mental Health Land Not To Be Returned to Mental Health Trust Status, April 28, 1994," as amended by the additions and deletions listed in the September 23, 1994, addendum to "Original Mental Health Land To Be Designated as Mental Health Trust Land, April 28, 1994," all of which are located in the office of the director of the division of lands, Department of Natural Resources, in Anchorage, Alaska.

* Sec. 8. Section 48, ch. 5, FSSLA 1994, is amended to read:

Sec. 48. If the conditions of sec. 58, ch. 66, SLA 1991, as amended by sec. 37 of this Act, are not met on or before December 15, 1994, [OR ON A DATE DETERMINED BY THE GOVERNOR UNDER SEC. 47 OF THIS ACT,] then ch. 66, SLA 1991, is repealed and secs. 3 - 9, 12 -16, 19 - 21, 23 - 30, 33 - 36, 43, and 46 of this Act do not take effect.

* Sec. 9. Section 49, ch. 5, FSSLA 1994, is amended to read:

Sec. 49. If the conditions of sec. 58, ch. 66, SLA 1991, as amended by sec. 37 of this Act, are met on or before December 15, 1994, [OR ON A DATE DETERMINED BY THE GOVERNOR UNDER SEC. 47 OF THIS ACT,] then AS 37.14.013, added by sec. 10 of this Act, AS 37.14.023, added by sec. 11 of this Act, AS 47.30.546, and sec. 44 of this Act are repealed.

* Sec. 10. Section 50, ch. 5, FSSLA 1994, is amended to read:

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1 Sec. 50. Subject to sec. 48 of this Act, secs. 3 - 9, 12 - 16, 19 - 21, 23 - 30,
2 33 - 36, 43, and 46 of this Act take effect December 16, 1994 [, OR ON A DATE
3 DETERMINED BY THE GOVERNOR UNDER SEC. 47 OF THIS ACT].

4 * **Sec. 11.** Section 51, ch. 5, FSSLA 1994, is amended to read:

5 Sec. 51. Sections 48 and 49 of this Act take effect December 16, 1994 [, OR
6 ON A DATE DETERMINED BY THE GOVERNOR UNDER SEC. 47 OF THIS
7 ACT].

8 * **Sec. 12.** AS 37.14.011(a) is repealed on the date that the director of the office of
9 management and budget, Office of the Governor, certifies to the revisor of statutes that the
10 mental health trust income account (AS 37.14.011) is no longer needed to finance
11 appropriations enacted by law.

12 * **Sec. 13.** Section 47, ch. 5, FSSLA 1994 is repealed.

13 * **Sec. 14.** (a) The benefits conferred on the beneficiaries of the mental health trust under
14 ch. 66, SLA 1991, chs. 5 and 6, FSSLA 1994, a bill passed by the Second Special Session of
15 the Alaska State Legislature that amends ch. 6, FSSLA 1994 and becomes law, and this Act,
16 are intended as part of a comprehensive settlement of the mental health trust land litigation,
17 Weiss v. State, 4FA-82-2208 Civil, and related cases.

18 (b) Sections 3 - 9, 12 - 16, 19 - 21, 23 - 30, 33 - 36, 43, and 46, ch. 5, FSSLA 1994
19 and ch. 66, SLA 1991, as amended by ch. 5, FSSLA 1994 and this Act, are repealed on the
20 date that an order of dismissal entered by the superior court of Weiss v. State, 4FA-82-2208
21 Civil, is reversed on appeal including a petition for certiorari to the United States Supreme
22 Court. The attorney general shall certify that date to the lieutenant governor and the revisor
23 of statutes.

24 * **Sec. 15.** (a) If ch. 66, SLA 1991 and secs. 3 - 9, 12 - 16, 19 - 21, 23 - 30, 33 - 36, 43,
25 and 46, ch. 5, FSSLA 1994 are repealed under sec. 14 of this Act, provisions of the Alaska
26 Statutes that were

27 (1) enacted by ch. 66, SLA 1991 and those sections of ch. 5, FSSLA 1994 are
28 repealed;

29 (2) amended by ch. 66, SLA 1991 and those sections of ch. 5, FSSLA 1994
30 are amended to read as they did on the day before the effective date of the amendments made
31 by the repealed laws; however, unless inconsistent with this Act, amendments to those

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1 provisions that were made after the enactment of ch. 66, SLA 1991 and before the effective
2 date of this section are not affected by this Act; and

3 (3) repealed by ch. 66, SLA 1991 and those sections of ch. 5, FSSLA 1994
4 are revived to read as they did on the day before the effective date of the repeal; however, a
5 provision that was repealed by ch. 66, SLA 1991 and has been repealed by other legislation
6 enacted after ch. 66, SLA 1991 and before the effective date of this section or that was
7 repealed by ch. 5, FSSLA 1994 and has been repealed by other legislation enacted after ch.
8 5, FSSLA 1994 and before the effective date of this section is not revived.

9 (b) AS 37.14.013 and 37.14.023, enacted by secs. 10 and 11, ch. 5, FSSLA 1994, and
10 repealed by sec. 49, ch. 5, FSSLA 1994, are revived.

11 (c) The effective date of a repeal, amendment, or revival described in (a) and (b) of
12 this section is the date that the attorney general certifies to the lieutenant governor and the
13 revisor of statutes under sec. 14(b) of this Act.

14 (d) The provisions of (a)(3) and (b) of this section provide the expression of intent
15 to revive required by AS 01.10.100(c).

16 * Sec. 16. If ch. 66, SLA 1991 and secs. 3 - 9, 12 - 16, 19 - 21, 23 - 30, 33 - 36, 43, and
17 46, ch. 5, FSSLA 1994 are repealed under sec. 14 of this Act, all grants made and contracts
18 entered into by the Alaska Mental Health Trust Authority before the effective date of the
19 repeal are ratified and responsibility for the administration of all grants and contracts of the
20 authority is transferred to the Department of Health and Social Services.

21 * Sec. 17. In ch. 66, SLA 1991 and ch. 5, FSSLA 1994, the revisor of statutes shall change
22 references to the "mental health trust income account," as established by AS 37.14.036, to the
23 "mental health trust settlement income account."

24 * Sec. 18. Section 3 of this Act is retroactive to June 24, 1994.

25 * Sec. 19. Sections 1 and 17 of this Act take effect December 16, 1994.

26 * Sec. 20. Except as provided in sec. 19 of this Act, this Act takes effect immediately
27 under AS 01.10.070(c).