

SENATE CS FOR CS FOR HOUSE BILL NO. 17(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/2/98

Referred: Finance

Sponsor(s): REPRESENTATIVE JAMES

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Department of Natural Resources as the platting
2 authority in certain areas of the state; relating to subdivisions and dedications;
3 and providing for an effective date."

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

5 * **Section 1. PURPOSE.** The purposes of this Act are to provide the public with an
6 improved mechanism for the recording of plats for subdivisions and to ensure that provision
7 has been made for access to those subdivisions. This Act is not intended to provide the state
8 with any authority to establish engineering or other standards for subdivisions beyond those
9 expressly set out in this Act.

10 * **Sec. 2.** AS 19.30.320(4) is amended to read:

11 (4) "subdivision" has the meaning given in **AS 40.15.900**
12 [AS 40.15.290].

13 * **Sec. 3.** AS 29.03.030 is amended to read:

14 **Sec. 29.03.030. Platting authority. The** [SUBJECT TO AS 40.15.075, THE]

Department of Natural Resources is the platting authority **for the state except within a municipality that has the power of land use regulation and that is exercising platting authority** [IN THE UNORGANIZED BOROUGH IN THE AREA OUTSIDE ALL CITIES].

* **Sec. 4.** AS 34.65.100 is amended by adding a new paragraph to read:

(6) "subdivision" has the meaning given in AS 40.15.900.

* **Sec. 5.** AS 38.04.910 is amended by adding a new paragraph to read:

(13) "subdivision" has the meaning given in AS 40.15.900.

* **Sec. 6.** AS 40.15.010 is amended to read:

Sec. 40.15.010. Approval, filing, and recording of subdivisions. Before the lots or tracts of any subdivision or dedication may be sold or offered for sale, the subdivision or dedication shall be **approved by** [SUBMITTED FOR APPROVAL TO] the authority having jurisdiction, as prescribed in this chapter **and** [THE REGULAR APPROVAL OF THE AUTHORITY SHALL BE SHOWN ON IT OR ATTACHED TO IT AND THE SUBDIVISION OR DEDICATION] shall be filed and recorded in the office of the recorder. The recorder may not accept a subdivision or dedication for filing and recording unless it shows this approval. [IF NO PLATTING AUTHORITY EXISTS AS PROVIDED IN AS 40.15.070 AND 40.15.075, LAND MAY BE SOLD WITHOUT APPROVAL.]

* **Sec. 7.** AS 40.15.070 is amended to read:

Sec. 40.15.070. Platting authority. If land proposed to be subdivided or dedicated is situated within a **municipality that has the power of land use regulation and that is exercising platting authority** [FIRST OR SECOND CLASS BOROUGH], the proposed subdivision or dedication shall be submitted to the **municipal platting authority** [BOROUGH PLANNING COMMISSION] for approval. [IF THE LAND IS SITUATED WITHIN A CITY IN THE UNORGANIZED BOROUGH OR THE THIRD CLASS BOROUGH, THE PROPOSED SUBDIVISION OR DEDICATION SHALL BE SUBMITTED TO THE CITY PLANNING COMMISSION FOR APPROVAL. THE BOROUGH PLANNING COMMISSION IS THE PLATTING AUTHORITY FOR THE FIRST OR SECOND CLASS BOROUGH, THE CITY PLANNING COMMISSION IS THE PLATTING AUTHORITY FOR THE CITY,

AND THE DEPARTMENT OF NATURAL RESOURCES IS THE PLATTING AUTHORITY IN THE REMAINING AREAS OF THE STATE AND THIRD CLASS BOROUGH FOR THE CHANGE OR VACATION OF EXISTING PLATS OR A PORTION OF SUCH PLATS, AS PROVIDED IN AS 40.15.075. IF THE BOROUGH OR THE CITY DOES NOT HAVE A PLANNING COMMISSION, THE BOROUGH ASSEMBLY OR THE CITY GOVERNING BODY, RESPECTIVELY, IS THE PLATTING AUTHORITY AND THE PROPOSED SUBDIVISION OR DEDICATION SHALL BE SUBMITTED TO IT.] A subdivision may not be filed and recorded until it is approved by the platting authority.

* **Sec. 8.** AS 40.15.070 is amended by adding a new subsection to read:

(b) The Department of Natural Resources is the platting authority in the areas of the state not described in (a) of this section.

* **Sec. 9.** AS 40.15.200 is amended to read:

Sec. 40.15.200. Application to state and political subdivisions. All subdivisions of land made by the state, its agencies, instrumentalities, and political subdivisions are subject to the provisions of AS 40.15.010 - 40.15.200 [THIS CHAPTER] and AS 29.40.070 - 29.40.160, or home rule ordinances or regulations governing subdivisions, and shall comply with ordinances and other local regulations adopted under AS 40.15.010 - 40.15.200 [THIS CHAPTER] and AS 29.40.070 - 29.40.160 or former AS 29.33.150 - 29.33.240, or under home rule authority, in the same manner and to the same extent as subdivisions made by other landowners.

* **Sec. 10.** AS 40.15 is amended by adding new sections to read:

Article 4. Platting in Areas Outside Certain Municipalities.

Sec. 40.15.300. Purposes of AS 40.15.300 - 40.15.380. The purposes of AS 40.15.300 - 40.15.380 are to provide the public with an improved mechanism for the recording of plats for subdivisions in areas of the state identified in AS 40.15.305(a) and to ensure that provision has been made for access to those subdivisions. AS 40.15.300 - 40.15.380 are not intended to provide the state with any authority to establish engineering or other standards for subdivisions beyond those expressly set out in AS 40.15.300 - 40.15.380.

Sec. 40.15.305. Examination of plats before recording. (a) The

1 commissioner shall exercise the platting authority for the state except within a
 2 municipality that has the power of land use regulation and that is exercising platting
 3 authority.

4 (b) The commissioner shall review and approve each plat under
 5 AS 40.15.300 - 40.15.380 before the plat is recorded under AS 40.17. The approval
 6 by the commissioner shall be affixed to the plat in the form of the following statement:

7 **PLAT APPROVAL**

8 This plat is approved by the commissioner of natural resources,
 9 or the commissioner's designee, in accordance with AS 40.15.

10 _____
 11 Commissioner

_____ Date

12 (c) The recorder may not accept for filing and recording a plat for which the
 13 commissioner's approval is required under this section without the approval of the
 14 commissioner endorsed on the plat.

15 (d) Within 45 days after a plat is filed, the commissioner shall approve the plat
 16 or return it to the applicant for modification or correction. Unless the applicant for
 17 plat approval consents to an extension of time, the plat is approved and a certificate
 18 of approval shall be issued by the commissioner if the commissioner fails to act within
 19 that period. The commissioner shall state in writing reasons for disapproval of a plat.

20 (e) A recorded plat may not be altered or replatted except on petition of the
 21 state, a municipality, a public utility, or the owner of a majority of the land affected
 22 by the proposed alteration or replat. The petition shall be filed with the commissioner
 23 and shall be accompanied by a copy of the existing plat showing the proposed
 24 alteration or replat. The provisions of AS 29.40.130 and 29.40.140(a) apply to an
 25 alteration or replat submitted under this subsection. The provisions of (d) of this
 26 section do not apply to an alteration or replat petition, but the commissioner shall state
 27 in writing reasons for disapproval of the petition.

28 (f) In the case of a vacation of a street, right-of-way, or other public area, the
 29 provisions of AS 29.40.140(b) and 29.40.160(a) and (b) apply. When applying these
 30 provisions to land outside a municipality, the word "municipality" should be read as
 31 "state" when the context requires.

(g) Notwithstanding another provision of AS 40.15.300 - 40.15.380, the commissioner shall approve, without review under AS 40.15.300 - 40.15.380, a plat under AS 38.04.045 that consists solely of land owned by the state. The commissioner may not charge a fee for the approval under this subsection.

Sec. 40.15.310. Requirements for plat approval. (a) Each plat must show on its face a certificate of ownership, with the names and addresses of each owner listed. Each owner of record shall sign the certificate, and the signatures shall be acknowledged.

(b) The surveyor preparing the plat shall sign and affix the seal of the surveyor.

Sec. 40.15.320. Monuments. (a) In a subdivision with five or fewer lots, the existence of at least a 5/8 inch by 24 inch rebar and cap monument at controlling exterior corners of the subdivision shall be established by the surveyor.

(b) In a subdivision of more than five lots, each interior corner shall be monumented with at least a 5/8 inch by 24 inch rebar and cap.

(c) If a monument of record does not lie on the parcel or tract boundary, the plat shall reflect a boundary survey and tie to a monument of record.

Sec. 40.15.330. Plat standards. The commissioner shall establish plat standards by regulation.

Sec. 40.15.340. Engineering standards. Except for subdivisions of state land, the commissioner may not establish engineering standards for subdivisions.

Sec. 40.15.350. Certified copy of plat as evidence. A copy of a plat certified by the recorder of the recording district in which it is filed or recorded as a true and complete copy of the original filed or recorded in the recording office for the district is admissible in evidence in all courts in the state with the same effect as the original.

Sec. 40.15.360. Applicability. The provisions of AS 40.15.300 - 40.15.380 do not apply to maps, site plans, or other graphic representations prepared for

(1) the purpose of transferring a leasehold interest; the extraction of natural resources; or solely for the issuance of licenses or permits; or

(2) disposing of land by aliquot part descriptions of 40 acres or more within surveyed sections provided that the least aliquot part unit shall be not less than

1 a 1/4 1/4 section.

2 **Sec. 40.15.370. Regulations.** The commissioner may adopt regulations to
3 implement the provisions of AS 40.15.300 - 40.15.380, but only those that are
4 necessary and that are in accordance with the purposes stated in AS 40.15.300.

5 **Sec. 40.15.380. Applicability to governmental bodies; right-of-way**
6 **acquisition plats.** (a) Except as provided in this section and AS 40.15.300(g),
7 AS 40.15.300 - 40.15.380 apply to the state, its agencies, instrumentalities, and
8 political subdivisions in the same manner and to the same extent that they apply to
9 other landowners.

10 (b) A plat for a subdivision created by the acquisition by the state, its agencies,
11 instrumentalities, or political subdivisions, of a right-of-way, airport parcel, or land for
12 a similar public purpose in an area outside a municipality that has the power of land
13 use regulation and that is exercising platting authority, is subject only to the approval
14 provisions of this section and any provision of AS 40.15.300 - 40.15.380 not in
15 conflict with this section.

16 (c) A right-of-way acquisition plat must contain the
17 (1) location and name of the acquisition project;
18 (2) approximate timetable for the acquisition and construction;
19 (3) dimensions and area of the proposed tract, parcel, or parcels to be
20 acquired and the remainder of the parcel or parcels;
21 (4) name of the record owner or owners of the subject parcels;
22 (5) signature and seal of the surveyor preparing the plat.

23 (d) The commissioner shall review each right-of-way acquisition plat for
24 compliance with this section. If the plat does not meet the requirements of this
25 section, it shall be returned to the submitting agency with an explanation of the
26 deficiencies. A plat for which the commissioner's approval is required under
27 AS 40.15.305 may not be recorded under AS 40.17 without the commissioner's
28 approval endorsed on the plat.

29 (e) After approval by the commissioner, the original plat shall be filed with
30 the appropriate district recorder within 30 days by the submitting agency.

31 (f) The minimum monumentation requirements for

(1) right-of-way acquisition subdivisions are a 5/8 inch by 24 inch reinforcement bar with appropriate identification cap set points from which the right-of-way may be defined, not exceeding 1,320 feet or, when line of sight permits, 2,640 feet; all recovered monumented property corners of records, the lines of which are intersected by a right-of-way acquisition, shall be monumented as part of the right-of-way plat, either on the right-of-way line or at the original monument position;

(2) an airport parcel and land for a similar public purpose subdivision not defined by centerline shall be as provided in AS 40.15.320.

(g) If construction of improvements is scheduled to follow the right-of-way acquisition, the placement of the centerline monuments may be delayed until the improvements have been completed, in which case a statement designating the schedule for placing the monuments must be included on the plat.

(h) The state, its agencies, instrumentalities, or political subdivisions may acquire or obtain conveyances, including dedication of lots or tracts of a right-of-way acquisition plat, before submittal of a right-of-way acquisition plat for approval by the commissioner. A right-of-way acquisition conveyance may be recorded before approval and recording of the right-of-way acquisition plat.

Article 5. General Provisions.

Sec. 40.15.900. Definitions. In this chapter,

(1) "commissioner" means the commissioner of natural resources;

(2) "monument" means a fixed physical object marking a point on the surface of the earth used to commence or control a survey or to establish a lot corner;

(3) "plat" means a map or delineated representation of a tract or parcel of land showing the subdivision of land into lots, blocks, streets, or other divisions;

(4) "street" means an access way in common use including all of the land lying within a dedicated right-of-way as delineated on a plat showing streets, whether improved or unimproved;

(5) "subdivision"

(A) means the division of a tract or parcel of land into two or more lots by the landowner or by the creation of public access, excluding common carrier and public utility access;

1 (B) does not include cadastral plats or cadastral control plats
2 created by or on behalf of the United States Department of the Interior, Bureau
3 of Land Management, regardless of whether these plats include easements or
4 other public dedications;

5 (6) "surveyor" means an individual licensed to practice land surveying
6 in the state under AS 08.48.

7 * **Sec. 11.** AS 46.03.900 is amended by adding a new paragraph to read:

8 (36) "subdivision" has the meaning given in AS 40.15.900.

9 * **Sec. 12.** AS 40.15.075 and 40.15.290 are repealed.

10 * **Sec. 13.** AS 40.15.330 and 40.15.370, added in sec. 10 of this Act, take effect
11 immediately under AS 01.10.070(c).