

CS FOR SENATE BILL NO. 219(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/4/12

Referred: Finance

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Land Act, including certain leases, sales, and other**
2 **disposals of state land and materials; relating to production royalties from miners; and**
3 **providing for an effective date."**

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

5 * **Section 1.** AS 38.05.050 is amended to read:

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

11 * **Sec. 2.** AS 38.05.055 is amended to read:

12 **Sec. 38.05.055. Auction sale or sealed bid procedures.** Unless another
13 method of sale is required under this chapter, AS 38.08, or AS 38.09, the sale of state
14 land shall be made at public auction **or by sealed bid, at the discretion of the**

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

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

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

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

22 (a) After consulting with the Board of Agriculture and Conservation
 23 (AS 03.09.010), on a determination that the highest and best use of unoccupied land is
 24 for agricultural purposes and that it is in the best interests of the state to sell or lease
 25 the land, the commissioner shall grant to an Alaska resident owning and using or
 26 leasing and using land for agricultural purposes a first option [AT THE AUCTION] to
 27 purchase or lease the unoccupied land situated adjacent to land presently held by the
 28 Alaska resident for the amount of the high bid received at public auction **or by sealed**
 29 **bid**. If more than one Alaska resident qualifies for a first option under this section,
 30 eligibility for the first option shall be determined by lot, and the option must be
 31 exercised on the conclusion of the public auction **or opening of sealed bids**. A parcel

1 of agricultural land sold under this section may not be less than 20 acres, and a parcel
2 of agricultural land that is acquired by exercise of the option granted in this subsection
3 may not exceed 320 acres. Agricultural land that is acquired under this section must be
4 used for agricultural purposes as required by law.

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

6 (c) Under this section,

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

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

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

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

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

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

25 (e) The director may renew a lease issued under this section, AS 38.05.075, or
26 38.05.810 upon its expiration if the lease is in good standing and the lease renewal is
27 determined to be in the best interests of the state. A renewal issued under this
28 subsection is not subject to AS 38.05.035(e). A lease may be renewed only once for a
29 term not longer than the initial term of the lease. The director shall provide public
30 notice of the lease renewal decision.

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

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

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

11 (a) Except as provided in AS 38.05.035, 38.05.070, 38.05.073, 38.05.082,
 12 38.05.083, 38.05.087, 38.05.102, **38.05.565**, 38.05.600, 38.05.810, and this section,
 13 **when competitive interest has been demonstrated or the commissioner**
 14 **determines that it is in the state's best interests,** leasing shall be made at public
 15 auction **or by sealed bid, at the discretion of the director,** to the highest qualified
 16 bidder as determined by the commissioner. **A bidder may be represented by an**
 17 **attorney or agent at a public auction.** In the public notice of a lease to be offered at
 18 public auction **or by sealed bid,** the commissioner shall specify a minimum
 19 acceptable bid and the lease compensation method. The lease compensation method
 20 shall be designed to maximize the return on the lease to the state and shall be a form of
 21 compensation set out in AS 38.05.073(m). An aggrieved bidder may appeal to the
 22 commissioner within five days for a review of the determination. The leasing shall be
 23 conducted by the commissioner, and the successful bidder shall deposit at the **public**
 24 auction **or with the sealed bid** the first year's rental or other lease compensation as
 25 specified by the commissioner, or that portion of it that the commissioner requires in
 26 accordance with the bid. The commissioner shall require, under AS 38.05.860,
 27 qualified bidders to deposit a sum equal to any survey or appraisal costs reasonably
 28 incurred by another qualified bidder acting in accordance with the regulations of the
 29 commissioner or incurred by the department under AS 38.04.045 and AS 38.05.840. If
 30 a bidder making a deposit of survey or appraisal costs is determined by the
 31 commissioner to be the highest qualified bidder under this subsection, the deposit shall

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

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

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

19 (1) classification under AS 38.05.300;

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

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

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

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

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

27 (a) The commissioner may offer to the public for lease at public auction **or by**
 28 **sealed bid** under AS 38.05.075 or by negotiation under AS 38.05.070 a site for
 29 aquatic farming or related hatchery operations. Before a final decision to issue or
 30 renew a lease under this section, the commissioner shall give notice and allow
 31 opportunity for comment in accordance with AS 38.05.945 and may hold a hearing to

1 take testimony. Before a final decision to issue or renew a lease under this section, the
 2 commissioner shall consider all relevant comment or testimony submitted under this
 3 section, AS 38.05.945, or 38.05.946.

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

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

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

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

12 * **Sec. 14.** AS 38.05.115 is amended to read:

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

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

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

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

27 (b) Negotiated sales not exceeding 50 M.B.M. or the equivalent other measure
 28 of timber [OR 2,500 CUBIC YARDS OF MATERIALS] are exempt from the
 29 provisions of AS 34.15.150.

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

1 * **Sec. 15.** AS 38.05.120 is amended to read:

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

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

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

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

26 (c) Each submerged land mining lease shall be for a period of up to 20 years
 27 and for so long as there is production in paying quantities from the leased area. **A**
 28 **submerged land mining lease may be renewed for a period of up to 20 years at**
 29 **the discretion of the director if the director determines that the renewal is in the**
 30 **best interests of the state.**

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

1 **Article 13A. Material Sales.**

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

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

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

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

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

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

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

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

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

31 (3) a price less than appraised value, determined under

1 AS 38.05.810(a).

2 **Sec. 38.05.555. Negotiated sales and personal use of materials.** (a)

3 Notwithstanding any other provision of AS 38.05.550 - 38.05.565, the director may
4 negotiate the sale of any amount of materials from a source or site designated under
5 AS 38.05.550(b). The period of a contract for a sale of materials negotiated under this
6 section may not exceed five years.

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

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

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

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

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

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

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

28 (f) Notwithstanding (a) - (e) of this section, for the purpose of creating
29 incentives for the development of peat as a source of heat or power, the director may
30 negotiate the sale of peat to individuals, organized or unorganized communities, tribal
31 governments, or private profit or nonprofit organizations. Under this subsection, the

1 director may provide

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **Sec. 38.05.562. Violations.** Violation of any provision of AS 38.05.550 -
22 38.05.565 or the terms of the contract of sale subjects the purchaser to appropriate
23 legal action.

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

27 (1) municipalities, other state and federal agencies, or other entities
28 under AS 38.05.872; sales under this paragraph may be at less than fair market value,
29 and materials may be disposed of free of charge if the director determines that the
30 disposal is in the public interest;

31 (2) a licensed public utility or a licensed common carrier under

1 AS 38.05.810(e); sales under this paragraph shall be at representative regional sales
2 prices determined under AS 38.05.550(d)(1); or

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

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

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

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

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

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

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

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

26 (b) Notwithstanding AS 38.05.070 - 38.05.080 and 38.05.095, the director,
27 upon application filed by an applicant eligible under (b) - (d) of this section, may, by
28 negotiation and without **competitive bid** [PUBLIC AUCTION] in the manner
29 prescribed in (b) - (d) of this section, lease state land for a term of not more than 55
30 years. Before leasing, the director shall prepare a land use plan and a land
31 classification to **ensure** [INSURE] that the proposed use is compatible with area

1 utilization. Before the land may be leased under (b) - (d) of this section, it must be
 2 shown to the satisfaction of the director that the land is to be used for an established or
 3 definitely proposed project, and that the eligible applicant has the financial ability to
 4 carry out the project. The commissioner may establish limitations on the acreage **that**
 5 [WHICH] may be leased under (b) - (d) of this section to an applicant.

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

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

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

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

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

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

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

31 (1) the notice must contain sufficient information in commonly

1 understood terms to inform the public of the nature of the action and the opportunity
2 of the public to comment on it;

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

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

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

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

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

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

26 (ii) posting in a conspicuous location in the vicinity of
27 the action;

28 (iii) [(ii)] notification of parties known or likely to be
29 affected by the action; or

30 (iv) [(iii)] another method calculated to reach affected
31 parties;

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

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

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

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

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

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

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

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

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

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

30 (2) if the notice is of a preliminary written finding described in
 31 (a)(3)(A) of this section, the department shall give notice at the beginning of the public

1 comment period for the preliminary written finding, notifying the public of the right to
2 submit comments; the department shall give notice by

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

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

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

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

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

17 (ii) posting in a conspicuous location in the vicinity of
18 the action;

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

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

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

27 (A) publication of a notice in display advertising form
28 describing the proposed action and referencing the online notice required in
29 this paragraph in newspapers of statewide circulation and in newspapers of
30 general circulation in the vicinity of the proposed action, if available, at least
31 once a week for two consecutive weeks;

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

3 (C) posting in a conspicuous location in the vicinity of the
4 action;

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

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

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

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

15 (10) "materials"

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

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

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

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

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

28 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change

29 (1) the heading of art. 4 of AS 38.05 from "Disposal of Timber and Materials"
30 to "Disposal of Timber";

31 (2) the catch line of AS 38.05.110 from "Sale of timber and materials;

1 account" to "Sale of timber."

2 * **Sec. 27.** Section 23 of this Act takes effect July 1, 2017.

3 * **Sec. 28.** Except as provided in sec. 27 of this Act, this Act takes effect July 1, 2012.