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Referred: Resources

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 640

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND 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. AS 38.05 is amended by adding new sections to read:

10 ARTICLE 13. HOMESTEAD GRANTS OF STATE LAND.

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

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

25 Sec. 38.05.420. ELIGIBILITY AND APPLICATION. (a) A person who  
26 has been a resident of the state, as defined in sec. 530 of this chap-  
27 ter, continuously for the three years preceding application, shall  
28 receive a homestead grant upon

29 (1) recording a written application in the form prescribed by

1 AS 34.15.045 in the recording district in which the homestead entry land  
2 is located;

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

4 (A) a copy of the recorded application,

5 (B) proof of residency in the state,

6 (C) a \$100 filing fee, unless the applicant submits a  
7 title search as provided in (b) of this section, in which case the  
8 filing fee is \$75;

9 (3) filing an affidavit with the director which states that

10 (A) the application to enter homestead entry land is  
11 honestly and in good faith made for the purpose of actual settle-  
12 ment and cultivation, and not for the benefit of any other person;

13 (B) he will faithfully comply with all requirements  
14 specified in secs. 410 - 540 of this chapter necessary to acquire a  
15 grant of patent for the land applied for;

16 (C) he is not acting as agent of any person in making  
17 entry, nor in collusion with any person to give him the benefits of  
18 the land entered, or any part of those lands, or the timber on the  
19 land;

20 (D) he is not applying to enter the land for the purpose  
21 of speculation, but in good faith to obtain a homestead for himself;

22 (E) he has not directly or indirectly made, and will not  
23 make, an agreement or contract with any person by which the title  
24 he might acquire from the state should benefit any person except  
25 himself;

26 (F) the homestead entry land for which the application  
27 is made contains soils over at least 50 per cent of its surface  
28 area in classes I - V as defined by the United States Soil Con-  
29 servation Service; and

1 (4) plainly marking the exterior boundaries of the land to be  
2 entered.

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 the  
9 state for at least five years is eligible to receive, subject to (d) of  
10 this section, a grant of not more than 80 acres. A person who has been  
11 a resident of the state for at least 10 years is eligible to receive,  
12 subject to (d) of this section, grants not to exceed a combined total of  
13 160 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 accu-  
20 mulate more than 160 acres under secs. 410 - 540 of this chapter not  
21 more than 20 acres of which may be in Southeast Alaska east of the 141st  
22 meridian extrapolated to the sea.

23 (e) Within any 90-day period established in sec. 430 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 length of residence in the state, unless equal, in which

1 case priority shall be established by lot.

2 (f) It is the responsibility of the applicant to publish notice  
3 once a week for three consecutive weeks in at least one newspaper of  
4 general circulation in the vicinity of the land to which he seeks a  
5 homestead grant. Where there is no newspaper in the general vicinity,  
6 notices shall be posted in three public places near the land. The  
7 notice shall contain a description of the land and shall state that the  
8 application for the homestead grant was made in accordance with the  
9 Alaska Homestead Act (AS 38.05.410 - 38.05.540). Title to the homestead  
10 entry land may not pass to the applicant unless preceded by notice as  
11 required in this section. The provisions of secs. 305 (notice and  
12 review by municipalities and regional corporations) and 345 (public  
13 notice) of this chapter are not applicable to land disposals under secs.  
14 410 - 540 of this chapter.

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

21 Sec. 38.05.430. RIGHT TO POSSESSION. (a) Ninety days after the  
22 effective date of this Act and every 90 days thereafter, the director or  
23 his designee shall notify the successful applicants for homestead grants  
24 applied for during the previous 90-day period of their homestead allow-  
25 ance. If the director determines that an applicant is ineligible or  
26 that the land applied for does not qualify, he shall inform the appli-  
27 cant by registered mail and include the reason 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 appli-

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

4 Sec. 38.05.440. SURVEY AND TITLE. (a) It is the responsibility  
5 of the applicant to provide for a survey by a land surveyor registered  
6 in the state under AS 08.48 of the land for which he seeks a homestead  
7 grant. Surveys shall conform to regulations adopted by the division of  
8 lands and in force on the effective date of this Act. The survey shall  
9 be performed within five years after the right to possession provided in  
10 sec. 430 of this chapter, with extensions granted at the discretion of  
11 the director. Failure to have a survey completed in a timely manner  
12 shall result in forfeiture of the homestead grant. A copy of the survey  
13 shall be sent to the director.

14 (b) A grant of patent for homestead entry land conveys an interest  
15 only for agricultural purposes, and all other interests in the land  
16 remain in the state and may be conveyed in accordance with sec. 69(c)-  
17 (2) - (4) of this chapter.

18 Sec. 38.05.450. RESTRICTIONS. A grantee of homestead entry land  
19 may not extract timber or materials on a commercial basis, sell, or  
20 otherwise dispose of the land until one year after a grant of patent  
21 under secs. 410 - 540 of this chapter.

22 Sec. 38.05.460. TAXES. (a) Land acquired under the homestead  
23 grant program is exempt from municipal property tax for a period of one  
24 year from the date of the grant of patent.

25 (b) Following the period specified in (a) of this section during  
26 which homestead entry land is totally exempt from taxation, a munici-  
27 pality shall exempt from taxation not less than 10 per cent of the  
28 increase in assessed value of improvements to homestead entry land if  
29 the increase in assessed value is directly attributable to an increase

1 in the agricultural productivity of the land. The exemption provided in  
2 this subsection shall continue for five years after the date of the  
3 grant of patent or from the date of approval for the exemption by the  
4 local assessor, whichever is later.

5 Sec. 38.05.470. BOROUGH AND CITY SELECTIONS. Notwithstanding  
6 other provisions of law, land subject to borough and city selection  
7 under AS 29.18.190 which is classified as homestead entry land under  
8 sec. 420 of this chapter is available for homestead entry as well as  
9 borough and city selection.

10 Sec. 38.05.480. DEDICATION OF LAND FOR ACCESS TO PUBLIC AND NAVI-  
11 GABLE WATER. A tract 100 feet wide between each section of land ac-  
12 quired from the state under secs. 410 - 540 of this chapter is dedicated  
13 for public access to public and navigable water. The section line is  
14 the center of the dedicated access route.

15 Sec. 38.05.500. EXECUTION FOR SATISFACTION OF DEBTS. Homestead  
16 entry land under secs. 410 - 540 of this chapter is exempt from execu-  
17 tion upon a judgment to enforce a judicial lien, process, or proceeding  
18 to collect an unsecured debt until a patent is granted.

19 Sec. 38.05.520. FALSE INFORMATION. (a) Intentionally filing  
20 false information for the purpose of obtaining a homestead grant under  
21 secs. 410 - 540 of this chapter is a felony punishable as prescribed in  
22 AS 11.05.145 and upon conviction shall result in loss of all right,  
23 title, and interest to any land obtained under the provisions of secs.  
24 410 - 540 of this chapter.

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

1 applicant or assignees of the applicant.

2 Sec. 38.05.530. DEFINITIONS. In secs. 410 - 540 of this chapter,

3 (1) "director" means the director of the division of lands;

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

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

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

11 (A) except for brief intervals, military service, atten-  
12 dance at an educational or training institution, or for absences  
13 for good cause, is physically present in the state for the required  
14 period;

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

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

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

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

22 (5) "suitable for agricultural use" means land, which

23 (A) if unclassified under sec. 300 of this chapter,  
24 contains soils equivalent to classes I - V as defined by the United  
25 States Soil Conservation Service; or

26 (B) is classified for agricultural, grazing, utility or  
27 open-to-entry purposes under sec. 300 of this chapter;

28 (6) "trust land" includes all the land received by grant of  
29 the federal government for the purposes of supporting schools, the

1 University of Alaska, and the state's mental health program;

2 (7) "vacant, unappropriated, and unreserved land" means the  
3 surface estate of general grant land as defined in (2) of this section,  
4 exclusive of tideland and submerged land, which

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

7 (B) has not been disposed of through lease, sale, or  
8 other administrative action.

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

11 \* Sec. 2. AS 34.15 is amended by adding a new section to read:

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

14 "The applicant (here insert the name and place of residence) has  
15 been a resident of Alaska, as defined in AS 38.05.530, for.....years

16  
17 and hereby applies for a homestead grant for the following described  
18 real estate (here insert description), located in the State of Alaska.

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

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

22 \* Sec. 3. AS 29.53.020(a) is amended by adding a new paragraph to read:

23 (7) homestead entry land to the extent provided in AS 38.05.-  
24 460.

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

26 (7) applications for homestead grants.

27 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).