

**“An Act relating to the mental health trust fund, the Alaska Mental Health Trust Authority, and the management of mental health trust land, and providing for an effective date.”**

**\* Section 1.** AS 37.14.031(b) is amended to read:

(b) The fund consists of the cash assets of the principal of the trust, and includes

(1) money appropriated to the fund;

(2) **principal derived from mental health trust land to the extent the authority directs the same be deposited in the fund;** [THE PROCEEDS OF SALE OR OTHER DISPOSALS OF MENTAL HEALTH TRUST LAND AND THE FEES, CHARGES, INCOME EARNED, ROYALTY PROCEEDS, AND OTHER MONEY RECEIVED FROM THE MANAGEMENT OF MENTAL HEALTH TRUST LAND ATTRIBUTABLE TO PRINCIPAL; AND]

(3) gifts, bequests, and contributions from other sources; **and**

(4) **net income of the fund that the authority directs to be added to principal of the trust to offset the effect of inflation.**

**\* Sec. 2.** AS 37.14.031(d) is repealed.

**\* Sec. 3.** AS 37.14.041(a) is amended to read:

(a) Money in the mental health trust settlement income account may only be used for the following purposes:

(1) the awarding of grants and contracts in fulfillment of the authority’s purpose to ensure an integrated comprehensive mental health program for the state;

(2) obtaining private and federal grants for a purpose described in (1) of this subsection;

- (3) soliciting gifts, bequests, and contributions for a purpose described in (1) of this subsection;
- (4) reimbursement to
  - (A) the Alaska Permanent Fund Corporation for the costs of managing [THE PRINCIPAL OF] the mental health trust fund; and
  - (B) the Department of Natural Resources for the cost of managing mental health trust land;
- (5) offsetting the effect of inflation on the value of the principal of the mental health trust fund; and
- (6) subject to AS 37.07 (Executive Budget Act), meeting the necessary administrative expenses of the authority that are required for it to properly discharge its responsibilities.

**\*Sec. 4.** AS 37.14 is amended by adding a new section to read:

**AS 37.14.047. Use of principal derived from mental health trust land.**

- (a) Any principal derived from mental health trust land that the authority does not direct to be deposited in the mental health trust fund shall be used or held for use by the authority only for one or more of the following purposes:
  - (1) to acquire or invest in real property for the authority to use or for the unit of the Department of Natural Resources that manages the mental health trust land to use;
  - (2) to acquire or invest in real property for to use as a component of the state's mental health trust program;
  - (3) to acquire or invest in income producing real property;
  - (4) to acquire or invest in real property that has the potential to be income producing; and
  - (5) to make capital improvements to mental health trust land or the trust's real property investments or to undertake development activities

that will enhance the value, marketability or profitability of mental health trust land or the trust's real property investments.

(b) The authority may acquire, invest in, make capital improvements to, or undertake development activities under (a) of this section in its own name or through a corporation, limited liability company or other entity that the authority either wholly or partially owns.

(c) Any real property the authority acquires in its own name under (a)(1), (2), (3) or (4) of this section shall be mental health trust land. Any capital improvements to or development of mental health trust land that the authority completes in its own name under (a)(5) of this section shall be considered part of the mental health trust land. The authority's interest in any corporation, limited liability company or other entity referenced in (b) of this section shall be considered an investment of the authority.

(d) The authority may acquire or invest in real property under (a)(1) or (2) of this section if the board by resolution makes a finding that acquisition of the real property is in the best interests of the trust and its beneficiaries and is in furtherance of an integrated comprehensive mental health program for the state. Real property acquired or invested in under (a)(1) or (2) of this section shall be located in the state.

(e) The authority may acquire or invest in real property under (a)(3) of this section if the board by resolution makes a finding that the investment is in the best interests of the trust and its beneficiaries and is expected to yield, within the estimated time period the board designates in its finding, income for the trust in excess of the investment returns obtained from the mental health trust fund. Real property the authority acquires or invests in under (a)(3) of this section shall be located in the state or in another state of the United States.

(f) The authority may acquire or invest in real property under (a)(4) of this section if the board by resolution makes a finding that acquisition of the real property is in the best interests of the trust and its beneficiaries and is expected to

yield, within the estimated time period the board designates in its finding, income for the trust in excess of the investment returns obtained from the mental health trust fund, after factoring in the cost to make the real property income producing. Real property the authority acquires or invests in under (a)(4) of this section shall be located in the state or in another state of the United States.

(g) The authority may direct an expenditure be made under (a)(5) of this section if the board by resolution makes a finding that the expenditure is in the best interests of the trust and the beneficiaries and is expected to yield, within the estimated time period the board designates in its finding, income for the trust in excess of the investment returns obtained from the mental health trust fund.

(h) With respect to real property acquired, invested in, improved or developed under (a) of this section, the authority may, either directly or through an entity in which the investment is made, borrow money and grant a mortgage against the real property being acquired or invested in if the borrowing and mortgage are nonrecourse to the authority and the mental health trust. The board must consider the debt service on the borrowing in making the finding required under (d), (e), (f) or (g) of this section.

(i) If any cash principal derived from mental health trust land is held for one of the purposes described in (a)(1) – (5) of this section and is not so used for a period of five years from the date of its most recent receipt as cash, the authority shall direct the cash principal to be transferred to the Alaska Permanent Fund Corporation for investment as a part of the mental health trust fund.

(j) On an annual basis and with each acquisition of or investment in real property made under (a) of this section, the board shall review the trust's the holdings of and investments in income producing real property to determine whether the holdings and investments are consistent with the fulfillment of the authority's duties under AS 37.14.007(b). In making the determination, the board shall consider: (1) the need to preserve trust principal in perpetuity while generating income to support an integrated comprehensive mental health program;

(2) the trust’s overall mix of the assets and investments by type and the percentage of assets and investments devoted to income producing real property, including the real estate investments of the mental health trust fund made by the Alaska Permanent Fund Corporation; (3) the diversification by geographic location and type of property of the trust’s income producing real property, including the real estate investments of the mental health trust fund made by the Alaska Permanent Fund Corporation; (4) the use of prudent measures to mitigate any risks; (5) the transaction and on-going costs the authority incurs with respect to the holdings and investments; (6) the use of real estate to further the mental health programs the authority supports in the state; and (7) any other investment policy considerations utilized by mission-driven nonprofit trusts, foundations or endowments managing substantial assets that the board considers appropriate.

\* **Sec. 5.** AS 37.14 is amended by adding a new section to read:

**AS 37.14.049. Allocations of principal and income.** The authority shall adopt regulations providing for the determination of amounts allocated to principal and amounts allocated to income for the purposes of AS 37.14.031(b)(2) and (3) and AS 37.14.036(a)(1) and (2), including amounts from revenues, distributions, gains and losses realized on real estate acquired, invested in, improved or developed under AS 37.14.047. The manner of allocation between principal and income provided for in the regulations must be in the long-term best interests of the trust and its beneficiaries.

\* **Sec. 6.** AS 37.14.099 is amended to read:

**Sec. 37.14.099. Definitions.** In AS 37.14.001—37.14.099,

(1) “authority” means the Alaska Mental Health Trust Authority established under AS 47.30.011;

(2) “board” means the board of trustees of the authority;

(3) “enabling Act” means the Alaska Mental Health Enabling Act of 1956, P.L. 84-830;

**(4) “mortgage” means a mortgage, deed of trust, conditional sales contract or other security agreement encumbering real property;**

**(5) “principal derived from mental health trust land” means the proceeds of sale or other disposals of mental health trust land attributable to principal or the fees, charges, income earned, royalty proceeds, and other money received from the management of mental health trust land attributable to principal.**

\* **Sec. 7.** AS 38.05.801(b) is amended to read:

(b) Subject to (a) of this section, the department

(1) shall manage mental health trust land under those provisions of law applicable to other state land;

(2) may exchange other state land for mental health trust land under the procedures set out in AS 38.50; [AND]

(3) may correct errors or omissions in the legal descriptions of mental health trust land;

**(4) shall provide recommendations to and implement the directives of the Alaska Mental Health Trust Authority regarding acquisitions of real property and investments or other actions under AS 37.14.047; and**

**(5) shall maintain records of the department’s activities on behalf of the Alaska Mental Health Trust Authority or with respect to mental health trust land, which records shall be available for public inspection and copying under AS 40.25.110–40.25.220 unless restricted as being confidential under AS 47.30.058.**

\* **Sec. 8.** AS 47.30 is amended by adding a new section to read:

**AS 47.30.058. Public access to information.** Information in the possession of the authority, or in the possession of the unit of the Department of Natural Resources acting for the authority or with respect to mental health trust lands, is a public record, except that the following information shall be confidential and not subject to public disclosure: (1) private financial or proprietary business information made available to the authority by or on behalf of a party who requests that such information be kept confidential; (2) information the disclosure of which would unfairly prejudice the ability of the authority or the Department of Natural Resources to invest or manage trust assets in the best interests of the trust and its beneficiaries; (3) information that constitutes trade secrets or technical data reasonably held confidential in the finance or investment industry; (4) information the immediate disclosure of which would clearly have an adverse effect on the finances of the authority or the mental health trust, including information relating to negotiations, pending transactions or investments under consideration; and (5) information required to be kept confidential or exempt from public disclosure under federal or state law. Information confidential under this section may be disclosed by the authority or the Department of Natural Resources only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

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

**TRANSITIONAL PROVISIONS.** (a) Cash principal derived from mental health trust land that the authority is holding in the trust authority development account on the effective date of this Act shall be deemed to have been received by the authority as of the effective date of this Act for purposes of applying the time period of AS 37.14.047(i), added by sec. 4 of this Act.

(b) The authority's acquisitions, investments in and development of real estate using principal derived from mental health trust land prior to the effective date of this Act are ratified.

\* **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).

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