

Introduced: 2/5/79
Referred: Resources and
Judiciary

1 IN THE HOUSE

BY BEIRNE

2 HOUSE BILL NO. 122

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Homestead Act; and
7 providing for an effective date."

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

9 * Section 1. AS 38.05.410(a) is amended to read:

10 (a) All [VACANT, UNAPPROPRIATED, AND UNRESERVED] general grant
11 land which was vacant, unappropriated, and unreserved as of November 2,
12 1978, and all land patented to the state after November 2, 1978, is
13 classified and available as homestead entry land except trust land. The
14 land shall remain classified as homestead entry land until 30 per cent
15 or 30,000,000 acres, whichever comes first, of the state general grant
16 land has passed into private ownership through the homestead program
17 established in AS 38.05.410 - 38.05.540. The director may reclassify
18 for public purposes up to 500,000 acres of land which was vacant, un-
19 appropriated and unreserved general grant land as of November 2, 1978,
20 and which is classified as homestead entry land under this section. The
21 director may reclassify for public purposes up to 500,000 acres of land
22 which is patented to the state after November 2, 1978.

23 * Sec. 2. AS 38.05.420(a) is amended to read:

24 (a) A person who has been a resident of the state, as defined in
25 AS 38.05.530, continuously for the three years preceding application,
26 shall receive a homestead grant upon
27 (1) recording in person or by his attorney in fact authorized
28 under a power of attorney, a written application in the form prescribed
29 by AS 34.15.045 in the recording district in which the homestead entry

1 land is located; and

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

3 (A) a copy of the recorded application,

4 (B) proof of residency,

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

8 * Sec. 3. AS 38.05.420(d) is amended to read:

9 (d) No homestead grant may be issued for an area of homestead
10 entry land less than 40 acres in area except (1) when a loss of acreage
11 is caused by inclusion of waters in the applicant's parcel; [OR] (2)
12 when the parcel is located in Southeast Alaska entirely east of the 141st
13 meridian extrapolated to the sea; or (3) when the section within which
14 the land is located contains less than 640 acres of land classified as
15 homestead entry land under AS 38.05.410(a) in which case the grant may
16 not be less than 1/16 of the total area of the section. No person may
17 receive more than one grant per year regardless of size, and in no event
18 may any person accumulate more than 160 acres under AS 38.05.410 - 38.-
19 05.540 or more than 20 acres in Southeast Alaska east of the 141st meri-
20 dian extrapolated to the sea.

21 * Sec. 4. AS 38.05.420(e) is amended to read:

22 (e) Within any 90-day period established in AS 38.05.430 [AS 38.05.
23 440], a person who is eligible for a homestead grant may file one appli-
24 cation for a grant. If within a 90-day period more than one person
25 applies and qualifies for the same homestead entry land, priority shall
26 be established by the earliest date and time of recording. If more than
27 one person applies for the same land at the same date and time, priority
28 shall be established by lot. An applicant may withdraw his application
29 at any time during the 90-day period. If an application is unsuccessful

1 for any reason, including withdrawal by the applicant, the applicant
2 may submit another application within the 90-day period in which the
3 previous application was submitted.

4 * Sec. 5. AS 38.05.420 is amended by adding new subsections to read:

5 (h) A person may fulfill the requirements of (a)(1) and (2) of
6 this section in person or by mail. Except as provided in (i) of this
7 section, for the purpose of determining date and time of recording under
8 (e) of this section, the recording office shall record all applications
9 received under AS 38.05.410 - 38.05.540 by mail as received at 10:00
10 a.m. of the day on which they are received or, if received after 10:00
11 a.m., as received at 10:00 a.m. of the next day, excluding Saturdays,
12 Sundays and holidays. Applications delivered by mail to the recording
13 office on Saturdays shall be recorded as received at 10:00 a.m. of the
14 next day, excluding Sundays and holidays.

15 (i) For the purpose of determining date and time of recording
16 under (e) of this section, the following periods are established as
17 simultaneous filing periods, during which periods all applications
18 received by a recording office under AS 38.05.410 - 38.05.540 shall be
19 recorded as received at the same time on the same date:

20 (1) the first five days, excluding Saturdays, Sundays and
21 holidays, of the first 90-day period after the effective date of this
22 Act;

23 (2) the first day, excluding Saturdays, Sundays, and holi-
24 days, of each 90-day period thereafter.

25 * Sec. 6. AS 38.05.440 is amended to read:

26 Sec. 38.05.440. SURVEY. It is the responsibility of the applicant
27 to provide for a survey by a land surveyor registered in the state under
28 AS 08.01 of the land for which he seeks a homestead grant. Surveys
29 shall conform to regulations adopted by the division of lands, and in

1 force on the effective date of this Act. The survey shall be performed
2 within five years after the right to possession provided in AS 38.05.-
3 430, with extensions granted at the discretion of the director. Failure
4 to have a survey done shall result in forfeiture of the homestead grant.
5 Subject to AS 38.05.125 and 38.05.127, the director of the division of
6 lands shall issue a grant of patent conveying title [TITLE TO THE LAND
7 PASSES] in fee simple to the grantee upon completion and recording of
8 the survey in the recording district in which the homestead entry land
9 is located. A copy of the survey shall be sent to the director.

10 * Sec. 7. AS 38.05.450(b) is amended to read:

11 (b) No grantee of homestead entry land may extract timber or
12 materials on a commercial basis, sell, subdivide, or otherwise dispose
13 of the land until one year after a grant of patent under AS 38.05.410 -
14 38.05.540, except that rights acquired under a grant issued under
15 AS 38.05.410 - 38.05.540 may be transferred at any time by will or in
16 accordance with the laws of intestate succession.

17 * Sec. 8. AS 38.05.480 is amended to read:

18 Sec. 38.05.480. DEDICATION OF LAND FOR ACCESS [TO PUBLIC AND
19 NAVIGABLE WATER]. Within and adjacent to the boundary of [A TRACT OF
20 100 FEET WIDE BETWEEN] each grant [SECTION] of land acquired from the
21 state under AS 38.05.410 - 38.05.540 there is dedicated for public
22 access a tract of land 50 feet wide [TO PUBLIC AND NAVIGABLE WATER. THE
23 SECTION LINE IS THE CENTER OF THE DEDICATED ACCESS ROUTE].

24 * Sec. 9. AS 38.05 is amended by adding new sections to read:

25 Sec. 38.05.533. EMERGENCY REGULATIONS. The Department of Natural
26 Resources shall provide for the expeditious implementation of this Act
27 by any means at its disposal, including, if necessary, the adoption of
28 emergency regulations in accordance with AS 44.62.250.

29 Sec. 38.05.536. SEVERABILITY. The provisions of AS 01.10.030 are

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applicable to this Act. If a state or federal court holds the residency requirement of this Act to be unconstitutional and the decision is upheld on appeal or an appeal is denied, the residency requirement may be severed and the Department of Natural Resources shall immediately adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) allowing any resident of the state one grant of 40 acres, subject to AS 38.05.420(d), per year for up to four years. Residency shall be determined in accordance with the rules established in AS 15.05.020 for determining residency for voter registration purposes.

* Sec. 10. This Act takes effect February 28, 1979.