



# LAWS OF ALASKA

1995

**Source**

CSHB 20(FIN) am

**Chapter No.**

95

**AN ACT**

Relating to conveyance of certain tide and submerged land to municipalities; 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

**Approved by the Governor: June 29, 1995**

**Actual Effective Date: June 30, 1995**

AN ACT

1 Relating to conveyance of certain tide and submerged land to municipalities; and providing  
2 for an effective date.

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4 \* Section 1. AS 38.05.125(a) is amended to read:

5 (a) Each contract for the sale, lease or grant of state land, and each deed to  
6 state land, properties or interest in state land, made under AS 38.05.045 - 38.05.120,  
7 38.05.321, 38.05.810 - 38.05.825 [38.05.810 - 38.05.821], AS 38.08, or AS 38.50  
8 except as provided in AS 38.50.050 is subject to the following reservations: "The party  
9 of the first part, Alaska, hereby expressly saves, excepts and reserves out of the grant  
10 hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases,  
11 coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every  
12 name, kind or description, and which may be in or upon said land above described, or  
13 any part thereof, and the right to explore the same for such oils, gases, coal, ores,  
14 minerals, fissionable materials, geothermal resources, and fossils, and it also hereby

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1 expressly saves and reserves out of the grant hereby made, unto itself, its lessees,  
2 successors, and assigns forever, the right to enter by itself, its or their agents,  
3 attorneys, and servants upon said land, or any part or parts thereof, at any and all times  
4 for the purpose of opening, developing, drilling, and working mines or wells on these  
5 or other land and taking out and removing therefrom all such oils, gases, coal, ores,  
6 minerals, fissionable materials, geothermal resources, and fossils, and to that end it  
7 further expressly reserves out of the grant hereby made, unto itself, its lessees,  
8 successors, and assigns forever, the right by its or their agents, servants and attorneys  
9 at any and all times to erect, construct, maintain, and use all such buildings,  
10 machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such  
11 wells, remove such soil, and to remain on said land or any part thereof for the  
12 foregoing purposes and to occupy as much of said land as may be necessary or  
13 convenient for such purposes hereby expressly reserving to itself, its lessees,  
14 successors, and assigns, as aforesaid, generally all rights and power in, to, and over  
15 said land, whether herein expressed or not, reasonably necessary or convenient to  
16 render beneficial and efficient the complete enjoyment of the property and rights  
17 hereby expressly reserved.

18 \* Sec. 2. AS 38.05 is amended by adding a new section to read:

19 Sec. 38.05.825. CONVEYANCE OF TIDE AND SUBMERGED LAND TO  
20 MUNICIPALITIES. (a) Unless the commissioner finds that the public interest in  
21 retaining state ownership of the land clearly outweighs the municipality's interest in  
22 obtaining the land, the commissioner shall convey to a municipality tide or submerged  
23 land requested by the municipality that is occupied or suitable for occupation and  
24 development if the

- 25 (1) land is within or contiguous to the boundaries of the municipality;  
26 (2) use of the land would not unreasonably interfere with navigation  
27 or public access;  
28 (3) municipality has applied to the commissioner for conveyance of the  
29 land under this section;  
30 (4) land is not subject to a shore fisheries lease under AS 38.05.082,  
31 or, if the land is subject to a shore fisheries lease, the commissioner determines it is

1 in the best interests of the state to convey the land;

2 (5) land is classified for waterfront development or for another use that  
3 is consistent or compatible with the use proposed by the municipality, or the proposed  
4 use of the land is consistent or compatible with a land use plan adopted by the  
5 municipality, the department, or the Alaska Coastal Policy Council; and

6 (6) land

7 (A) is required for the accomplishment of a public or private  
8 development approved by the municipality;

9 (B) is the subject of a lease from the state to the municipality;

10 or

11 (C) has been approved for lease to the municipality.

12 (b) The commissioner may not convey land under this section that has been  
13 designated by statute unless the commissioner determines that the proposed use is  
14 consistent or compatible with the purpose of the statutory designation. Land  
15 designated as a state game refuge, game sanctuary, or critical habitat area may not be  
16 conveyed unless the commissioner of fish and game also determines that the proposed  
17 use is consistent or compatible with the purpose of the designation. If land designated  
18 by statute is conveyed, uses of the land after conveyance are restricted to those uses  
19 determined by the commissioner of natural resources to be consistent or compatible  
20 with the purpose of the designation.

21 (c) Upon receipt of an application, the commissioner shall determine whether  
22 the requested conveyance meets the requirements of this section and issue a written  
23 decision regarding that determination. Upon a determination that the requirements  
24 have been met, the commissioner shall approve the conveyance of the land to the  
25 municipality. After conveyance to the municipality is approved, the municipality has  
26 management authority of the land and may lease the land, but may not sell it. The  
27 cost of the survey and all subdivision or other platting required for conveyance shall  
28 be borne by the municipality.

29 (d) A conveyance under this section may contain only those restrictions  
30 required by law, including AS 38.05.127 and (b) of this section, or required to support  
31 a finding that the conveyance is in the best interest of the state. Land conveyed is

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1 subject to the public trust doctrine that may be enforced by the state in a court of  
2 competent jurisdiction. The municipality shall be required to ensure that reasonable  
3 access to public waters and tidelands is provided. The municipality may not lease land  
4 conveyed under this section for shore fisheries, but after conveyance, the land may be  
5 leased by the state for shore fisheries under AS 38.05.082 if the commissioner  
6 determines that the lease is compatible with the municipality's use of the land. Title  
7 to land conveyed under this section that is retained by the municipality reverts to the  
8 state upon the dissolution of the municipality.

9 (e) This section does not enlarge or diminish the general grant land entitlement  
10 of a municipality under AS 29.65, nor is a conveyance under this section counted  
11 against the municipality's general grant land entitlement.

12 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).