

SENATE BILL NO. 283

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/9/96

Referred: RES, STA, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to filing, recording, and indexing of documents with or by the
2 Department of Natural Resources; repealing certain filing requirements concerning
3 property involving nonresident aliens; and providing for an effective date."

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

5 * **Section 1.** AS 40.05.020 is amended to read:

6 Sec. 40.05.020. REPORTS OF INSTRUMENTS AFFECTING MINING
7 PROPERTIES. The recorder of each recording district shall prepare and forward to
8 the Department of Natural Resources, by the 10th [ON THE FIRST] day of each
9 month a copy of each new mining claim, mining leasehold, [OR] prospecting site
10 location certificate, or any other document indexed by the recorder as a mining
11 document [AND A REPORT OF EVERY OTHER INSTRUMENT AFFECTING
12 TITLE OR POSSESSION OF EXISTING MINING PROPERTIES] recorded during
13 the preceding month [30-DAY PERIOD].

14 * **Sec. 2.** AS 40.17.020 is amended to read:

1 Sec. 40.17.020. RECORDING CONVEYANCES. (a) A conveyance that is
2 eligible for recording under AS 40.17.030 [AND 40.17.110] may be **offered for**
3 **recording** [RECORDED] only in [THE RECORDS OF] the recording district in which
4 land affected by the conveyance is located. If land affected by the conveyance is
5 located in more than one recording district, an original conveyance may be **offered for**
6 **recording** [RECORDED] in the **recording** [RECORDS OF ANY] district in which
7 part of the land is located and an original or a certified copy may be **offered for**
8 **recording** [RECORDED] in [THE RECORDS OF] each other **recording** district in
9 which part of the land is located. A certified copy [SO] recorded has the same effect
10 from the time it is recorded as though it were the original conveyance.

11 (b) A certified copy of a conveyance that is eligible for recording under
12 AS 40.17.030 [AND 40.17.110] and that has been recorded or filed in a public
13 recorder's office in another state or in the United States Bureau of Land Management
14 may be **offered for recording** [RECORDED] only in the [RECORDS OF A] recording
15 district where land affected by the conveyance is located. When [SO] recorded, it has
16 the same effect from the time it is recorded as though it were the original conveyance.

17 * **Sec. 3.** AS 40.17.030 is repealed and reenacted to read:

18 Sec. 40.17.030. FORMAL REQUISITES FOR RECORDING. (a) Except as
19 provided in (b) and (c) of this section, to be eligible for recording, a document must

- 20 (1) contain original signatures;
- 21 (2) be legible or capable of being converted into legible form by a
22 machine or device used in the recording office;
- 23 (3) be capable of being copied by the method used in the recording
24 office;
- 25 (4) contain a title reflecting the overall intent of the document;
- 26 (5) contain the information needed to index the document under
27 regulations of the department;
- 28 (6) contain a book and page reference or serial number reference if the
29 document amends, corrects, extends, modifies, assigns, or releases a document
30 previously recorded in this state;
- 31 (7) contain the name and address of the person to whom the document

1 is to be returned after recording;

2 (8) if it is a deed, contain the mailing addresses of all persons named
3 in the document who grant or acquire an interest under the document;

4 (9) be accompanied by or contain the name of the recording district in
5 which it is to be recorded; and

6 (10) be accompanied by the applicable recording fee set by regulation;
7 if the document is to be recorded for multiple purposes, it must be accompanied by the
8 applicable fee for each of the multiple purposes.

9 (b) To be eligible for recording, a certified copy of an official document from
10 a governmental office need only meet the requirements of (a)(2), (7), (9), and (10) of
11 this section.

12 (c) To be eligible for recording, an exact or fully conformed copy of an
13 original document must be accompanied by an affidavit of the person offering the
14 document. The affidavit must meet the requirements of (a) of this section and must
15 state that

16 (1) the exact or fully conformed copy was received by the person in
17 the course of the transaction;

18 (2) the original is not in the person's possession; and

19 (3) the instrument offered for recordation is an exact or fully conformed
20 copy.

21 (d) The recorder shall prescribe the style, size, form, and quality that a
22 document, plat, plan, or survey map must satisfy for filing and recording under this
23 chapter.

24 * **Sec. 4.** AS 40.17.035 is amended to read:

25 Sec. 40.17.035. **RECORDING CRITERIA.** When determining whether a
26 document may be recorded, the recorder

27 (1) may not consider whether the contents of the document are legally
28 sufficient to achieve the purposes of the document;

29 (2) may not reject a document because the document

30 (A) does not satisfy the current requirements for recording, if
31 the document satisfied the requirements for recording that existed at the time

1 the document was executed;

2 (B) serves more than one purpose;

3 (C) does not state the name of the recording district, if the name
4 is given to the recorder at the time the document is offered for recording, or
5 if the name is contained in a cover letter accompanying the document;

6 (D) references an attached exhibit that is not labelled;

7 (E) is a certified copy of an official document that creates an
8 interest in real property, **that meets the requirements of AS 40.17.030(b)**, and
9 that is from a governmental office [IN THIS OR ANOTHER STATE]; or

10 (3) may not require that a document that serves more than one purpose
11 be recorded separately for each of the purposes; this paragraph does not prevent the
12 multiple recording of the document if the person offering the document requests that
13 the document be recorded for more than one of its purposes **and the request is**
14 **accompanied by the applicable recording fee for each of the multiple purposes.**

15 * **Sec. 5.** AS 40.17.060 is amended to read:

16 Sec. 40.17.060. DOCUMENTS EXECUTED UNDER FORMER LAW. If a
17 document [INCLUDED UNDER AS 40.17.110 (b) OR (c)] was executed in
18 accordance with the law in effect at the time the document was executed, the
19 document remains recordable regardless of later amendments to the law changing the
20 manner in which that document is to be executed.

21 * **Sec. 6.** AS 40.17.110 is repealed and reenacted to read:

22 Sec. 40.17.110. DOCUMENTS ELIGIBLE FOR RECORDING. (a) Subject
23 to (b) - (d) of this section, a document that meets the requisites for recording under
24 AS 40.17.030 may be recorded.

25 (b) If the document to be recorded is a conveyance, power of attorney, contract
26 for the sale or purchase of real property, or option for the purchase of real property,
27 the document must be acknowledged.

28 (c) If the document to be recorded is a subdivision plat, the document must
29 comply with the requirements of AS 40.15.

30 (d) If the document is a declaration under AS 34.08, it must comply with the
31 requirements of AS 34.08.090(b).

1 * **Sec. 7.** AS 44.37.025(b) is amended to read:

2 (b) The department shall prescribe **by regulation** and account for recording
3 fees and do all other things necessary to maintain the recording systems established
4 under the laws of this state. **For a document that is to be recorded for multiple**
5 **purposes, the department may collect the applicable recording fee for each of the**
6 **multiple purposes.**

7 * **Sec. 8.** AS 44.37 is amended by adding a new section to read:

8 Sec. 44.37.027. UNIFORM COMMERCIAL CODE FILING. (a) The
9 Department of Natural Resources shall maintain a central filing office for the filing of
10 documents relating to secured transactions under AS 45.09.

11 (b) The department may adopt regulations prescribing the records to be
12 maintained and the documents to be filed, consistent with AS 45.09.

13 (c) The department shall prescribe in regulation, and account for, filing fees
14 and shall do all other things necessary to maintain the central filing office. For a
15 document that is to be filed for multiple purposes, the department may collect the
16 applicable filing fee for each of the multiple purposes.

17 * **Sec. 9.** AS 45.09.401(a) is amended to read:

18 (a) The proper place to file, in order to perfect a security interest, is as
19 follows:

20 (1) if the collateral is consumer goods, or is equipment used in farming
21 operations, or farm products, or accounts or general intangibles arising from or relating
22 to the sale of farm products by a farmer, then in the office of the recorder in the
23 recording district of the debtor's residence or, if the debtor is not a resident of the
24 state, then in the office of the recorder in the recording district where the goods are
25 kept, and in addition when the collateral is crops growing or to be grown, in the office
26 of the recorder in the recording district where the land is located;

27 (2) if the collateral is timber to be cut or is minerals or the like
28 (including oil and gas) or accounts subject to AS 45.09.103(e), or when the financing
29 statement is filed as a fixture filing (AS 45.09.313), and the collateral is goods which
30 are or are to become fixtures, then in the office where a mortgage on the real estate
31 concerned would be [FILED OR] recorded;

1 (3) in all other cases, in the **central filing** office of the Department of
2 Natural Resources **established under AS 44.37.027.**

3 * **Sec. 10.** AS 45.09.402(c) is amended to read:

4 (c) A form substantially as follows is sufficient to comply with (a) of this
5 section:

6 Name of debtor (or assignor).....

7 Address

8 Name of secured party (or assignee)

9 Address.....

10 (1) This financing statement covers the following types (or items) of
11 property:

12 (Describe).....

13 (2) (If collateral is crops) The crops described in (1) are growing or are
14 to be grown on:

15 (Describe real estate).....

16 (3) If the collateral is goods which are to become fixtures, timber to
17 be cut, or minerals or the like (including oil and gas) or accounts to be financed at the
18 wellhead or minehead of the well or mine:

19 (Describe real estate).....

20 and this financing statement is to be **recorded** [FILED FOR RECORD] in the real
21 estate records. (If the debtor does not have an interest of record) The name of a
22 record owner is
23

24 (4) (If products of collateral are claimed) Products of the collateral are
25 also covered.

26 Signature of debtor (or assignor)*

27 Signature of secured party (or assignee)*

28 * (use whichever is applicable)

29 * **Sec. 11.** AS 45.09.407(b) is amended to read:

30 (b) Upon **written** request of a person, the filing officer shall issue a certificate
31 showing whether there is on file, on the date and hour stated in it, a **currently active**

1 [PRESENTLY EFFECTIVE] financing statement naming a particular debtor and a
2 statement of assignment of it, and if there is, giving the date and hour of filing of each
3 such statement and the names and addresses of each secured party in it. The uniform
4 fee for the certificate is as prescribed by the Department of Natural Resources for each
5 financing statement and for each statement of assignment reported in the financing
6 statement; the department [DEPARTMENT OF NATURAL RESOURCES] may
7 establish an extra uniform fee for requests for certificates which are not in the standard
8 form prescribed by the department. Upon written request, the filing officer shall
9 furnish a copy of a filed financing statement or statement of assignment for a uniform
10 fee as prescribed by the department [DEPARTMENT OF NATURAL RESOURCES].

11 * **Sec. 12.** AS 40.05.030; AS 40.17.040(b); and AS 44.37.025(d) are repealed.

12 * **Sec. 13.** TRANSITIONAL PROVISION: ADOPTION OF REGULATIONS. The
13 Department of Natural Resources may proceed to adopt regulations necessary to implement
14 the changes made by secs. 2 - 8 of this Act. The regulations take effect under AS 44.62
15 (Administrative Procedure Act), but not before the effective date of secs. 1 - 12 of this Act.

16 * **Sec. 14.** Section 13 of this Act takes effect immediately under AS 01.10.070(c).

17 * **Sec. 15.** Sections 1 - 12 of this Act take effect July 1, 1996.