

Introduced: 5/26/77
Referred: Resources and
Judiciary

1 IN THE HOUSE

BY BEIRNE, BENNETT, LETHIN,
PHILLIPS AND SWANSON

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 359

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act granting homesteads to Alaska citizens; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. The legislature finds that only approximately one million
10 acres of the 363 million total land acreage of Alaska is in private ownership
11 on the effective date of this Act. The legislature further finds that indi-
12 vidual land ownership is integral to the material well-being of the people
13 and encourages more citizen awareness and involvement in the affairs of the
14 state. Further, the legislature is cognizant that all land was privately
15 owned at the time of the nation's founding and believes that private land
16 ownership is integral to the American system. In addition, the legislature
17 is aware that the Constitution of the State of Alaska declares that it is the
18 policy of the state to encourage the settlement of its land and the develop-
19 ment of its resources by making them available for maximum use consistent
20 with the public interest (art. VIII, sec. 1), and further that the constitu-
21 tion permits the legislature to implement this policy by providing for the
22 grant of state land (art. VIII, sec. 9). The legislature finds that of the
23 approximately 104 million acres to which the state is entitled under the
24 Statehood Act, less than 75,000 acres have been made available by the state
25 to citizens for settlement and development purposes, and that the failure to
26 make more land available is a failure to implement the policy of art. VIII,
27 sec. 1 of the Alaska Constitution. The legislature declares its purpose to
28 make available to its citizens at least 30 per cent or 30,000,000 acres of
29 state land for settlement and development, and further declares that a policy

1 of private land ownership is in the best interests of the people of the
2 state.

3 * Sec. 2. AS 38.05 is amended by adding new sections to read:

4 ARTICLE 13. HOMESTEAD GRANTS OF STATE LAND.

5 Sec. 38.05.410. LAND AVAILABLE FOR HOMESTEAD ENTRY. (a) All
6 vacant, unappropriated, and unreserved general grant land is classified
7 and available as homestead entry land except trust land. The land shall
8 remain classified as homestead entry land until 30 per cent or 30,000,000
9 acres, whichever comes first, of the state general grant land has passed
10 into private ownership through the homestead program established in
11 secs. 410 - 540 of this chapter. The director may reclassify for public
12 purposes up to 500,000 acres of land classified as homestead entry land
13 under this section.

14 (b) The director or his designee, within 30 days after the effec-
15 tive date of this Act and annually thereafter, shall publish notice in
16 at least three newspapers of general circulation in the state and shall
17 make available to the public information relating to the general avail-
18 ability of land for homestead entry under this section.

19 Sec. 38.05.420. ELIGIBILITY AND APPLICATION. (a) A person who
20 has been a resident of the state, as defined in sec. 530 of this chapter,
21 continuously for the three years preceding application, shall receive a
22 homestead grant upon

23 (1) recording a written application in the form prescribed by
24 AS 34.15.045 in the recording district in which the homestead entry land
25 is located; and

26 (2) filing with the director the following materials:

27 (A) a copy of the recorded application,

28 (B) proof of residency,

29 (C) a \$100 filing fee, unless the applicant submits a

1 title search as provided in (b) of this section, in which case the
2 filing fee is \$75.

3 (b) An applicant for a homestead grant may submit to the director
4 a title search conducted by a title insurance company authorized to do
5 business in the state under AS 21.66.100.

6 (c) A person who has been a resident of the state for at least
7 three years is eligible to receive, subject to (d) of this section, one
8 grant of not more than 40 acres. A person who has been a resident of
9 the state for at least five years is eligible to receive, subject to
10 (d) of this section, two grants not to exceed a combined total of 80
11 acres. A person who has been a resident of the state for at least 10
12 years is eligible to receive, subject to (d) of this section, four
13 grants not to exceed a combined total of 160 acres.

14 (d) No homestead grant may be issued for an area of homestead
15 entry land less than 40 acres in area except (1) when a loss of acreage
16 is caused by inclusion of waters in the applicant's parcel; or (2) when
17 the parcel is located in Southeast Alaska entirely east of the 141st
18 meridian extrapolated to the sea. No person may receive more than one
19 grant per year regardless of size, and in no event may any person
20 accumulate more than 160 acres under secs. 410 - 540 of this chapter or
21 more than 20 acres in Southeast Alaska east of the 141st meridian extra-
22 polated to the sea.

23 (e) Within any 90-day period established in sec. 440 of this
24 chapter, a person who is eligible for a homestead grant may file one
25 application for a grant. If within a 90-day period more than one person
26 applies and qualifies for the same homestead entry land, priority shall
27 be established by the earliest date of recording. If more than one
28 person applies for the same land at the same time, priority shall be
29 established by lot.

1 (f) It is the responsibility of the applicant to publish notice
2 once a week for three consecutive weeks in at least one newspaper of
3 general circulation in the vicinity of the land to which he seeks a
4 homestead grant. Where there is no newspaper in the general vicinity,
5 notices shall be posted in three public places near the land. The
6 notice shall contain a description of the land and shall state that the
7 application for the homestead grant was made in accordance with the
8 Alaska Homestead Act (AS 38.05.410 - 38.05.540). Title to the homestead
9 entry land may not pass to the applicant unless preceded by notice as
10 required in this section. The provisions of secs. 305 and 345 of this
11 chapter are not applicable to secs. 410 - 540 of this chapter.

12 (g) Parcel boundaries shall conform to the township and section
13 aliquot parts system according to the Manual of Instructions for the
14 Survey of the Public Lands of the United States, 1973 edition, Bureau of
15 Land Management, Technical Bulletin 6, and boundaries shall be described
16 by reference to either surveyed or protracted sections and portions of
17 sections.

18 Sec. 38.05.430. NOTIFICATION OF RIGHT TO POSSESSION. (a) Ninety
19 days after the effective date of this Act and every 90 days thereafter,
20 the director or his designee shall notify successful applicants for
21 homestead grants during the previous 90-day period of their right to
22 enter on the land. The applicant is entitled to take possession of the
23 land 90 days after the close of the 90-day period in which he submitted
24 his application if the director fails to inform him of his right to
25 enter unless the director has notified the applicant by registered mail
26 that the applicant is ineligible for the grant and includes the basis
27 for that finding.

28 (b) Notwithstanding the provisions of (a) of this section, a person
29 who has submitted a copy of a title search to the director with his

1 application as provided in sec. 420(b) of this chapter is entitled to
2 possession of the homestead entry land for which he has applied 30 days
3 after his application if the title search shows no prior claims on the
4 land.

5 Sec. 38.05.440. SURVEY. It is the responsibility of the applicant
6 to provide for a survey by a land surveyor registered in the state under
7 AS 08.01 of the land for which he seeks a homestead grant. Surveys shall
8 conform to regulations adopted by the division of lands and in force on
9 the effective date of this Act. The survey shall be performed within
10 five years after the right to possession provided in sec. 430 of this
11 chapter, with extensions granted at the discretion of the director.
12 Failure to have a survey done shall result in forfeiture of the home-
13 stead grant. Subject to secs. 125 and 127 of this chapter, title to the
14 land passes in fee simple to the grantee upon completion and recording
15 of the survey in the recording district in which the homestead entry
16 land is located. A copy of the survey shall be sent to the director.

17 Sec. 38.05.450. IMPROVEMENTS AND RESTRICTIONS. (a) Subject to
18 (b) of this section, no improvements may be required or restrictions
19 imposed on homestead entry land, except as required by general law or
20 home rule municipalities.

21 (b) No grantee of homestead entry land may extract timber or
22 materials on a commercial basis, sell, subdivide, or otherwise dispose
23 of the land until one year after a grant of patent under secs. 410 - 540
24 of this chapter.

25 Sec. 38.05.460. TAXES. Land acquired under the homestead grant
26 program is exempt from municipal property tax for a period of one year
27 from the date of the grant of patent.

28 Sec. 38.05.470. BOROUGH AND CITY SELECTIONS. Notwithstanding
29 any other provisions of law, land subject to borough and city selection

1 under AS 29.18.190 which is classified as homestead entry land under
2 sec. 420 of this chapter is available for homestead entry as well as
3 borough and city selection.

4 Sec. 38.05.480. DEDICATION OF LAND FOR ACCESS TO PUBLIC AND
5 NAVIGABLE WATER. A tract 100 feet wide between each section of land
6 acquired from the state under secs. 410 - 540 of this chapter is dedi-
7 cated for public access to public and navigable water. The section line
8 is the center of the dedicated access route.

9 Sec. 38.05.490. STATE SERVICES. Nothing in secs. 410 - 540 of
10 this chapter obligates the state to provide services to land which is
11 the subject of homestead entry for 15 years after it is open to entry.

12 Sec. 38.05.500. EXECUTION FOR SATISFACTION OF DEBTS. Homestead
13 entry land under secs. 410 - 540 of this chapter is exempt from execution
14 upon a judgment to enforce a judicial lien, process, or proceeding to
15 collect an unsecured debt.

16 Sec. 38.05.520. FALSE INFORMATION. (a) Intentionally filing
17 false information for the purpose of obtaining a homestead grant under
18 secs. 410 - 540 of this chapter is a felony punishable as prescribed in
19 AS 11.05.145 and upon conviction shall result in loss of all right,
20 title, and interest to any land obtained under the provisions of secs.
21 410 - 540 of this chapter.

22 (b) The filing of false information in connection with an applica-
23 tion, survey, proof of residency, or title search under secs. 410 - 540
24 of this chapter may result in forfeiture of the homestead grant or grant
25 of patent at the discretion of the director but does not affect the right,
26 title, or interest of a bona fide purchaser for value from the applicant
27 or assignees of the applicant.

28 Sec. 38.05.530. DEFINITIONS. In secs. 410 - 540 of this chapter,
29 (1) "director" means the director of the division of lands;

1 (2) "general grant land" means land patented or tentatively
2 approved to the state from the United States under sec. 6(a) or (b) of
3 the Alaska Statehood Act (72 Stat. 339, et seq.);

4 (3) "homestead grant" means the right of an applicant for
5 homestead entry land to enter upon the land for which he has applied;

6 (4) "resident" means a person who is at least 18 years of
7 age and

8 (A) except for brief intervals, military service,
9 attendance at an educational or training institution, or for
10 absences for good cause, is physically present in the state for the
11 required period;

12 (B) maintains a place of residence in the state;

13 (C) has established residency for voting purposes in the
14 state and is a registered voter;

15 (D) has not, within the period of required residency,
16 claimed residency in another state; and

17 (E) shows by all attending circumstances that his intent
18 is to make Alaska his permanent residence;

19 (5) "trust land" includes all the land received by grant of
20 the federal government for the purposes of supporting schools, the
21 University of Alaska, and the state's mental health program;

22 (6) "vacant, unappropriated, and unreserved land" means the
23 surface estate of general grant land as defined in (2) of this section,
24 exclusive of tideland and submerged land, which

25 (A) has not been set aside by statute for one or more
26 particular uses or purposes;

27 (B) is unclassified or, if classified under sec. 300 of
28 this chapter, is classified for agricultural, grazing, commercial,
29 industrial, private recreation, residential, utility, or open-to-

1 entry purposes; or

2 (C) has not been disposed of through lease, sale, or
3 other administrative action.

4 Sec. 38.05.540. SHORT TITLE. Sections 410 - 540 of this chapter
5 may be cited as the Alaska Homestead Act.

6 * Sec. 3. AS 34.15 is amended by adding a new section to read:

7 Sec. 34.15.045. FORM OF HOMESTEAD APPLICATION. (a) A homestead
8 application may be substantially in the following form:

9 "The applicant (here insert the name and place of residence) has
10 been a resident of Alaska, as defined in AS 38.05.530, for.....years
11 and hereby applies for a homestead grant for the following described
12 real estate (here insert description), located in the State of Alaska.

13 Dated this.....day of....., 19....."

14 (b) The application shall be signed and sealed by the applicant
15 and shall be recorded as directed in this chapter.

16 * Sec. 4. AS 34.15.340(a) is amended by adding a new paragraph to read:

17 (7) applications for homestead grants.

18 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-

19 070(c).