



# LAWS OF ALASKA

2012

**Source**

SCS CSHB 361(FIN)

**Chapter No.**

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**AN ACT**

Relating to the Alaska Land Act, including certain leases, sales, and other disposals of state land and materials; relating to production royalties from miners; providing for the conveyance of certain land to the City and Borough of Juneau for the construction of the Auke Bay commercial loading facility; 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



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2 land and materials; relating to production royalties from miners; providing for the conveyance  
3 of certain land to the City and Borough of Juneau for the construction of the Auke Bay  
4 commercial loading facility; and providing for an effective date.

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6 \* **Section 1.** AS 38.05.050 is amended to read:

7           **Sec. 38.05.050. Disposal of land for private ownership.** The commissioner  
8 shall determine the land to be disposed of for private use. The commissioner shall  
9 determine the time and place of disposal. **A public** [AN] auction sale, **a sale by sealed**  
10 **bid**, a lottery sale, or a disposal of land for homesites may be held in a community that  
11 is near the land to be sold or disposed of.

12 \* **Sec. 2.** AS 38.05.055 is amended to read:

1           **Sec. 38.05.055. Auction sale or sealed bid procedures.** Unless another  
2 method of sale is required under this chapter, AS 38.08, or AS 38.09, the sale of state  
3 land shall be made at public auction **or by sealed bid, at the discretion of the**  
4 **director,** to the highest qualified bidder as determined by the director. The director  
5 may accept bids and sell state land under this section at **not** [NO] less than 70 percent  
6 of the appraised fair market value of the land. To qualify to participate under this  
7 section in a public auction **or sale by sealed bid** of state land that is other than  
8 commercial, industrial, or agricultural land, a bidder shall have been a resident of the  
9 state for at least one year immediately preceding the date of the **sale** [AUCTION] and  
10 submit proof of that fact, as the commissioner requires by regulation. A bidder may be  
11 represented by an attorney or agent at **a public** [THE] auction. An aggrieved bidder  
12 may appeal to the commissioner within five days after the sale for a review of the  
13 director's determination. The sale shall be conducted by the director, and, at the time  
14 of sale, the successful bidder shall deposit an amount equal to five percent of the  
15 purchase price. The director shall immediately issue a receipt containing a description  
16 of the land or property purchased, the price bid, and the amount deposited. The receipt  
17 shall be acknowledged in writing by the bidder.

18 \* **Sec. 3.** AS 38.05.065(a) is amended to read:

19           (a) The contract of sale for land sold at public auction **or by sealed bid** under  
20 AS 38.05.055 shall require the remainder of the purchase price to be paid in monthly,  
21 quarterly, or annual installments over a period of not more than 20 years, with interest  
22 at the rate provided in (i) of this section. Installment payments plus interest shall be set  
23 on the level-payment basis.

24 \* **Sec. 4.** AS 38.05.069(a) is amended to read:

25           (a) After consulting with the Board of Agriculture and Conservation  
26 (AS 03.09.010), on a determination that the highest and best use of unoccupied land is  
27 for agricultural purposes and that it is in the best interests of the state to sell or lease  
28 the land, the commissioner shall grant to an Alaska resident owning and using or  
29 leasing and using land for agricultural purposes a first option [AT THE AUCTION] to  
30 purchase or lease the unoccupied land situated adjacent to land presently held by the  
31 Alaska resident for the amount of the high bid received at public auction **or by sealed**

1        **bid.** If more than one Alaska resident qualifies for a first option under this section,  
2        eligibility for the first option shall be determined by lot, and the option must be  
3        exercised on the conclusion of the public auction **or opening of sealed bids**. A parcel  
4        of agricultural land sold under this section may not be less than 20 acres, and a parcel  
5        of agricultural land that is acquired by exercise of the option granted in this subsection  
6        may not exceed 320 acres. Agricultural land that is acquired under this section must be  
7        used for agricultural purposes as required by law.

8        \* **Sec. 5.** AS 38.05.069(c) is amended to read:

9                    (c) Under this section,

10                    (1) the director may transfer state land classified for agriculture only  
11                    for agricultural purposes;

12                    (2) the sale or lease shall be at public auction **or by sealed bid**.

13        \* **Sec. 6.** AS 38.05.070(b) is amended to read:

14                    (b) The director, with the approval of the commissioner, shall determine the  
15                    land to be leased and the limitations, conditions, and terms of the lease. The director  
16                    shall preserve reasonable and traditional access to state land and water. If the  
17                    appraised value of the transaction is **\$10,000** [\$5,000] a year or less, the director may  
18                    negotiate a lease for a period not to exceed 10 years, and on the limitations,  
19                    conditions, and terms that the director considers are in the best interests of the state. A  
20                    lease negotiated under this subsection is not eligible for a preference under  
21                    AS 38.05.102.

22        \* **Sec. 7.** AS 38.05.070 is amended by adding new subsections to read:

23                    (d) If, after notice under AS 38.05.945 soliciting interest for a competitive  
24                    auction, the department determines that only one potential bidder has expressed  
25                    interest in bidding, the director may cancel the competitive auction and negotiate a  
26                    lease and its conditions and terms that the director determines to be in the best  
27                    interests of the state.

28                    (e) The director may renew a lease issued under this section, AS 38.05.075, or  
29                    38.05.810 upon its expiration if the lease is in good standing and the lease renewal is  
30                    determined to be in the best interests of the state. A renewal issued under this  
31                    subsection is not subject to AS 38.05.035(e). A lease may be renewed only once for a

1 term not longer than the initial term of the lease. The director shall provide notice of  
2 the lease renewal decision.

3 \* **Sec. 8.** AS 38.05.073(g) is amended to read:

4 (g) After soliciting proposals under (e) of this section, if the commissioner  
5 determines that two or more potential lessees are acceptable, the commissioner may  
6 select the potential lessee who submits the highest bid during **a public** [AN] auction or  
7 by sealed bids, whichever method the commissioner chooses. The minimum bid must  
8 equal the amount established by the commissioner plus the administrative fee  
9 established under (k) of this section. The commissioner shall also require the potential  
10 lessee to make an earnest money deposit under AS 38.05.860(b). After the  
11 commissioner selects a potential lessee, the commissioner may begin negotiations with  
12 the potential lessee to develop the terms and conditions for the lease.

13 \* **Sec. 9.** AS 38.05.075(a) is amended to read:

14 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.082,  
15 38.05.083, 38.05.087, 38.05.102, **38.05.565**, 38.05.600, 38.05.810, and this section,  
16 **when competitive interest has been demonstrated or the commissioner**  
17 **determines that it is in the state's best interests,** leasing shall be made at public  
18 auction **or by sealed bid, at the discretion of the director,** to the highest qualified  
19 bidder as determined by the commissioner. **A bidder may be represented by an**  
20 **attorney or agent at a public auction.** In the public notice of a lease to be offered at  
21 public auction **or by sealed bid,** the commissioner shall specify a minimum  
22 acceptable bid and the lease compensation method. The lease compensation method  
23 shall be designed to maximize the return on the lease to the state and shall be a form of  
24 compensation set out in AS 38.05.073(m). An aggrieved bidder may appeal to the  
25 commissioner within five days for a review of the determination. The leasing shall be  
26 conducted by the commissioner, and the successful bidder shall deposit at the **public**  
27 auction **or with the sealed bid** the first year's rental or other lease compensation as  
28 specified by the commissioner, or that portion of it that the commissioner requires in  
29 accordance with the bid. The commissioner shall require, under AS 38.05.860,  
30 qualified bidders to deposit a sum equal to any survey or appraisal costs reasonably  
31 incurred by another qualified bidder acting in accordance with the regulations of the

1 commissioner or incurred by the department under AS 38.04.045 and AS 38.05.840. If  
2 a bidder making a deposit of survey or appraisal costs is determined by the  
3 commissioner to be the highest qualified bidder under this subsection, the deposit shall  
4 be paid to the unsuccessful bidder who incurred those costs or to the department if the  
5 department incurred the costs. All costs for survey and appraisal shall be approved in  
6 advance in writing by the commissioner. The commissioner shall immediately issue a  
7 receipt containing a description of the land or interest leased, the price bid, and the  
8 terms of the lease to the successful qualified bidder. If the receipt is not accepted in  
9 writing by the bidder under this subsection, the commissioner may offer the land for  
10 lease again under this subsection. A lease, on a form approved by the attorney general,  
11 shall be signed by the successful bidder and by the commissioner [WITHIN THE  
12 PERIOD SPECIFIED IN THE AUCTION NOTICE].

13 \* **Sec. 10.** AS 38.05.075(e) is amended to read:

14 (e) The commissioner may require prequalification of bidders for a lease to be  
15 issued under AS 38.05.070. If the commissioner determines to require  
16 prequalification, the procedures established by this section and the notice including  
17 **prequalification** [PRE-QUALIFICATION] requirements required to be given under  
18 AS 38.05.945 shall be completed within 75 days of the receipt of the first lease  
19 application unless the commissioner grants additional time for the completion of the  
20 procedures. Within the 75-day period or the additional time granted by the  
21 commissioner, the commissioner shall complete

22 (1) classification under AS 38.05.300;

23 (2) the procedures required by AS 38.05.035(e);

24 (3) any other action required by law for the disposal of the lease to a  
25 bidder except survey, appraisal, and the auction **or sealed bid**.

26 \* **Sec. 11.** AS 38.05.075(g) is amended to read:

27 (g) Notice of an auction **or sealed bid** required under this section shall be  
28 made by certified mail to all prequalified bidders.

29 \* **Sec. 12.** AS 38.05.083(a) is amended to read:

30 (a) The commissioner may offer to the public for lease at public auction **or by**  
31 **sealed bid** under AS 38.05.075 or by negotiation under AS 38.05.070 a site for

1 aquatic farming or related hatchery operations. Before a final decision to issue or  
2 renew a lease under this section, the commissioner shall give notice and allow  
3 opportunity for comment in accordance with AS 38.05.945 and may hold a hearing to  
4 take testimony. Before a final decision to issue or renew a lease under this section, the  
5 commissioner shall consider all relevant comment or testimony submitted under this  
6 section, AS 38.05.945, or 38.05.946.

7 \* **Sec. 13.** AS 38.05.110(a) is amended to read:

8 (a) The commissioner shall provide for cruises of timber **on** [AND  
9 APPRAISALS OF OTHER MATERIALS IN OR UPON] state land and shall assess  
10 the supply of and current markets for timber on [AND OTHER MATERIALS IN]  
11 privately owned land in close proximity to state land to determine

12 (1) the timber [AND OTHER MATERIALS] that should be offered for  
13 sale; and

14 (2) the terms of sale of the timber [OR OTHER MATERIALS].

15 \* **Sec. 14.** AS 38.05.115 is amended to read:

16 **Sec. 38.05.115. Limitations and conditions of sale.** (a) The commissioner  
17 shall determine the timber [AND OTHER MATERIALS] to be sold [,] and the  
18 limitations, conditions, and terms of sale. The limitations, conditions, and terms shall  
19 include the utilization, development, and maintenance of the sustained yield principle,  
20 subject to preference among other beneficial uses. The commissioner may negotiate  
21 sales of timber [OR MATERIALS] without advertisement and on the limitations,  
22 conditions, and terms that are considered to be in the best interests of the state. Within  
23 a one-year period, the commissioner may not negotiate a sale without advertisement to  
24 the same purchaser of

25 [(1)] more than 500 M.B.M. or equivalent other measure of timber [;

26 (2) EXCEPT AS PROVIDED IN (3) OF THIS SUBSECTION,  
27 MORE THAN 25,000 CUBIC YARDS OF MATERIALS; OR

28 (3) MORE THAN 100,000 CUBIC YARDS OF MATERIALS TO A  
29 COMMON CARRIER HOLDING A LEASE UNDER AS 38.35].

30 (b) Negotiated sales not exceeding 50 M.B.M. or the equivalent other measure  
31 of timber [OR 2,500 CUBIC YARDS OF MATERIALS] are exempt from the

1 provisions of AS 34.15.150.

2 (c) The limitations of this section are not applicable to timber **that** [WHICH]  
3 becomes state property under the provisions of AS 45.50.210 - 45.50.235.

4 \* **Sec. 15.** AS 38.05.120 is amended to read:

5 **Sec. 38.05.120. Disposal procedure.** Timber [AND OTHER MATERIALS]  
6 shall be sold either by sealed bids or public auction, depending on which method is  
7 determined by the commissioner to be in the best interests of the state, to the highest  
8 qualified bidder as determined by the commissioner. An aggrieved bidder may appeal  
9 to the commissioner within five days after the sale for a review of the determination.  
10 The sale shall be conducted by the commissioner, and, at the time of sale, the  
11 successful bidder shall deposit the amount specified in the terms of sale. The means by  
12 which the amount of deposit is determined shall be prescribed by appropriate  
13 regulation. The commissioner shall immediately issue a receipt containing a  
14 description of the timber [OR MATERIALS] purchased, the price bid, and the terms  
15 of sale. The receipt shall be accepted in writing by the bidder. A contract of sale, on a  
16 form approved by the attorney general, shall be signed by the purchaser, and the  
17 contract shall be signed by the commissioner on behalf of the state. The commissioner  
18 may impose conditions, limitations, and terms considered necessary and proper to  
19 protect the interests of the state. Violation of any provision of this chapter or the terms  
20 of the contract of sale subjects the purchaser to appropriate legal action.

21 \* **Sec. 16.** AS 38.05.212(a) is amended to read:

22 (a) In exchange for and to preserve the right to extract and possess the  
23 minerals produced, the holder of a mining claim, leasehold location, or mining lease,  
24 including a mining lease under AS 38.05.250, shall pay a royalty on all minerals  
25 produced from land subject to the claim, leasehold location, or mining lease during  
26 each calendar year, **or each fiscal year if the miner does not file the mining license**  
27 **tax on a calendar year basis.**

28 \* **Sec. 17.** AS 38.05.250(c) is amended to read:

29 (c) Each submerged land mining lease shall be for a period of up to 20 years  
30 and for so long as there is production in paying quantities from the leased area. **A**  
31 **submerged land mining lease may be renewed for a period of up to 20 years at**

1 the discretion of the director if the director determines that the renewal is in the  
2 best interests of the state.

3 \* **Sec. 18.** AS 38.05 is amended by adding new sections to read:

4 **Article 13A. Material Sales.**

5 **Sec. 38.05.550. Disposal of materials.** (a) All materials owned by the state  
6 may be sold or conveyed as provided in AS 38.05.550 - 38.05.565.

7 (b) Materials may only be sold or removed from sources or sites designated by  
8 the department. The department shall issue a decision under AS 38.05.035(e) that the  
9 sale and extraction of materials from that location is in the best interests of the state at  
10 the time each source or site is designated. The department shall give notice, in  
11 accordance with AS 38.05.945, of the department's decision to designate a source or  
12 site for the sale and extraction of materials. After decision and notice, the department  
13 may sell materials continuously, without further finding or notice, from that  
14 designated source or site under this section until the source or site is closed by the  
15 department.

16 (c) Each sale of materials must be made through a materials sales contract on a  
17 form that has been approved by the attorney general. At the time of each sale, the  
18 department shall determine

19 (1) the location of the source or site from which materials are to be  
20 removed;

21 (2) the method of disposal as provided in AS 38.05.555 - 38.05.565;  
22 and

23 (3) the limitations, conditions, and terms of sale, which shall address  
24 the utilization, development, and maintenance of the source of the materials.

25 (d) The commissioner shall provide for valuation of materials in or upon state  
26 land. Materials sold or conveyed under AS 38.05.550 - 38.05.565 may, at the  
27 director's discretion, be sold at

28 (1) representative regional sales prices periodically determined by the  
29 commissioner for each type of material and for defined geographic regions, under  
30 procedures established by regulation; public notice under AS 38.05.945 must be made  
31 whenever the commissioner revises the representative regional sales prices;

1 (2) fair market value determined by appraisal completed and approved  
2 within two years of the date of sale; or

3 (3) a price less than appraised value, determined under  
4 AS 38.05.810(a).

5 **Sec. 38.05.555. Negotiated sales and personal use of materials.** (a)  
6 Notwithstanding any other provision of AS 38.05.550 - 38.05.565, the director may  
7 negotiate the sale of any amount of materials from a source or site designated under  
8 AS 38.05.550(b). The period of a contract for a sale of materials negotiated under this  
9 section may not exceed five years.

10 (b) Sales of materials under this section must be made at a representative  
11 regional sales price set by the commissioner under AS 38.05.550(d)(1) unless

12 (1) the director determines that it is in the best interests of the state to  
13 sell the materials at fair market value determined by an appraisal provided by the  
14 department;

15 (2) the applicant, at its own cost, elects to provide an appraisal,  
16 acceptable to the department, determining the fair market value of the materials to be  
17 sold; or

18 (3) the sale is to a state or federal agency or political subdivision under  
19 AS 38.05.810(a) and the material to be extracted and removed is used for public  
20 purposes; sales under this paragraph may be at a price less than appraised value as  
21 determined by the director.

22 (c) Subsequent sales of similar materials from the same source or site may be  
23 made by the department at the price established by an appraisal provided under (b) of  
24 this section.

25 (d) Individual negotiated contracts for the sale of materials authorized by (a)  
26 of this section are not subject to AS 38.05.035(e) or 38.05.945.

27 (e) Materials from a source or site designated under AS 38.05.550(b) may be  
28 extracted and removed for personal use without cost up to a limit of two cubic yards a  
29 person within a one-calendar-year period. Extraction and removal of materials under  
30 this subsection must be approved by the department before extraction operations.

31 (f) Notwithstanding (a) - (e) of this section, for the purpose of creating

1 incentives for the development of peat as a source of heat or power, the director may  
2 negotiate the sale of peat to individuals, organized or unorganized communities, tribal  
3 governments, or private profit or nonprofit organizations. Under this subsection, the  
4 director may provide

5 (1) for personal use by an individual, not more than 200 cubic yards of  
6 peat a year at no cost;

7 (2) for commercial use, not more than 30,000 cubic yards of peat  
8 during a single 10-year period at no cost; or

9 (3) for commercial use requiring more than 30,000 cubic yards of peat,  
10 the amount required by the user during a 10-year period beginning when the user uses  
11 more than 30,000 yards of peat at the price of

12 (A) 20 percent of the representative regional sales price  
13 determined by the director under AS 38.05.550(d)(1); or

14 (B) 20 percent of the fair market value determined by an  
15 appraisal completed under AS 38.05.550(d)(2), if the applicant provides the  
16 appraisal at the applicant's expense and the appraisal is approved by the  
17 commissioner.

18 **Sec. 38.05.560. Competitive sales of materials.** (a) The department shall offer  
19 materials from a source or site designated under AS 38.05.550(b) for competitive sale  
20 if the department determines that

21 (1) the sale would result in an exclusive use by the purchaser of a  
22 designated source or site;

23 (2) materials available at a designated source or site are insufficient to  
24 supply all anticipated buyers;

25 (3) the size of the designated source or site is too small to  
26 accommodate the extraction operations of all anticipated buyers; or

27 (4) it is in the best interests of the state.

28 (b) Notice of a competitive sale of materials from a source or site designated  
29 under AS 38.05.550(b) shall be given under AS 38.05.945(a)(4) and shall

30 (1) describe the location of the designated source or site, and the type  
31 and quantity of the materials to be sold;

1 (2) solicit potential bidders to register with the department to  
2 participate in the proposed sale; only persons registered to bid at a proposed sale of  
3 materials may bid; and

4 (3) include the minimum bid for materials to be sold.

5 (c) A notice of competitive sale required under (b) of this section may be  
6 combined with a notice required under AS 38.05.550.

7 (d) If, after notice under (b) of this section, only one potential bidder has  
8 registered to bid at a proposed competitive sale, the competitive sale may be cancelled  
9 and the materials sold by negotiation under AS 38.05.555.

10 (e) Materials sold under this section may be sold either by sealed bid or by  
11 public outcry or online auction, in the discretion of the department, to the highest  
12 qualified bidder as determined by the department. An aggrieved bidder may appeal to  
13 the commissioner under AS 44.37.011 within five days after the sale for a review of  
14 the determination. The sale shall be conducted by the director or the director's  
15 designee, and, at the time of sale, the successful bidder shall deposit the amount  
16 specified in the terms of sale. The means by which the amount of deposit is  
17 determined shall be prescribed by regulation. The director shall immediately issue a  
18 receipt containing a description of the materials purchased, the price bid, and the terms  
19 of sale. The receipt shall be accepted in writing by the bidder. A contract of sale, on a  
20 form approved by the attorney general, shall be signed by the purchaser, and the  
21 contract shall be signed by the director on behalf of the state. The director may impose  
22 conditions, limitations, and terms considered necessary and proper to protect the  
23 interests of the state.

24 **Sec. 38.05.562. Violations.** Violation of any provision of AS 38.05.550 -  
25 38.05.565 or the terms of the contract of sale subjects the purchaser to appropriate  
26 legal action.

27 **Sec. 38.05.565. Sale or disposal of materials for special purposes.** (a) The  
28 department may negotiate the sale or otherwise dispose of materials from sources or  
29 sites other than those designated under AS 38.05.550(b) to

30 (1) municipalities, other state and federal agencies, or other entities  
31 under AS 38.05.872; sales under this paragraph may be at less than fair market value,

1 and materials may be disposed of free of charge if the director determines that the  
2 disposal is in the public interest;

3 (2) a licensed public utility or a licensed common carrier under  
4 AS 38.05.810(e); sales under this paragraph shall be at representative regional sales  
5 prices determined under AS 38.05.550(d)(1); or

6 (3) a holder of a permit, land lease, or right-of-way issued by the  
7 department, if the materials to be extracted and removed during the construction, use,  
8 or maintenance of a facility authorized by a permit, land lease, or right-of-way, are  
9 necessary and incidental to the primary purpose of the permit, land lease, or right-of-  
10 way, and the materials are put to beneficial use in a way that alters the character,  
11 usefulness, or availability of the materials in their native forms; the department may  
12 authorize the sale of materials under terms of the permit, land lease, or right-of-way;  
13 sales of materials under this paragraph must be at

14 (A) the representative regional sales price established under  
15 AS 38.05.550(d)(1) unless the sale is to a state or federal agency, political  
16 subdivision, or other entity under AS 38.05.810(a); or

17 (B) a price less than appraised value as determined by the  
18 director if the sale is to a state or federal agency, political subdivision, or other  
19 entity under AS 38.05.810(a) and the materials to be extracted and removed  
20 are used for public purposes.

21 (b) If materials are moved within and not removed from the boundaries of a  
22 permit, land lease, or right-of-way issued by the department without altering the  
23 character, usefulness, or availability of the materials in their native forms, the  
24 applicant may not be required to purchase the materials.

25 (c) In this section, "land lease"

26 (1) means a lease issued under AS 38.05.070 - 38.05.105;

27 (2) does not include a lease issued under AS 38.05.131 - 38.05.275.

28 \* **Sec. 19.** AS 38.05.810(b) is amended to read:

29 (b) Notwithstanding AS 38.05.070 - 38.05.080 and 38.05.095, the director,  
30 upon application filed by an applicant eligible under (b) - (d) of this section, may, by  
31 negotiation and without **competitive bid** [PUBLIC AUCTION] in the manner

1 prescribed in (b) - (d) of this section, lease state land for a term of not more than 55  
2 years. Before leasing, the director shall prepare a land use plan and a land  
3 classification to **ensure** [INSURE] that the proposed use is compatible with area  
4 utilization. Before the land may be leased under (b) - (d) of this section, it must be  
5 shown to the satisfaction of the director that the land is to be used for an established or  
6 definitely proposed project, and that the eligible applicant has the financial ability to  
7 carry out the project. The commissioner may establish limitations on the acreage **that**  
8 [WHICH] may be leased under (b) - (d) of this section to an applicant.

9 \* **Sec. 20.** AS 38.05.810(e) is amended to read:

10 (e) The lease, sale, or other disposal of state land at appraised fair market  
11 value may be negotiated with a licensed public utility or a licensed common carrier by  
12 the director with the approval of the commissioner if the utility or carrier reasonably  
13 requires the land for the conduct of its business under its license. **Notwithstanding**  
14 **AS 38.05.550 - 38.05.565, the sale of materials necessary for construction, use, or**  
15 **maintenance of property leased, sold, or disposed of under this section may be**  
16 **negotiated by the director.** A lease with a licensed public utility that is an electric  
17 utility entered into under this subsection may not include, as part of the rent or other  
18 fee that is negotiated or charged, an amount that is based on or determined by a  
19 percentage of gross revenue for renewable energy produced by the electric utility.

20 \* **Sec. 21.** AS 38.05.872 is repealed and reenacted to read:

21 **Sec. 38.05.872. Disposition of state land and resources for flood control**  
22 **projects.** (a) The department may make conveyances of title or other interests in state  
23 land, provide for exchange of land, or make other arrangements with respect to state  
24 land, as necessary to meet federally established requirements of flood control projects  
25 authorized inside the state by the United States.

26 (b) The commissioner may convey materials at less than fair market value to  
27 municipalities, other state and federal agencies, or other entities, and make other  
28 arrangements for land and materials as mitigation of a flooding area where excess  
29 material deposition significantly contributes to the flooding, consistent with a site-  
30 specific flood mitigation plan approved by the commissioner and determined to be in  
31 the best interests of the public.

1 \* **Sec. 22.** AS 38.05.945(b) is amended to read:

2 (b) When notice is required to be given under this section,

3 (1) the notice must contain sufficient information in commonly  
4 understood terms to inform the public of the nature of the action and the opportunity  
5 of the public to comment on it;

6 (2) if the notice is of a preliminary written finding described in  
7 (a)(3)(A) of this section, the department shall give notice at the beginning of the public  
8 comment period for the preliminary written finding, notifying the public of the right to  
9 submit comments; the department shall give notice by

10 (A) **posting notice on the Alaska Online Public Notice**  
11 **System for at least 30 consecutive days** [PUBLICATION OF A LEGAL  
12 NOTICE IN NEWSPAPERS OF STATEWIDE CIRCULATION AND IN  
13 NEWSPAPERS OF GENERAL CIRCULATION IN THE VICINITY OF  
14 THE PROPOSED ACTION AT LEAST ONCE A WEEK FOR TWO  
15 CONSECUTIVE WEEKS];

16 (B) publication of a notice in display advertising form  
17 **describing the proposed action and referencing the online notice required**  
18 **in (A) of this paragraph in newspapers of statewide circulation and in**  
19 **newspapers of general circulation in the vicinity of the proposed action, if**  
20 **available,** [IN THE NEWSPAPERS DESCRIBED IN (A) OF THIS  
21 PARAGRAPH] at least once a week for two consecutive weeks;

22 (C) public service announcements on the electronic media  
23 serving the area to be affected by the proposed action; and

24 (D) one or more of the following methods:

25 (i) **publication of a legal notice in newspapers of**  
26 **statewide circulation or in newspapers of general circulation in the**  
27 **vicinity of the proposed action, if available, at least once a week for**  
28 **two consecutive weeks;**

29 (ii) posting in a conspicuous location in the vicinity of  
30 the action;

31 (iii) [(ii)] notification of parties known or likely to be

1 affected by the action; or

2 (iv) [(iii)] another method calculated to reach affected  
3 parties;

4 (3) if the notice is of an action described in (a) of this section, other  
5 than notice of an action under (a)(3)(A) of this section, the department shall give  
6 notice at least 30 days before the action by **posting notice on the Alaska Online**  
7 **Public Notice System for at least 30 consecutive days** [PUBLICATION IN  
8 NEWSPAPERS OF STATEWIDE CIRCULATION AND IN NEWSPAPERS OF  
9 GENERAL CIRCULATION IN THE VICINITY OF THE PROPOSED ACTION]  
10 and **by** one or more of the following methods:

11 (A) **publication of a notice in display advertising form**  
12 **describing the proposed action and referencing the online notice required**  
13 **in this paragraph in newspapers of statewide circulation and in**  
14 **newspapers of general circulation in the vicinity of the proposed action, if**  
15 **available, at least once a week for two consecutive weeks;**

16 (B) publication through public service announcements on the  
17 electronic media serving the area affected by the action;

18 (C) [(B)] posting in a conspicuous location in the vicinity of  
19 the action;

20 (D) [(C)] notification of parties known or likely to be affected  
21 by the action;

22 (E) **publication of a legal notice, at least 30 days before the**  
23 **action, briefly describing the proposed action and referencing the online**  
24 **notice required in this paragraph in newspapers of statewide circulation**  
25 **and in newspapers of general circulation in the vicinity of the proposed**  
26 **action, if available;** or

27 (F) [(D)] another method calculated to reach affected persons.

28 \* **Sec. 23.** AS 38.05.945(b), as amended by sec. 22 of this Act, is amended to read:

29 (b) When notice is required to be given under this section,

30 (1) the notice must contain sufficient information in commonly  
31 understood terms to inform the public of the nature of the action and the opportunity

1 of the public to comment on it;

2 (2) if the notice is of a preliminary written finding described in  
3 (a)(3)(A) of this section, the department shall give notice at the beginning of the public  
4 comment period for the preliminary written finding, notifying the public of the right to  
5 submit comments; the department shall give notice by

6 (A) posting notice on the Alaska Online Public Notice System  
7 for at least 30 consecutive days;

8 (B) publication of a notice in display advertising form  
9 describing the proposed action and referencing the online notice required in  
10 (A) of this paragraph in newspapers of statewide circulation and in newspapers  
11 of general circulation in the vicinity of the proposed action, if available, at least  
12 once a week for two consecutive weeks;

13 (C) public service announcements on the electronic media  
14 serving the area to be affected by the proposed action; and

15 (D) one or more of the following methods:

16 (i) publication of a legal notice in newspapers of  
17 statewide circulation or in newspapers of general circulation in the  
18 vicinity of the proposed action, if available, at least once a week for  
19 two consecutive weeks;

20 (ii) posting in a conspicuous location in the vicinity of  
21 the action;

22 (iii) notification of parties known or likely to be  
23 affected by the action; or

24 (iv) another method calculated to reach affected parties;

25 (3) if the notice is of an action described in (a) of this section, other  
26 than notice of an action under (a)(3)(A) of this section, the department shall give  
27 notice at least 30 days before the action by posting notice on the Alaska Online Public  
28 Notice System for at least 30 consecutive days and by one or more of the following  
29 methods:

30 (A) publication of a notice in display advertising form  
31 describing the proposed action and referencing the online notice required in

1 this paragraph in newspapers of statewide circulation and in newspapers of  
2 general circulation in the vicinity of the proposed action, if available, at least  
3 once a week for two consecutive weeks;

4 (B) publication through public service announcements on the  
5 electronic media serving the area affected by the action;

6 (C) posting in a conspicuous location in the vicinity of the  
7 action;

8 (D) notification of parties known or likely to be affected by the  
9 action; **or**

10 (E) [PUBLICATION OF A LEGAL NOTICE, AT LEAST 30  
11 DAYS BEFORE THE ACTION, BRIEFLY DESCRIBING THE PROPOSED  
12 ACTION AND REFERENCING THE ONLINE NOTICE REQUIRED IN  
13 THIS PARAGRAPH IN NEWSPAPERS OF STATEWIDE CIRCULATION  
14 AND IN NEWSPAPERS OF GENERAL CIRCULATION IN THE  
15 VICINITY OF THE PROPOSED ACTION, IF AVAILABLE; OR

16 (F)] another method calculated to reach affected persons.

17 \* **Sec. 24.** AS 38.05.965(10) is repealed and reenacted to read:

18 (10) "materials"

19 (A) means all common variety rock and minerals of any  
20 quality, that are saleable and not subject to location under state or federal  
21 mining laws;

22 (B) includes aggregate, riprap, railroad ballast, road ballast,  
23 road metal, peat, silt, loam, sand, gravel, stone, pumice, and common clay;

24 \* **Sec. 25.** AS 41.23.470(b) is amended to read:

25 (b) The commissioner may conduct only a negotiated timber [OR  
26 MATERIAL] sale under AS 38.05.115 to provide for personal use, including house  
27 logs and firewood, or for a use incidental to the construction of access, or for habitat  
28 enhancement.

29 \* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 **AUTHORIZING LAND CONVEYANCE.** The Department of Natural Resources

1 shall convey all right, title, and interest to the following described parcel to the City and  
2 Borough of Juneau, subject to the reservations described in AS 38.05.125 and the provisions  
3 of AS 38.05.127, for the purpose of meeting permit mitigation requirements relating to  
4 construction of the Auke Bay commercial loading facility.

5 The following parcel is located within Section 21, Township 40 South, Range 65 East,  
6 of the Copper River Meridian, Alaska, and within the City and Borough of Juneau and is  
7 more particularly described as follows:

8 Commencing at meander corner 1 of U.S. Survey 1370, as shown on the official  
9 Subdivision Plat, Indian Cove recorded as plat No. 363 in the Juneau Recording District, State  
10 of Alaska, from which meander corner 2 of said plat bears South 28 degrees 06 minutes 00  
11 seconds West, a distance of 605.22 feet thus being the Basis of bearing for this legal  
12 description. Said corner 1 is identical to corner 2 of lot 1 U.S. Survey 3811. Said corner is the  
13 True Point of Beginning for this description. Thence along the meander line of U.S. Survey  
14 3811 North 44 degrees 46 minutes 00 seconds East, a distance of 150.48 feet; thence  
15 continuing on said meander line North 70 degrees 34 minutes 00 seconds East, a distance of  
16 593.34 feet; thence North 79 degrees 06 minutes 00 seconds East, a distance of 284.46 feet;  
17 thence South 25 degrees 52 minutes 00 seconds East, a distance of 168.96 feet; thence South  
18 80 degrees 04 minutes 00 seconds East, a distance of 126.72 feet; thence South 48 degrees 07  
19 minutes 00 seconds East, a distance of 318.78 feet; thence South 77 degrees 47 minutes 00  
20 seconds East, a distance of 91.74 feet; thence North 74 degrees 06 minutes 00 seconds East, a  
21 distance of 88.44 feet leaving the northeast boundary of U.S. Survey 3811, thence North 11  
22 degrees 19 minutes 05 seconds West, a distance of 519.03 feet; thence North 32 degrees 21  
23 minutes 39 seconds West, a distance of 600.96 feet; thence North 89 degrees 49 minutes 53  
24 seconds West, a distance of 501.10 feet; thence North 15 degrees 08 minutes 37 seconds  
25 West, a distance of 99.62 feet to the Glacier Highway right-of-way and a point of cusp on a  
26 curve concave to the south having a radius of 1808.97 feet and being subtended by a chord  
27 that bears South 65 degrees 06 minutes 30 seconds West, 316.06 feet; thence westerly along  
28 said right-of-way curve, a distance of 316.46 feet; thence along said right-of-way South 60  
29 degrees 05 minutes 48 seconds West, a distance of 702.26 feet to a point of cusp on a right-of-  
30 way curve concave to the south having a radius of 1809.19 feet and being subtended by a  
31 chord that bears South 54 degrees 27 minutes 34 seconds West, 355.43 feet; thence along said

1 right-of-way curve a distance of 356.01 feet to a point on the northern boundary of U.S.  
2 Survey 1370; thence along said boundary South 15 degrees 16 minutes 27 seconds East, a  
3 distance of 430.26 feet; thence continuing along said boundary North 52 degrees 29 minutes  
4 14 seconds East, a distance of 283.96 feet; thence continuing along said boundary South 28  
5 degrees 01 minute 44 seconds East, a distance of 211.14 feet; thence continuing along said  
6 boundary North 78 degrees 52 minutes 46 seconds East, a distance of 144.82 feet to the True  
7 Point of Beginning, containing 31.96 acres, more or less.

8 \* **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change  
11 (1) the heading of art. 4 of AS 38.05 from "Disposal of Timber and Materials"  
12 to "Disposal of Timber";  
13 (2) the catch line of AS 38.05.110 from "Sale of timber and materials;  
14 account" to "Sale of timber."

15 \* **Sec. 28.** Section 23 of this Act takes effect July 1, 2017.

16 \* **Sec. 29.** Except as provided in sec. 28 of this Act, this Act takes effect July 1, 2012.