

SENATE CS FOR CS FOR HOUSE BILL NO. 80(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 4/20/95
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. AS 29.03.030 is amended to read:

6 Sec. 29.03.030. PLATTING AUTHORITY. **The** [SUBJECT TO AS 40.15.-
7 075, THE] Department of Natural Resources is the platting authority **for the state**
8 **except within a municipality that has the power of land use regulation and that**
9 **is exercising platting authority** [IN THE UNORGANIZED BOROUGH IN THE
10 AREA OUTSIDE ALL CITIES].

11 * Sec. 2. AS 40.15.010 is amended to read:

12 Sec. 40.15.010. APPROVAL, FILING, AND RECORDING OF
13 SUBDIVISIONS. Before the lots or tracts of any subdivision or dedication may be
14 sold or offered for sale, the subdivision or dedication shall be **approved by**

1 [SUBMITTED FOR APPROVAL TO] the authority having jurisdiction, as prescribed
2 in this chapter **and** [. THE REGULAR APPROVAL OF THE AUTHORITY SHALL
3 BE SHOWN ON IT OR ATTACHED TO IT AND THE SUBDIVISION OR
4 DEDICATION] shall be filed and recorded in the office of the recorder. The recorder
5 may not accept a subdivision or dedication for filing and recording unless it shows this
6 approval. [IF NO PLATTING AUTHORITY EXISTS AS PROVIDED IN
7 AS 40.15.070 AND 40.15.075, LAND MAY BE SOLD WITHOUT APPROVAL.]

8 * **Sec. 3.** AS 40.15.070 is amended to read:

9 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be subdivided
10 or dedicated is situated within a **municipality that has the power of land use**
11 **regulation and that is exercising platting authority** [FIRST OR SECOND CLASS
12 BOROUGH], the proposed subdivision or dedication shall be submitted to the
13 **municipal platting authority** [BOROUGH PLANNING COMMISSION] for approval.

14 [IF THE LAND IS SITUATED WITHIN A CITY IN THE UNORGANIZED
15 BOROUGH OR THE THIRD CLASS BOROUGH, THE PROPOSED SUBDIVISION
16 OR DEDICATION SHALL BE SUBMITTED TO THE CITY PLANNING
17 COMMISSION FOR APPROVAL. THE BOROUGH PLANNING COMMISSION
18 IS THE PLATTING AUTHORITY FOR THE FIRST OR SECOND CLASS
19 BOROUGH, THE CITY PLANNING COMMISSION IS THE PLATTING
20 AUTHORITY FOR THE CITY, AND THE DEPARTMENT OF NATURAL
21 RESOURCES IS THE PLATTING AUTHORITY IN THE REMAINING AREAS OF
22 THE STATE AND THIRD CLASS BOROUGH FOR THE CHANGE OR
23 VACATION OF EXISTING PLATS OR A PORTION OF SUCH PLATS,
24 AS PROVIDED IN AS 40.15.075. IF THE BOROUGH OR THE CITY DOES NOT
25 HAVE A PLANNING COMMISSION, THE BOROUGH ASSEMBLY OR THE CITY
26 GOVERNING BODY, RESPECTIVELY, IS THE PLATTING AUTHORITY AND
27 THE PROPOSED SUBDIVISION OR DEDICATION SHALL BE SUBMITTED TO
28 IT.] A subdivision may not be filed and recorded until it is approved by the platting
29 authority.

30 * **Sec. 4.** AS 40.15.070 is amended by adding a new subsection to read:

31 (b) The Department of Natural Resources is the platting authority in the areas

1 of the state not described in (a) of this section.

2 * **Sec. 5.** AS 40.15.200 is amended to read:

3 Sec. 40.15.200. APPLICATION TO STATE AND POLITICAL
4 SUBDIVISIONS. All subdivisions of land made by the state, its agencies,
5 instrumentalities and political subdivisions are subject to the provisions of
6 AS 40.15.010 - 40.15.200 [THIS CHAPTER] and AS 29.40.070 - 29.40.160, or home
7 rule ordinances or regulations governing subdivisions, and shall comply with
8 ordinances and other local regulations adopted under AS 40.15.010 - 40.15.200 [THIS
9 CHAPTER] and AS 29.40.070 - 29.40.160 or former AS 29.33.150 - 29.33.240, or
10 under home rule authority, in the same manner and to the same extent as subdivisions
11 made by other landowners.

12 * **Sec. 6.** AS 40.15 is amended by adding new sections to read:

13 **ARTICLE 4. PLATTING IN AREAS OUTSIDE CERTAIN MUNICIPALITIES.**

14 Sec. 40.15.300. EXAMINATION OF PLATS BEFORE RECORDING. (a)
15 The commissioner shall exercise the platting authority for the state except within a
16 municipality that has the power of land use regulation and that is exercising platting
17 authority.

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

21 **PLAT APPROVAL**

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

24 _____
25 _____

26 Commissioner

Date

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

30 (d) Within 45 days after a plat is filed, the commissioner shall approve the plat
31 or return it to the applicant for modification or correction. Unless the applicant for

1 plat approval consents to an extension of time, the plat is approved and a certificate
2 of approval shall be issued by the commissioner if the commissioner fails to act within
3 that period. The commissioner shall state in writing reasons for disapproval of a plat.

4 (e) A recorded plat may not be altered or replatted except on petition of the
5 state, a municipality, a public utility, or the owner of a majority of the land affected
6 by the proposed alteration or replat. The petition shall be filed with the commissioner
7 and shall be accompanied by a copy of the existing plat showing the proposed
8 alteration or replat. The provisions of AS 29.40.130 and 29.40.140(a) apply to an
9 alteration or replat submitted under this subsection. The provisions of (d) of this
10 section do not apply to an alteration or replat petition, but the commissioner shall state
11 in writing reasons for disapproval of the petition.

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

16 Sec. 40.15.310. REQUIREMENTS FOR PLAT APPROVAL. (a) Each plat
17 must show on its face a certificate of ownership, with the names and addresses of each
18 owner listed. Each owner of record shall sign the certificate and the signatures shall
19 be acknowledged.

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

22 (c) The commissioner shall require that a plat submitted for approval bear the
23 certificate of approval of any other state agency having subdivision plat approval
24 authority.

25 Sec. 40.15.320. MONUMENTS. (a) In a subdivision with five or fewer lots,
26 the existence of each primary type monument at controlling exterior corners of the
27 subdivision shall be established by the surveyor.

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

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

1 Sec. 40.15.330. PLAT STANDARDS. The commissioner shall establish plat
2 standards by regulation.

3 Sec. 40.15.340. ENGINEERING STANDARDS. Except for subdivisions of
4 state land, the commissioner may not establish engineering standards for subdivisions.

5 Sec. 40.15.350. CERTIFIED COPY OF PLAT AS EVIDENCE. A copy of
6 a plat certified by the recorder of the recording district in which it is filed or recorded
7 as a true and complete copy of the original filed or recorded in the recording office
8 for the district is admissible in evidence in all courts in the state with the same effect
9 as the original.

10 Sec. 40.15.360. APPLICABILITY. The provisions of AS 40.15.300 -
11 40.15.380 do not apply to maps, site plans, or other graphic representations prepared
12 for

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

15 (2) disposing of land by aliquot part descriptions of 40 acres or more
16 within surveyed sections provided that the least aliquot part unit shall be not less than
17 a 1/4 1/4 section.

18 Sec. 40.15.370. REGULATIONS. The commissioner may adopt regulations
19 to implement, clarify, or make specific the provisions of AS 40.15.300 - 40.15.380.

20 Sec. 40.15.380. APPLICABILITY TO GOVERNMENTAL BODIES; RIGHT-
21 OF-WAY ACQUISITION PLATS. (a) Except as provided in this section,
22 AS 40.15.300 - 40.15.380 apply to the state, its agencies, instrumentalities, and
23 political subdivisions in the same manner and to the same extent that they apply to
24 other landowners.

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

31 (c) A right-of-way acquisition plat must contain the

- 1 (1) location and name of the acquisition project;
- 2 (2) approximate timetable for the acquisition and construction;
- 3 (3) dimensions and area of the proposed tract, parcel, or parcels to be
- 4 acquired and the remainder of the parcel or parcels;
- 5 (4) name of the record owner or owners of the subject parcels;
- 6 (5) signature and seal of the surveyor preparing the plat.

7 (d) The commissioner shall review each right-of-way acquisition plat for
8 compliance with this section. If the plat does not meet the requirements of this
9 section, it shall be returned to the submitting agency with an explanation of the
10 deficiencies. A plat for which the commissioner's approval is required under
11 AS 40.15.300 may not be recorded under AS 40.17 without the commissioner's
12 approval endorsed on the plat.

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

15 (f) The minimum monumentation requirements for

16 (1) right-of-way acquisition subdivisions are a 5/8 inch by 24 inch
17 reinforcement bar with appropriate identification cap set on the margin of the right-of-
18 way at all points marking the beginning and end of each curve and on tangents so that
19 the distance between monumented points does not exceed 1,320 feet; an alternate
20 method may be utilized that consists of placing primary type monuments at centerline
21 points marking the beginning and end of each curve and on tangents so that no
22 distance exceeds 1,320 feet; all recovered monumented property corners of records,
23 the lines of which are intersected by a right-of-way acquisition, shall be monumented
24 as part of the right-of-way plat, either on the right-of-way line or at the original
25 monument position;

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

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

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

6 ARTICLE 5. GENERAL PROVISIONS.

7 Sec. 40.15.900. DEFINITIONS. In this chapter,

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

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

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

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

16 (5) "subdivision"

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

20 (B) does not include cadastral plats, cadastral control plats,
21 open-to-entry plats, remote parcel plats created by or on behalf of the state, or
22 plats created by or on behalf of the United States Department of the Interior,
23 Bureau of Land Management, regardless of whether these plats include
24 easements or other public dedications;

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

27 * **Sec. 7.** AS 40.15.075 and 40.15.290 are repealed.

28 * **Sec. 8.** AS 40.15.330 and 40.15.370, added in sec. 6 of this Act, take effect immediately
29 under AS 01.10.070(c).