

HOUSE BILL NO. 281

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/22/24

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the permitting, lease, and sale of state land for remote recreational**
2 **cabin sites; and providing for an effective date."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE. The longstanding policy of the state, declared in art. VIII, secs. 1, 2, and 9,
7 Constitution of the State of Alaska, and the Alaska Land Act (AS 38.05) has been to
8 encourage the settlement of the state's land and the development of its resources by making
9 land available for the maximum use consistent with the public interest. Many Alaskans and
10 their families would like to own or have an interest in state land. With only 10 percent of state
11 land in private ownership, there is state land available for Alaskans to lease or purchase for
12 recreational purposes. Current law requires most state land to be sold or leased to the highest
13 bidder, which prevents many Alaskans from leasing or purchasing state land even for
14 recreational purposes. The purpose of this Act is to use the full extent of the authority under

1 the Constitution of the State of Alaska to provide Alaskans a more efficient and fair process to
2 obtain an interest in remote state land for recreation. Consistent with the Constitution of the
3 State of Alaska, this Act recognizes that making state land available to all Alaskans for
4 remote recreational purposes provides for the maximum use of state land consistent with the
5 public interest.

6 * **Sec. 2.** AS 38.05.035(e) is amended to read:

7 (e) Upon a written finding that the interests of the state will be best served, the
8 director may, with the consent of the commissioner, approve contracts for the sale,
9 lease, or other disposal of available land, resources, property, or interests in them. In
10 approving a contract under this subsection, the director need only prepare a single
11 written finding. In addition to the conditions and limitations imposed by law, the
12 director may impose additional conditions or limitations in the contracts as the director
13 determines, with the consent of the commissioner, will best serve the interests of the
14 state. The preparation and issuance of the written finding by the director are subject to
15 the following:

16 (1) with the consent of the commissioner and subject to the director's
17 discretion, for a specific proposed disposal of available land, resources, or property, or
18 of an interest in them, the director, in the written finding,

19 (A) shall establish the scope of the administrative review on
20 which the director's determination is based, and the scope of the written
21 finding supporting that determination; the scope of the administrative review
22 and finding may address only reasonably foreseeable, significant effects of the
23 uses proposed to be authorized by the disposal;

24 (B) may limit the scope of an administrative review and finding
25 for a proposed disposal to

26 (i) applicable statutes and regulations;

27 (ii) the facts pertaining to the land, resources, or
28 property, or interest in them, that the director finds are material to the
29 determination and that are known to the director or knowledge of which
30 is made available to the director during the administrative review; and

31 (iii) issues that, based on the statutes and regulations

1 referred to in (i) of this subparagraph, on the facts as described in (ii) of
 2 this subparagraph, and on the nature of the uses sought to be authorized
 3 by the disposal, the director finds are material to the determination of
 4 whether the proposed disposal will best serve the interests of the state;
 5 and

6 (C) may, if the project for which the proposed disposal is
 7 sought is a multiphased development, limit the scope of an administrative
 8 review and finding for the proposed disposal to the applicable statutes and
 9 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
 10 pertain solely to the disposal phase of the project when

11 (i) the only uses to be authorized by the proposed
 12 disposal are part of that phase;

13 (ii) the disposal is a disposal of oil and gas, or of gas
 14 only, and, before the next phase of the project may proceed, public
 15 notice and the opportunity to comment are provided under regulations
 16 adopted by the department;

17 (iii) the department's approval is required before the
 18 next phase of the project may proceed; and

19 (iv) the department describes its reasons for a decision
 20 to phase;

21 (2) the director shall discuss in the written finding prepared and issued
 22 under this subsection the reasons that each of the following was not material to the
 23 director's determination that the interests of the state will be best served:

24 (A) facts pertaining to the land, resources, or property, or an
 25 interest in them other than those that the director finds material under (1)(B)(ii)
 26 of this subsection; and

27 (B) issues based on the statutes and regulations referred to in
 28 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
 29 subsection;

30 (3) a written finding for an oil and gas lease sale or gas only lease sale
 31 under AS 38.05.180 is subject to (g) of this section;

1 (4) a contract for the sale, lease, or other disposal of available land or
2 an interest in land is not legally binding on the state until the commissioner approves
3 the contract, but if the appraised value is not greater than \$50,000 in the case of the
4 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
5 interest in land, the director may execute the contract without the approval of the
6 commissioner;

7 (5) public notice requirements relating to the sale, lease, or other
8 disposal of available land or an interest in land for oil and gas, or for gas only,
9 proposed to be scheduled in the five-year oil and gas leasing program under
10 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

11 (A) before a public hearing, if held, or in any case not less than
12 180 days before the sale, lease, or other disposal of available land or an interest
13 in land, the director shall make available to the public a preliminary written
14 finding that states the scope of the review established under (1)(A) of this
15 subsection and includes the applicable statutes and regulations, the material
16 facts and issues in accordance with (1)(B) of this subsection, and information
17 required by (g) of this section, upon which the determination that the sale,
18 lease, or other disposal will serve the best interests of the state will be based;
19 the director shall provide opportunity for public comment on the preliminary
20 written finding for a period of not less than 60 days;

21 (B) after the public comment period for the preliminary written
22 finding and not less than 90 days before the sale, lease, or other disposal of
23 available land or an interest in land for oil and gas or for gas only, the director
24 shall make available to the public a final written finding that states the scope of
25 the review established under (1)(A) of this subsection and includes the
26 applicable statutes and regulations, the material facts and issues in accordance
27 with (1) of this subsection, and information required by (g) of this section,
28 upon which the determination that the sale, lease, or other disposal will serve
29 the best interests of the state is based;

30 (6) before a public hearing, if held, or in any case not less than 21 days
31 before the sale, lease, or other disposal of available land, property, resources, or

1 interests in them other than a sale, lease, or other disposal of available land or an
2 interest in land for oil and gas or for gas only under (5) of this subsection, the director
3 shall make available to the public a written finding that, in accordance with (1) of this
4 subsection, sets out the material facts and applicable statutes and regulations and any
5 other information required by statute or regulation to be considered upon which the
6 determination that the sale, lease, or other disposal will best serve the interests of the
7 state was based; however, a written finding is not required before the approval of

8 (A) a contract for a negotiated sale authorized under
9 AS 38.05.115;

10 (B) a lease of land for a shore fishery site under AS 38.05.082;

11 (C) a permit or other authorization revocable by the
12 commissioner;

13 (D) a mineral claim located under AS 38.05.195;

14 (E) a mineral lease issued under AS 38.05.205;

15 (F) an exempt oil and gas lease sale or gas only lease sale under
16 AS 38.05.180(d) of acreage subject to a best interest finding issued within the
17 previous 10 years or a reoffer oil and gas lease sale or gas only lease sale under
18 AS 38.05.180(w) of acreage subject to a best interest finding issued within the
19 previous 10 years, unless the commissioner determines that substantial new
20 information has become available that justifies a supplement to the most recent
21 best interest finding for the exempt oil and gas lease sale or gas only lease sale
22 acreage and for the reoffer oil and gas lease sale or gas only lease sale acreage;
23 however, for each oil and gas lease sale or gas only lease sale described in this
24 subparagraph, the director shall call for comments from the public; the
25 director's call for public comments must provide opportunity for public
26 comment for a period of not less than 30 days; if the director determines that a
27 supplement to the most recent best interest finding for the acreage is required
28 under this subparagraph,

29 (i) the director shall issue the supplement to the best
30 interest finding not later than 90 days before the sale;

31 (ii) not later than 45 days before the sale, the director

1 shall issue a notice describing the interests to be offered, the location
2 and time of the sale, and the terms and conditions of the sale; and

3 (iii) the supplement has the status of a final written best
4 interest finding for purposes of (i) and (l) of this section;

5 (G) a surface use lease under AS 38.05.255;

6 (H) a permit, right-of-way, or easement under AS 38.05.850;

7 **(I) a remote recreational cabin site permit, lease, or sale**
8 **under AS 38.05.600;**

9 (7) the director shall include in

10 (A) a preliminary written finding, if required, a summary of
11 agency and public comments, if any, obtained as a result of contacts with other
12 agencies concerning a proposed disposal or as a result of informal efforts
13 undertaken by the department to solicit public response to a proposed disposal,
14 and the department's preliminary responses to those comments; and

15 (B) the final written finding a summary of agency and public
16 comments received and the department's responses to those comments.

17 * **Sec. 3.** AS 38.05.045 is amended to read:

18 **Sec. 38.05.045. Generally.** All land owned in fee by the state or to which the
19 state may become entitled, excepting tide, submerged, or shoreland, and timber or
20 grazing land, may be sold as provided in AS 38.05.045 - 38.05.069 and AS 38.08.
21 However, this section does not prevent the disposition of land as provided in
22 AS 38.05.300, 38.05.321, **38.05.600**, 38.05.810 - 38.05.870, 38.05.920, 38.05.945 and
23 38.05.946.

24 * **Sec. 4.** AS 38.05.065(b) is amended to read:

25 (b) The contract of sale for land sold under AS 38.05.057, [OR] under former
26 AS 38.05.078, **or under AS 38.05.600** shall require the remainder of the purchase
27 price to be paid in monthly, quarterly, or annual installments over a period of not more
28 than 20 years. Installment payments plus interest shall be set on the level-payment
29 basis. The interest rate to be charged on installment payments is the rate provided in
30 (i) of this section.

31 * **Sec. 5.** AS 38.05.125(a) is amended to read:

1 (a) Each contract for the sale, lease, or grant of state land, and each deed to
 2 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
 3 38.05.321, 38.05.600, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50 except as
 4 provided in AS 38.50.050 is subject to the following reservations: "The party of the
 5 first part, Alaska, hereby expressly saves, excepts and reserves out of the grant hereby
 6 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
 7 minerals, fissionable materials, geothermal resources, and fossils of every name, kind
 8 or description, and which may be in or upon said land above described, or any part
 9 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
 10 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
 11 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
 12 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
 13 servants upon said land, or any part or parts thereof, at any and all times for the
 14 purpose of opening, developing, drilling, and working mines or wells on these or other
 15 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
 16 fissionable materials, geothermal resources, and fossils, and to that end it further
 17 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
 18 assigns forever, the right by its or their agents, servants and attorneys at any and all
 19 times to erect, construct, maintain, and use all such buildings, machinery, roads,
 20 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such
 21 soil, and to remain on said land or any part thereof for the foregoing purposes and to
 22 occupy as much of said land as may be necessary or convenient for such purposes
 23 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
 24 generally all rights and power in, to, and over said land, whether herein expressed or
 25 not, reasonably necessary or convenient to render beneficial and efficient the complete
 26 enjoyment of the property and rights hereby expressly reserved."

27 * **Sec. 6.** AS 38.05.600 is repealed and reenacted to read:

28 **Sec. 38.05.600. Remote recreational cabin sites.** (a) The commissioner shall
 29 provide for the permitting, lease, and sale of state land for remote recreational cabin
 30 sites to eligible applicants. A remote recreational cabin site shall be made available
 31 either through a schedule of land offerings issued by the commissioner under (b) of

1 this section or through the remote recreational cabin site nomination process described
2 in (c) of this section.

3 (b) The commissioner shall annually publish a schedule of land offerings that
4 lists areas available for the staking of remote recreational cabin sites. The department
5 shall provide public notice of the annually published schedule of land offerings and of
6 any revisions made to the schedule. An eligible applicant may apply for a permit,
7 lease, or sale of a remote recreational cabin site from the schedule of land offerings.

8 (c) An eligible applicant may nominate and apply for a permit, lease, or sale of
9 up to 10 acres of available state land for a remote recreational cabin site that is not
10 included in the commissioner's schedule of land offerings. All nominated land must be
11 unencumbered so that the surface estate may be permitted, leased, or sold as provided
12 in this section.

13 (d) If land nominated under this section is not classified in a manner that
14 allows for a remote recreational cabin site, the commissioner may classify or reclassify
15 the land under AS 38.04.065 and AS 38.05.300. The applicant is responsible for all
16 administrative costs associated with the reclassification process. Before any staking of
17 a nominated site occurs, the department shall provide public notice of the remote
18 recreational cabin site nomination and of the intent to permit, sell, or lease the land to
19 the applicant. If the applicant fails to stake land nominated for a remote recreational
20 cabin site within 90 days of the department approving the nomination, the
21 commissioner may include the nominated lands in the annual schedule of land
22 offerings.

23 (e) The commissioner may issue a permit under this section to an eligible
24 applicant for a term of not more than five years. The commissioner may renew a
25 permit up to four times, with renewal periods not to exceed five years each. A remote
26 recreational cabin site permit is revocable at will and may be terminated by the
27 commissioner for any reason. Unless otherwise specified in the permit, during the
28 term of a permit, the permittee may lease or purchase the site under this section. If
29 land subject to a permit is offered for sale or lease, the commissioner shall first offer to
30 sell or lease the site to the permittee.

31 (f) The commissioner may issue a lease under this section to an eligible

1 applicant for a term of not more than 10 years. The commissioner may renew a lease
 2 up to two times, with renewal periods not to exceed 10 years each. A lease may be
 3 terminated by the commissioner before the expiration of the term of the lease if a
 4 lessee fails to use the land in the manner required by the terms of the lease. At any
 5 time during the lease, the lessee may purchase the remote recreational cabin site under
 6 this section.

7 (g) The commissioner shall set annual fees for permits and leases under this
 8 section consistent with AS 38.05.073(m) to ensure that the state receives a fair return
 9 for the use granted. After termination of a remote recreational cabin site permit or
 10 lease, improvements or personal property remaining on the land shall be managed in
 11 the same manner provided in AS 38.05.090 for removal or reversion of improvements
 12 upon termination of leases of state land. Neither a lease nor a permit may be assigned.

13 (h) A sale made under this section must be at fair market value, and the
 14 purchaser shall pay for the appraisal, survey, and platting costs for the remote
 15 recreational cabin site. For a site being leased or permitted by the applicant, fair
 16 market value shall be determined as of the time of entry. The site may be appraised
 17 and surveyed in a manner acceptable to the department.

18 (i) The commissioner may adopt regulations under AS 44.62 (Administrative
 19 Procedures Act) necessary to implement the purposes of this section.

20 (j) In this section,

21 (1) "eligible applicant" means a resident at least 18 years of age who
 22 has not leased or purchased a remote recreational cabin site or been issued a remote
 23 recreational cabin site permit during the 10-year period before submitting an
 24 application under this section;

25 (2) "resident" means an individual who has resided in the state for one
 26 year before submitting an application under this section.

27 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 **TRANSITION.** A lease executed under AS 38.05.600 before the effective date of this
 30 Act and in effect on the effective date of this Act is eligible for renewal under AS 38.05.600,
 31 as repealed and reenacted by sec. 6 of this Act.

1 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).