

Sec. 38.05.321. Restriction on sale, lease, or other disposal of agricultural land.

(a) The department shall include in a document that conveys state land classified as agricultural land

(1) a perpetual covenant for the benefit of all Alaska residents and running with the land that restricts or limits the use of the land for agricultural purposes; and

(2) one of the following, as appropriate:

(A) a perpetual covenant for the benefit of all Alaska residents and running with the land permitting the owner of land that had been obtained under homestead entry to subdivide and convey the land in parcels of not less than 40 acres each; or

(B) a perpetual covenant for the benefit of all Alaska residents and running with the land permitting the owner of land that had been obtained by purchase to subdivide and convey not more than four parcels of the land of not less than 40 acres each, subject to the restriction that a subdivided parcel may not be further subdivided.

(b) Subject to (a) of this section, state land classified as agricultural land that has been selected by a municipality under former [AS 29.18.190](#) – 29.18.200 or former [AS 29.18.205](#)(e) may be approved by the director for patent under [AS 29.65.050](#)(c). Agricultural land approved for patent to a municipality shall be credited, acre for acre, toward fulfillment of that municipality's entitlement under [AS 29.65.010](#) – 29.65.030 or former [AS 29.18.201](#) – 29.18.203.

(c) The provisions of this section do not apply to

(1) state land classified as agricultural land that has been selected by a municipality under the provisions of former [AS 29.18.190](#) – 29.18.200 if the selection is an approved selection before April 1, 1978 and is otherwise valid under [AS 29.65.050](#)(b) or former [AS 29.18.205](#)(b); or

(2) a quitclaim of the interest of the state to the federal government under [AS 38.05.035](#)(b)(9).

(d) For state land classified as agricultural land that is conveyed under (a) of this section,

(1) the commissioner may require the landowner to cooperate with the appropriate soil and water conservation district under

AS 41.10 in the development and implementation of soil conservation plans as authorized by AS 41.10.110(6);

(2) as a condition of the conveyance, the commissioner may not require preparation and implementation of a schedule of planned agricultural development or a farm development plan specified in a land purchase contract unless the commissioner permits modification of a plan in cases of economic hardship or other extenuating circumstances;

(3) the commissioner may not

(A) limit the right of the landowner to use the land and improvements for purposes that are incidental to and not inconsistent with the primary use of the land for agricultural purposes;

(B) except as provided by (i) of this section, limit the right of a landowner to construct housing for the landowner and farm laborers, to construct improvements for animals, or to construct improvements that are reasonably required for or related to agricultural use on the original parcel and on additional subdivided parcels, not to exceed the limits and restrictions set by (a)(2) of this section; and

(C) limit the right of the landowner to subdivide and convey the land if the resulting parcels are not in violation of the limits and restrictions set out in (a)(2) of this section.

(e) A landowner may subdivide land classified for agricultural use and for which the landowner obtained a patent under a homestead entry permit issued under AS 38.09 so long as the resulting parcels are not in violation of the minimum parcel size set out in (a) of this section. A landowner may subdivide other land classified for agricultural use as authorized under (d)(3)(C) of this section. If the subdivision involves land classified for agricultural use and for which the landowner obtained a patent under a homestead entry permit issued under AS 38.09, or if the subdivision of land authorized under (d)(3)(C) of this section results only in parcels of 640 acres or more, the landowner may subdivide without payment as required by this subsection. If subdivision of land authorized by (d)(3)(C) of this section would result in one or more parcels of less than 640 acres, the landowner may subdivide only if the landowner first tenders payment to the department for the right to

construct housing in each subdivided parcel of less than 640 acres. Payments collected under this subsection shall be separately accounted for and may be appropriated to the agricultural revolving loan fund (AS 03.10.040). For purposes of this subsection, the value of the right to construct housing in a subdivided parcel

(1) is \$4,000 for the parcel, subject to adjustment under (h) of this section; or

(2) shall be determined by an appraisal made by an appraiser under contract to the landowner owning the parcel, and the appraisal must include the value, determined as of the date of subdivision, of the right to construct housing by the landowner under (d)(3) of this section.

(f) Notwithstanding (e) of this section, the landowner is not required to pay an amount due under (e) of this section until the subdivided parcel is conveyed by the owner to a person not a member of the person's immediate family. The department has a lien on the parcel as security for payment of the amount due. For purposes of this subsection, "immediate family" means

(1) the spouse of the person; or

(2) a parent, child, including a stepchild and an adopted child, or sibling of the person if the parent, child, or sibling resides with the person, is financially dependent on the person, or shares a substantial financial interest with the person.

(g) A perpetual covenant described in (a) of this section may be enforced only by a civil action brought by the state, a municipality, or a resident. If a municipality or a resident brings an action under this subsection, the municipality or resident shall also serve a copy of the summons and complaint on the state in the manner prescribed by the Alaska Rules of Civil Procedure for service on the state. An action may be maintained under this subsection only if

(1) commenced within six years after the cause of action has accrued; and

(2) the plaintiff has first notified in writing the appropriate soil and water conservation district under AS 41.10 of the violation of the covenant at least 90 days before the civil action is filed.

(h) The value of the right to construct housing determined under (e) of this section shall be adjusted to correspond with the change in the consumer price index for all urban consumers for the Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics, United States Department of Labor. The base year for the computation shall be the calendar year in which the process of conveyance of state land authorized by (a) of this section is initiated under this section.

(i) The authority given in (d)(3)(B) of this section to construct housing and the payment required under (e) of this section for the right to construct housing do not permit the landowner the right to construct condominiums under AS 34.07 or other common interest ownership communities under AS 34.08.

(j) In this section, "agricultural purposes" means

(1) the production, for commercial or personal use, of useful plants and animals;

(2) the construction of

(A) housing for landowners and farm laborers;

(B) improvements for animals; or

(C) improvements that are reasonably required for or related to agricultural use;

(3) the use of gravel reasonably required or related to agricultural production on the parcel conveyed; and

(4) removal and disposition of timber in order to bring agricultural land into use.