

HOUSE BILL NO. 258

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/19/20

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state lands; relating to the authority of the Department of Natural
2 Resources over state owned lands; relating to the disposal of state land; relating to the
3 leasing and sale of state land for commercial or industrial development; repealing
4 establishment of recreation rivers and recreation river corridors; and providing for an
5 effective date."

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

7 * **Section 1.** AS 19.30.080 is amended to read:

8 **Sec. 19.30.080. Construction standards and maintenance.** An access road
9 constructed under AS 19.30.060 - 19.30.100 may [SHALL] be of low standard, not
10 necessarily suitable for all weather use and is exempt from municipal or local
11 platting authority or related land use regulation. The state is not required
12 [UNDER OBLIGATION] to maintain an access road constructed under AS 19.30.060
13 - 19.30.100. If an access road is constructed outside a municipality that has the power

1 **of land use regulation** [ZONING ORDINANCES], the right-of-way width for the
 2 road shall be determined by the division of lands and the Department of
 3 Transportation and Public Facilities. If an access road is constructed within the
 4 boundaries of a municipality that has **the power of land use regulation** [ZONING
 5 ORDINANCES], the right-of-way width shall **be decided by the division of lands**
 6 [CONFORM TO THE SUBDIVISION CONTROL ORDINANCES OF THE
 7 MUNICIPALITY]. Contracts for the work on an access road are governed by
 8 AS 36.30 (State Procurement Code).

9 * **Sec. 2.** AS 29.03.030 is repealed and reenacted to read:

10 **Sec. 29.03.030. Platting authority.** The Department of Natural Resources is
 11 the platting authority for the unorganized borough and as otherwise provided by law.

12 * **Sec. 3.** AS 29.35.180 is amended to read:

13 **Sec. 29.35.180. Land use regulation.** (a) **Except as provided in**
 14 **AS 40.15.070, a** [A] first or second class borough shall provide for planning, platting,
 15 and land use regulation in accordance with AS 29.40.

16 (b) **Except as provided in AS 40.15.070, a** [A] home rule borough shall
 17 provide for planning, platting, and land use regulation.

18 * **Sec. 4.** AS 29.35.180 is amended by adding a new subsection to read:

19 (c) The Department of Natural Resources is the platting authority for state
 20 lands as provided in AS 40.15.070. When the Department of Natural Resources
 21 exercises the department's platting authority for state lands located within a borough
 22 that has the power of land use regulation and is exercising the borough's platting
 23 authority, the Department of Natural Resources is exempt from borough platting
 24 authority and related land use regulation.

25 * **Sec. 5.** AS 29.40.010 is amended to read:

26 **Sec. 29.40.010. Planning, platting, and land use regulation.** (a) **Except as**
 27 **provided in AS 40.15.070, a** [A] first or second class borough shall provide for
 28 planning, platting, and land use regulation on an areawide basis.

29 (b) **Subject to (c) of this section, if** [IF] a city in a borough consents by
 30 ordinance, the assembly may by ordinance delegate any of its powers and duties under
 31 this chapter to the city. The assembly may by ordinance, without first obtaining the

1 consent of the city, revoke any power or duty delegated under this section.

2 * **Sec. 6.** AS 29.40.010 is amended by adding a new subsection to read:

3 (c) The Department of Natural Resources is the platting authority for state
4 lands as provided in AS 40.15.070. When the Department of Natural Resources
5 exercises the department's platting authority for state lands located within a borough
6 that has the power of land use regulation and is exercising the borough's platting
7 authority, the Department of Natural Resources is exempt from borough platting
8 authority and related land use regulation. Where a Department of Natural Resources'
9 plat or subdivision of state land does not comply with borough planning, platting, or
10 land use regulation, the state is deemed to have received for the affected land an
11 approved variance from that planning, platting, or land use regulation. Any variance
12 allowed under this section is appurtenant to and runs with the land.

13 * **Sec. 7.** AS 29.40.040(a) is amended to read:

14 (a) **Subject to (c) of this section, in** [IN] accordance with a comprehensive
15 plan adopted under AS 29.40.030 and in order to implement the plan, the assembly by
16 ordinance shall adopt or amend provisions governing the use and occupancy of land
17 that may include, but are not limited to,

18 (1) zoning regulations restricting the use of land and improvements by
19 geographic districts;

20 (2) land use permit requirements designed to encourage or discourage
21 specified uses and construction of specified structures, or to minimize unfavorable
22 effects of uses and the construction of structures;

23 (3) measures to further the goals and objectives of the comprehensive
24 plan.

25 * **Sec. 8.** AS 29.40.040 is amended by adding a new subsection to read:

26 (c) The Department of Natural Resources is the platting authority for state
27 lands as provided in AS 40.15.070. When the Department of Natural Resources
28 exercises the department's platting authority for state lands located within a
29 municipality that has the power of land use regulation and is exercising the
30 municipality's platting authority, the Department of Natural Resources is exempt from
31 municipal platting authority and related land use regulation. Where a Department of

1 Natural Resources' plat or subdivision of state land does not comply with a municipal
2 planning, platting, or land use regulation, the state is deemed to have received for the
3 affected land an approved variance from that planning, platting, or land use regulation.
4 Any variance allowed under this section is appurtenant to and runs with the land.

5 * **Sec. 9.** AS 29.40.190(a) is amended to read:

6 (a) **Except as provided in (c) of this section, the** [THE] municipality or an
7 aggrieved person may institute a civil action against a person who violates a provision
8 of this chapter, a subdivision regulation adopted under this chapter, or a term,
9 condition, or limitation imposed by a platting authority. In addition to other relief, a
10 civil penalty not to exceed \$1,000 may be imposed for each violation. An action to
11 enjoin a violation may be brought notwithstanding the availability of any other
12 remedy. Upon application for injunctive relief and a finding of a violation or
13 threatened violation, the superior court shall grant the injunction.

14 * **Sec. 10.** AS 29.40.190 is amended by adding a new subsection to read:

15 (c) A civil action may not be brought against or penalty imposed under (a) of
16 this section for a violation of municipal planning, platting, or land use regulation as to
17 a Department of Natural Resources' plat or subdivision of state lands where the
18 department is exercising its platting authority under AS 40.15.070 and where a
19 variance has been approved under AS 29.40.010(c) or 29.40.040(c). Nothing in this
20 section exempts the purchaser or owner of Department of Natural Resources' managed
21 lands from compliance with an environmental requirement under AS 46.03 - AS 46.14
22 or other state law from liability for noncompliance with that requirement.

23 * **Sec. 11.** AS 38.04.020(e) is amended to read:

24 (e) The commissioner shall annually submit to the governor an appropriation
25 request for funding estimated to be necessary for the next two years to allow

26 (1) survey and disposal of land proposed to be made available for
27 homestead staking, with the general location of the land;

28 (2) survey and disposal of land to be offered as agricultural,
29 commercial, industrial, or other uses under AS 38.05.055 or 38.05.057, with the
30 general location of the land;

31 (3) the survey and disposal of land proposed to be offered as

1 subdivisions, with the general location of the land;

2 (4) preliminary feasibility studies, engineering design work, right-of-
3 way acquisition, and construction of access roads and capital improvements required
4 by the department [MUNICIPAL SUBDIVISION ORDINANCE OR
5 REGULATION OF THE PLATTING AUTHORITY];

6 (5) identification of land that will be proposed for disposal under this
7 subsection in future fiscal years.

8 * **Sec. 12.** AS 38.04.022 is amended to read:

9 **Sec. 38.04.022. State land disposal income fund.** (a) The revenue from the
10 state land disposal program shall be deposited in the state land disposal income fund in
11 the state treasury. On June 30 of each fiscal year, the portion of that fund that exceeds
12 **\$7,500,000** [\$5,000,000] shall be deposited in the state general fund. The legislature
13 may appropriate money from the state land disposal income fund for expenditure by
14 the Department of Natural Resources for necessary costs incurred by the
15 commissioner in the implementation of state land disposal programs authorized under
16 this title or for any other public purpose.

17 (b) Within five days after the legislature convenes in regular session, the
18 Department of Natural Resources shall notify the legislature that a report reflecting all
19 money deposited in the fund established under (a) of this section during the prior fiscal
20 year is available. **The report may include a recommendation to amend the deposit**
21 **limit established in (a) of this section.**

22 * **Sec. 13.** AS 38.04.045(b) is amended to read:

23 (b) Before the issuance of a long-term lease under AS 38.05.070 or of a patent
24 for state land, an official cadastral survey shall be accomplished, unless a comparable,
25 approved survey exists that has been conducted by the federal Bureau of Land
26 Management. Before land may be offered under AS 38.08 or AS 38.09, or before land
27 may be offered under AS 38.05.055 or 38.05.057, except land that is classified for
28 agricultural uses, an official rectangular survey grid shall be established. The
29 rectangular survey section corner positions shall be monumented and shown on a
30 cadastral survey plat approved by the state. For those areas where the state may wish
31 to convey surface estate outside of an official rectangular survey grid, the

1 commissioner may waive monumentation of individual section corner positions and
2 substitute an official control survey with control points being monumented and shown
3 on control survey plats approved by the state. The commissioner may not issue more
4 than one conveyance for each section within a township outside of an official
5 rectangular survey grid. Land to be conveyed may not be located more than two miles
6 from an official survey control monument except that the commissioner may waive
7 this requirement on a determination that a single purpose use does not justify the
8 requirement if the existing status of the land is known with reasonable certainty. The
9 lots and tracts in state subdivisions shall be monumented and the cadastral survey and
10 plats for the subdivision shall be approved by the state. [WHERE LAND IS
11 LOCATED WITHIN A MUNICIPALITY WITH PLANNING, PLATTING, AND
12 ZONING POWERS, PLATS FOR STATE SUBDIVISIONS SHALL COMPLY
13 WITH LOCAL ORDINANCES AND REGULATIONS IN THE SAME MANNER
14 AND TO THE SAME EXTENT AS PLATS FOR SUBDIVISIONS BY OTHER
15 LANDOWNERS. STATE SUBDIVISIONS SHALL BE FILED AND RECORDED
16 IN THE DISTRICT RECORDER'S OFFICE. THE REQUIREMENTS OF THIS
17 SECTION DO NOT APPLY TO LAND MADE AVAILABLE FOR MATERIAL
18 SALES, FOR SHORT-TERM LEASES, FOR PARCELS ADJOINING A
19 SURVEYED RIGHT-OF-WAY, OR FOR LAND THAT HAS BEEN OPEN TO
20 RANDOM STAKING UNDER THE HOMESTEAD PROGRAM IN THE PAST;
21 HOWEVER, FOR SHORT-TERM LEASES, THE LESSEE SHALL COMPLY
22 WITH LOCAL SUBDIVISION ORDINANCES UNLESS WAIVED BY THE
23 MUNICIPALITY UNDER PROCEDURES SPECIFIED BY ORDINANCE.] In this
24 subsection, "a single purpose use" includes a communication site, an aid to navigation,
25 and a park site.

26 * **Sec. 14.** AS 38.04.045 is amended by adding new subsections to read:

27 (c) Where state land managed by the Department of Natural Resources is
28 located within a municipality with planning, platting, and zoning powers, plats or
29 subdivisions of that state land under the platting authority of the Department of
30 Natural Resources under AS 40.15.070 shall comply with local platting and related
31 land use ordinances and regulations to the maximum extent the commissioner of

1 natural resources determines to be consistent with the state's interests. If the
 2 commissioner of natural resources determines that compliance with a municipality's
 3 platting or related land use ordinance is not consistent with the state's interests, a plat
 4 or subdivision shall comply with state platting requirements.

5 (d) Except as provided in (c) of this section, state land located within a
 6 municipality with planning, platting, and zoning powers and that is exercising the
 7 municipality's platting authority and land use regulation, state subdivisions shall
 8 comply with local ordinances and regulations in the same manner and to the same
 9 extent as subdivisions by other landowners within that municipality.

10 (e) All state subdivisions must be filed and recorded in the district recorder's
 11 office.

12 (f) The requirements of this section do not apply to land made available for
 13 material sales, short-term leases, parcels adjoining a surveyed right-of-way, or land
 14 that has been open to random staking under the homestead program in the past. Except
 15 for state lands under the platting authority of the Department of Natural Resources as
 16 provided in AS 40.15.070, for short-term leases, the lessee shall comply with local
 17 subdivision ordinances unless waived by the municipality under procedures specified
 18 by ordinance.

19 * **Sec. 15.** AS 38.04.050 is amended to read:

20 **Sec. 38.04.050. Access to private use areas.** Wherever state land is surveyed
 21 for purposes of private use, legal rights-of-way and easements shall be reserved for
 22 access and, where appropriate, for utility services to each parcel of land. A right-of-
 23 way or easement shall be located to assure adequate and feasible access for the
 24 purposes for which the right-of-way or easement was intended. Where necessary and
 25 appropriate for the use intended [OR WHERE REQUIRED BY LOCAL
 26 SUBDIVISION ORDINANCES], the director may [SHALL] arrange for the
 27 development of surface access as part of the state land disposal [AVAILABILITY]
 28 program. The direct cost of local access development shall be borne by the recipient of
 29 the land unless otherwise provided by state statutes or regulations.

30 * **Sec. 16.** AS 38.05.035(b) is amended to read:

31 (b) The director may

1 (1) delegate the administrative duties, functions, or powers imposed
2 upon the director to a responsible employee in the division;

3 (2) grant preference rights for the lease or purchase of state land
4 without competitive bid in order to correct errors or omissions of a state or federal
5 administrative agency when inequitable detriment would otherwise result to a diligent
6 claimant or applicant due to situations over which the claimant or applicant had no
7 control; the exercise of this discretionary power operates only to divest the state of its
8 title to or interests in land and may be exercised only

9 (A) with the express approval of the commissioner; and

10 (B) if the application for the preference right is filed with the
11 director within three years from

12 (i) the occurrence of the error or omission;

13 (ii) the date of acquisition by the state of the land; or

14 (iii) the date of a court decision or settlement nullifying
15 a disposal of state land;

16 (3) grant a preference right to a claimant who shows bona fide
17 improvement of state land or of federal land subsequently acquired by the state and
18 who has in good faith sought to obtain title to the land but who, through error or
19 omission of others occurring within the three years before (A) the application for the
20 preference right, (B) the date of acquisition by the state of the land, or (C) the date of a
21 court decision or settlement nullifying a disposal of state land, has been denied title to
22 it; upon a showing satisfactory to the commissioner, the claimant may lease or
23 purchase the land at the price set on the date of original entry on the land or, if a price
24 was not set at that time at a price determined by the director to fairly represent the
25 value of unimproved land at the time the claim was established, but in no event less
26 than the cost of administration including survey; the error or omission of a predecessor
27 in interest or an agent, administrator, or executor that has clearly prejudiced the
28 claimant may be the basis for granting a preference right;

29 (4) sell land by lottery for less than the appraised value when, in the
30 judgment of the director, past scarcity of land suitable for private ownership in any
31 particular area has resulted in unrealistic land values;

1 (5) when the director determines it is in the best interest of the state
 2 and will avoid injustice to a person or the heirs or devisees of a person, dispose of
 3 land, by direct negotiation to that person who presently uses and who used and made
 4 improvements to that land before January 3, 1959, or to the heirs or devisees of the
 5 person; the amount paid for the land shall be its fair market value on the date that the
 6 person first entered the land, as determined by the director; a parcel of land disposed
 7 of under this paragraph shall be of a size consistent with the person's prior use, but
 8 may not exceed five acres;

9 (6) after consulting with the Board of Agriculture and Conservation
 10 (AS 03.09.010), dispose of an interest in land limited to use for agricultural purposes
 11 by lottery;

12 (7) convey to an adjoining landowner for its fair market value a
 13 remnant of land that the director considers unmanageable, [OR] a parcel of land
 14 created by a highway right-of-way alignment or realignment, or a parcel created by the
 15 vacation of a state-owned right-of-way if

16 (A) the director determines that it is in the best interests of the
 17 state; **and**

18 (B) the parcel

19 (i) does not exceed the minimum lot size **established**
 20 **by either regulation or, where the parcel is located within a**
 21 **municipality that has exercised its platting authority, a municipal**
 22 [UNDER AN APPLICABLE] zoning **ordinance, for the area**
 23 [CODE]; or

24 (ii) is smaller than 20 acres and is completely enclosed
 25 by property owned by the adjacent landowner; [AND

26 (C) THE DIRECTOR AND THE PLATTING AUTHORITY
 27 HAVING LAND USE PLANNING JURISDICTION AGREE THAT
 28 CONVEYANCE OF THE PARCEL TO THE ADJOINING LANDOWNER
 29 WILL RESULT IN BOUNDARIES THAT ARE CONVENIENT FOR THE
 30 USE OF THE LAND BY THE LANDOWNER AND COMPATIBLE WITH
 31 MUNICIPAL LAND USE PLANS;]

1 (8) for good cause extend for up to 90 days the time for rental or
 2 installment payments by a lessee or purchaser of state land under this chapter if
 3 reasonable penalties and interest set by the director are paid;

4 (9) quitclaim land or an interest in land to the federal government on a
 5 determination that the land or the interest in land was wrongfully or erroneously
 6 conveyed by the federal government to the state;

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

10 * **Sec. 17.** AS 38.05.055 is amended to read:

11 **Sec. 38.05.055. Auction sale or sealed bid procedures.** **(a)** Unless another
 12 method of sale is **allowed** [REQUIRED] under this chapter, AS 38.08, or AS 38.09,
 13 the sale of state land shall be made at public auction or by sealed bid, at the discretion
 14 of the director, to the highest qualified bidder as determined by the director. The
 15 director may accept bids and sell state land under this section at not less than 70
 16 percent of the appraised fair market value of the land.

17 **(b)** To qualify to participate under this section in a public auction or sale by
 18 sealed bid of state land that is other than commercial, industrial, or agricultural land, a
 19 bidder shall have been a resident of the state for at least one year immediately
 20 preceding the date of the sale and submit proof of that fact, as the commissioner
 21 requires by regulation. A bidder may be represented by an attorney or agent at a public
 22 auction.

23 **(c)** An aggrieved bidder may appeal to the commissioner within five days after
 24 the sale for a review of the director's determination [. THE SALE SHALL BE
 25 CONDUCTED BY THE DIRECTOR, AND, AT THE TIME OF SALE, THE
 26 SUCCESSFUL BIDDER SHALL DEPOSIT AN AMOUNT EQUAL TO FIVE
 27 PERCENT OF THE PURCHASE PRICE. THE DIRECTOR SHALL
 28 IMMEDIATELY ISSUE A RECEIPT CONTAINING A DESCRIPTION OF THE
 29 LAND OR PROPERTY PURCHASED, THE PRICE BID, AND THE AMOUNT
 30 DEPOSITED. THE RECEIPT SHALL BE ACKNOWLEDGED IN WRITING BY
 31 THE BIDDER].

1 * **Sec. 18.** AS 38.05.055 is amended by adding a new subsection to read:

2 (d) The sale shall be conducted by the director. The successful bidder at a
3 public action or all bidders at the time they submit their sealed bid, shall provide an
4 earnest money deposit in the amount of at least five percent of the bid amount. Not
5 later than 10 days after the public auction or sale by sealed bid, the director shall issue
6 a receipt to the successful bidder. The director's receipt shall contain a description of
7 the land or property purchased, the bid price, and the amount deposited. If the bidder
8 fails to enter into a contract to purchase or defaults in the payment of the bid amount,
9 five percent of the bid amount shall be forfeited to the state.

10 * **Sec. 19.** AS 38.05.065(a) is amended to read:

11 (a) A [THE] contract of sale for land, **an interest in land, or property** sold
12 **under this chapter may be issued for** [AT PUBLIC AUCTION OR BY SEALED
13 BID UNDER AS 38.05.055 SHALL REQUIRE] the remainder of the purchase price
14 to be paid in monthly, quarterly, or annual installments over a period of not more than
15 **30** [20] years, with interest at the rate provided in (i) of this section. Installment
16 payments plus interest shall be set on the level-payment basis.

17 * **Sec. 20.** AS 38.05.065(b) is amended to read:

18 (b) The contract of sale for land sold under AS 38.05.057 or under former
19 AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly,
20 quarterly, or annual installments over a period of not more than **30** [20] years.
21 Installment payments plus interest shall be set on the level-payment basis. The interest
22 rate to be charged on installment payments is the rate provided in (i) of this section.

23 * **Sec. 21.** AS 38.05.065(c) is amended to read:

24 (c) The director shall, for contracts under (a), (b), or (h) of this section, set out
25 in the contract for each sale the period for the payment of installments and the total
26 purchase price plus interest. The director, with the consent of the commissioner, may
27 also include in contracts under this section conditions, limitations, and terms
28 considered necessary and proper to protect the interest of the state. Violations of any
29 provision of this chapter or the terms of the contract of sale subject the purchaser to
30 appropriate administrative and legal action, including but not limited to specific
31 performance, **termination** [FORECLOSURE], ejectment, or other legal remedies in

1 accordance with applicable state law.

2 * **Sec. 22.** AS 38.05.065(d) is amended to read:

3 (d) If a contract for a sale of state land has been breached, the director may
4 issue a decision to [FORECLOSE AND] terminate the contract at any time 31 days
5 after delivering by certified mail a written notice of the breach to the address of record
6 of the purchaser. A breach caused by the failure to make payments required by the
7 contract may be cured within 30 days after the notice of the breach has been received
8 by the purchaser by payment of the sum in default together with the larger of a fee of
9 \$50 or five percent of the sum in default. If there are material facts in dispute between
10 the state and the purchaser, the purchaser may submit a written request for a public
11 hearing for the review of the facts within 30 days after the notice of the breach has
12 been received.

13 * **Sec. 23.** AS 38.05.065(e) is amended to read:

14 (e) On a determination that there has been a breach of the contract based on
15 the administrative record and the evidence presented at a hearing, the director shall
16 issue a decision [FORECLOSING THE INTEREST OF THE PURCHASER AND]
17 terminating the contract. The obligation to make payments under the contract
18 continues through the date of the director's decision to terminate the contract
19 [FORECLOSE BY THE DIRECTOR].

20 * **Sec. 24.** AS 38.05.065(f) is amended to read:

21 (f) The director shall deliver the decision to [FORECLOSE AND] terminate
22 the contract personally to the purchaser or send it certified mail, return receipt
23 requested, to the address of record of the purchaser. If the breach is a failure to make
24 payments required by the contract, the decision shall include a notice to the purchaser
25 that if within 30 days the purchaser pays to the state the full amount of the unpaid
26 contract price, including all accrued interest, and any fees assessed under (d) of this
27 section, the department shall issue to the purchaser a deed to the land. If full payment
28 is not made within 30 days or the breach is for other than failure to make payment, the
29 decision [FORECLOSES AND] terminates all legal and equitable rights the purchaser
30 has in the land.

31 * **Sec. 25.** AS 38.05.065 is amended by adding a new subsection to read:

1 (j) If a sale of state land is to be made by means other than a means prescribed
2 by AS 38.05.055, the director shall require a person applying to purchase land, an
3 interest in land, or property, to submit an earnest money deposit of at least five percent
4 of the purchase price with the application for a contract to purchase land, an interest in
5 land, or property. This earnest money deposit shall be applied towards the purchase
6 price. If the applicant fails to enter into a contract to purchase or defaults in the
7 payment of the purchase price, five percent of the purchase price shall be forfeited to
8 the state.

9 * **Sec. 26.** AS 38.05 is amended by adding a new section to read:

10 **Sec. 38.05.086. Leases and sales of land for commercial development.** (a)

11 For purposes of stimulating economic development in the state, the commissioner may
12 lease and sell lands that are identified in this section as appropriate for commercial
13 development. As provided in this section, if the lease is in good standing and the
14 development requirements of the lease have been satisfied, the lessee may purchase
15 the leased land.

16 (b) The department may identify lands appropriate for commercial
17 development from any or all of the following categories:

18 (1) state land identified or nominated as Qualified Opportunity Zones
19 under 26 U.S.C. 45D, 26 U.S.C. 1400Z-1 and 1400Z-2, and 26 C.F.R. 601.601;

20 (2) state land nominated by the public; public nominations under this
21 paragraph are limited to one for each person and may not exceed 640 acres in size;

22 (3) any other state land the department deems appropriate for
23 commercial development.

24 (c) If land identified in (b) of this section is classified in a manner that does
25 not allow disposal of the land, the commissioner may classify or reclassify the land
26 through a classification order under AS 38.05.300 and a written decision by the
27 director under AS 38.05.035(e).

28 (d) The commissioner may, from time to time, open certain areas of lands
29 identified in (b) of this section for leasing and sale, and issue a request for proposals to
30 develop land within the areas. Before proposals may be requested, the commissioner
31 shall issue a decision under AS 38.05.035(e) that the lease and sale of the land within

1 the areas opened is in the state's best interest. The commissioner's request for
2 proposals must be in writing.

3 (e) A person may apply to develop land within the areas by responding to the
4 commissioner's request for proposals and paying an application fee as provided by
5 regulation. In addition to any information requested by the commissioner in the
6 request for proposals, a response to the request for proposals must include

7 (1) the specific type of commercial development proposed; and

8 (2) the specific location and description, including amount, of land
9 requested for the proposed commercial development; the amount of land requested in
10 a response to request for proposals may not exceed 20 acres and must be reasonably
11 compact.

12 (f) The commissioner's request for proposals must be posted on the Alaska
13 Online Public Notice System (AS 44.62.175) for at least 30 consecutive days, and
14 must be sent, by mail or email, to anyone that received notice of the decision issued
15 under (d) of this section.

16 (g) Responses to the commissioner's request for proposals must be in writing
17 and submitted to the commissioner by the deadline set by the commissioner. The
18 commissioner may reject any proposal that does not meet the requirements of this
19 section or that the commissioner determines, in writing, is not in the best interests of
20 the state. The commissioner's decision to reject a proposal is subject to appeal or a
21 petition for reconsideration under AS 44.37.011.

22 (h) If the commissioner determines that only one suitable proposal for a
23 specific area of land exists, the commissioner may issue a lease to that person as
24 provided in this section. If the commissioner determines that there are two or more
25 suitable proposals for the same land or overlapping land, the commissioner shall
26 award the lease to the highest bidder as determined by the commissioner at a public
27 auction or by sealed bid. Participation in the public auction or sealed bid under this
28 subsection is limited to the persons who submitted proposals for the same land or
29 overlapping land.

30 (i) The annual fee for a commercial land lease under this section shall be set
31 by the commissioner so as to ensure that the state receives a fair return for the use

1 granted by the lease for the term of the lease and shall be a form of compensation set
2 out in AS 38.05.073(m). A lease must be for a term of not more than five years. A
3 lease in good standing may be renewed for one additional five-year period. The lease
4 may not be assigned by the original lessee during the term of the lease or any renewal.

5 (j) A commercial land lease under this section may be terminated by the
6 commissioner before the expiration of the term of the lease for a breach of the terms of
7 the lease, including a failure to use the land in a manner required by the terms of the
8 lease. After expiration of the lease term or termination of the lease before it expires,
9 improvements or personal property on the land subject to the lease shall be managed
10 in the manner required by AS 38.05.090.

11 (k) At any time during the lease, a lessee in good standing may apply to
12 purchase all or a portion of the land leased under this section for its fair market value
13 at the time of purchase, if the lessee

14 (1) has completed the development requirements of the land leased
15 consistent with the proposal submitted under (g) of this section and as provided by the
16 terms of the lease;

17 (2) has appraised and surveyed the site in a manner acceptable to the
18 department, at the lessee's expense; and

19 (3) pays an application fee as provided by regulation.

20 (l) A lessee who purchases the land under (k) of this section may apply the
21 amount of the lease payments made under the lease to the purchase price of the land.
22 Other amounts paid, including fees, penalties, survey costs, and appraisal costs, may
23 not be applied to the purchase price of the land.

24 (m) If an application to purchase land is denied, the lessee may continue to
25 hold the lease according to the terms of the lease, and may apply again to purchase the
26 land. Any subsequent application must address the reasons the previous application
27 was denied.

28 (n) The commissioner shall adopt regulations under AS 44.62 (Administrative
29 Procedure Act) to implement this section. Regulations adopted under this subsection
30 shall, at a minimum, address

31 (1) the application procedures for a commercial land lease or sale

1 under this section;

2 (2) the auction or sealed bid process, if necessary, under (h) of this
3 section;

4 (3) the terms and conditions that may be included in a commercial land
5 lease under this section;

6 (4) resolving any and all competitive bidding disputes and issues;

7 (5) the procedure for requesting proposals;

8 (6) the criteria for assessing proposals; and

9 (7) any administrative fees.

10 * **Sec. 27.** AS 38.05.965 is amended by adding a new paragraph to read:

11 (29) "public auction" means a public oral outcry auction or a public
12 online auction.

13 * **Sec. 28.** AS 38.09.080(b) is amended to read:

14 (b) The disposal of homestead entry land is subject to **state** [LOCAL] platting,
15 recording, or subdivision requirements established under [AS 29.35.180 AND]
16 AS 40.15.

17 * **Sec. 29.** AS 40.15.020 is amended to read:

18 **Sec. 40.15.020. Plats to be acknowledged and contain certificate that taxes**
19 **and assessments are paid.** Every plat shall be acknowledged before an officer
20 authorized to take acknowledgment of deeds. A certificate of acknowledgment shall
21 be endorsed on or annexed to the plat and recorded with it. **Except for the**
22 **Department of Natural Resources when exercising the department's platting**
23 **authority under AS 40.15.070, a** [A] person filing and recording a plat, map,
24 subdivision, or replat of property, or vacating the whole or any portion of an existing
25 plat, map, subdivision, or replat shall file and record with it a certificate from the tax-
26 collecting official or officials of the area in which the land is located that all taxes
27 levied against the property at that date are paid.

28 * **Sec. 30.** AS 40.15.070 is repealed and reenacted to read:

29 **Sec. 40.15.070. Platting authority.** (a) The Department of Natural Resources
30 is the platting authority for

31 (1) the unorganized borough;

1 (2) a municipality that does not have or is not exercising the power of
2 land use regulation or platting authority; and

3 (3) all state land, regardless of location, that is managed by the
4 Department of Natural Resources under AS 16.20, AS 27, AS 37.14.001 - 37.14.099,
5 AS 38, AS 41.15.010 - 41.15.960, AS 41.17.010 - 41.17.955, AS 41.21.010 -
6 41.21.990, and AS 41.23.010 - 41.23.630.

7 (b) When the Department of Natural Resources exercises the department's
8 platting authority within a municipality that has the power of land use regulation and
9 that is exercising the municipality's platting authority, the Department of Natural
10 Resources is exempt from that municipal platting authority and related land use
11 regulation, but shall comply with municipal platting and related land use ordinances to
12 the maximum extent the commissioner of natural resources determines to be consistent
13 with the state's interests. If the commissioner of natural resources determines that
14 compliance with a municipal platting or related land use ordinance is not consistent
15 with the state's interests, the plat must comply with state platting requirements. Where
16 a Department of Natural Resources' plat or subdivision does not comply with a
17 municipal planning, platting, or land use regulation, the state is deemed to have
18 received for the affected land a variance from that planning, platting, or land use
19 regulation. Any variance allowed under this section is appurtenant to and runs with the
20 land.

21 (c) Except as provided in (b) of this section and otherwise by law, a
22 municipality that has planning, platting, and zoning powers and is exercising platting
23 authority and land use regulation is the platting authority as provided in AS 29.40.

24 (d) A subdivision or plat shall be submitted to the appropriate platting
25 authority for approval. The subdivision or plat may not be filed and recorded until the
26 subdivision or plat is approved.

27 * **Sec. 31.** AS 40.15.200 is amended to read:

28 **Sec. 40.15.200. Application [TO STATE AND POLITICAL**
29 **SUBDIVISIONS]. Except as provided in (b) of this section, all [ALL] subdivisions**
30 **of land made by the state, its agencies, instrumentalities, and political subdivisions are**
31 **subject to the provisions of AS 40.15.010 - 40.15.200 and AS 29.40.070 - 29.40.160,**

1 or home rule ordinances or regulations governing subdivisions, and shall comply with
2 ordinances and other local regulations adopted under AS 40.15.010 - 40.15.200 and
3 AS 29.40.070 - 29.40.160 or former AS 29.33.150 - 29.33.240, or under home rule
4 authority, in the same manner and to the same extent as subdivisions made by other
5 landowners.

6 * **Sec. 32.** AS 40.15.200 is amended by adding a new subsection to read:

7 (b) All subdivisions of state land managed by the Department of Natural
8 Resources and where the Department of Natural Resources is exercising the
9 department's platting authority under AS 40.15.070 are subject to the provisions of
10 AS 40.15.010 - 40.15.070.

11 * **Sec. 33.** AS 40.15.305(a) is amended to read:

12 (a) The commissioner shall exercise the platting authority for the state **and all**
13 **state land as provided in AS 40.15.070** [EXCEPT WITHIN A MUNICIPALITY
14 THAT HAS THE POWER OF LAND USE REGULATION AND THAT IS
15 EXERCISING PLATTING AUTHORITY].

16 * **Sec. 34.** AS 29.10.200(54); AS 29.40.200; AS 38.08.010(b)(1); AS 41.23.400, 41.23.410,
17 41.23.420, 41.23.430, 41.23.440, 41.23.450, 41.23.460, 41.23.470, 41.23.480, 41.23.490,
18 41.23.500, and 41.23.510 are repealed.

19 * **Sec. 35.** Section 1, ch. 122, SLA 1988 is repealed.

20 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: REGULATIONS. The commissioner of natural resources may adopt
23 or amend regulations as necessary to implement the changes made by this Act. The
24 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
25 effective date of the law implemented by the regulations.

26 * **Sec. 37.** This Act takes effect immediately under AS 01.10.070(c).