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1 IN THE HOUSE

BY MOSS, MARTIN, METCALFE
AND RANDOLPH

2 HOUSE BILL NO. 500

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH 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. FINDINGS. The legislature finds that limiting the availa-
10 bility of homestead grants under AS 38.05.410 - 38.05.540, enacted in sec. 2
11 of this Act, to individuals who have been residents of the state for at least
12 three years is substantially and fairly related to the following state pur-
13 poses:

14 (1) encouraging residents to remain in the state;

15 (2) rewarding those who have contributed substantially to the
16 state's development and economy;

17 (3) assuring that recipients of state land are familiar with, or
18 at least have had an opportunity to become familiar with, the unique and
19 often hazardous climatic and geographical conditions in the state; and

20 (4) assuring that state land is distributed only to genuine state
21 residents.

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

23 ARTICLE 13. HOMESTEAD GRANTS OF STATE LAND.

24 Sec. 38.05.410. LAND AVAILABLE FOR HOMESTEAD ENTRY. (a) All
25 vacant, unappropriated, and unreserved general grant land suitable for
26 agricultural use is classified and available as homestead entry land
27 except trust land. The commissioner may reclassify for public purposes
28 up to 500,000 acres of land classified as homestead entry land under
29 this section.

1 (b) The commissioner or his designee, within 30 days after the
2 effective date of this Act and annually thereafter, shall publish notice
3 in at least three newspapers of general circulation in the state and
4 shall make available to the public information relating to the general
5 availability of land for homestead entry under this section.

6 Sec. 38.05.420. ELIGIBILITY AND APPLICATION. (a) A person who
7 has been a resident of the state, as defined in AS 38.05.530, continu-
8 ously for the three years preceding application, shall receive a home-
9 stead grant upon

10 (1) recording a written application in the form prescribed by
11 AS 34.15.045 in the recording district in which the homestead entry land
12 is located;

13 (2) filing with the commissioner the following materials:

14 (A) a copy of the recorded application,

15 (B) proof of residency in the state,

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

19 (3) filing an affidavit with the commissioner which states
20 that

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

24 (B) he will faithfully comply with all requirements
25 specified in AS 38.05.410 - 38.05.540 necessary to acquire a grant
26 of patent for the land applied for;

27 (C) he is not acting as agent of any person in making
28 entry, or in collusion with any person to give him the benefits of
29 the land entered, or any part of the land, or the timber on the

1 land;

2 (D) he is not applying to enter the land for the purpose
3 of speculation, but in good faith to obtain a homestead for him-
4 self;

5 (E) he has not directly or indirectly made, and will not
6 make, an agreement or contract with any person by which the title
7 he may receive from the state would benefit that person;

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

12 (4) plainly marking the exterior boundaries of the land to be
13 entered.

14 (b) An applicant for a homestead grant may submit to the commis-
15 sioner a title search conducted by a title insurance company authorized
16 to do business in the state under AS 21.66.100.

17 (c) A person who has been a resident of the state for at least
18 three years is eligible to receive one grant of not more than 160 acres.
19 A person may not receive more than one homestead grant under this chap-
20 ter.

21 (d) Within any 90-day period established in AS 38.05.430, a person
22 who is eligible for a homestead grant may file one application for a
23 grant. If within a 90-day period more than one person applies and
24 qualifies for the same homestead entry land, priority shall be estab-
25 lished by the earliest date of recording. If more than one person
26 applies for the same land at the same time, priority shall be estab-
27 lished by length of residence in the state, unless equal, in which case
28 priority shall be established by lot.

29 (e) The applicant shall cause notice of the application to be

1 published once a week for three consecutive weeks in at least one news-
2 paper of general circulation in the vicinity of the land to which he
3 seeks a homestead grant. Where there is no newspaper in the general
4 vicinity, notices shall be posted in three public places near the land.
5 The notice shall contain a description of the land and shall state that
6 the application for the homestead grant was made in accordance with the
7 Alaska Homestead Act (AS 38.05.410 - 38.05.540). Title to the homestead
8 entry land may not pass to the applicant unless preceded by notice as
9 required in this section. The provisions of AS 38.05.305 (notice and
10 review by municipalities and regional corporations) and AS 38.05.345
11 (public notice) are not applicable to land disposals under AS 38.05.-
12 410 - 38.05.540.

13 Sec. 38.05.430. RIGHT TO POSSESSION. (a) Ninety days after the
14 effective date of this Act and every 90 days thereafter, the commis-
15 sioner or his designee shall notify the successful applicants for home-
16 stead grants applied for during the previous 90-day period of the
17 approval of their homestead allowance and of their right to immediate
18 possession. If the commissioner determines that an applicant is ineli-
19 gible or that the land applied for does not qualify, he shall inform the
20 applicant by registered mail and include the reason for that finding.

21 (b) Notwithstanding the provisions of (a) of this section, a
22 person who has submitted a copy of a title search to the commissioner
23 with his application as provided in AS 38.05.420(b) is entitled to
24 possession of the homestead entry land for which he has applied 30 days
25 after his application if the title search shows no prior claims on the
26 land.

27 Sec. 38.05.440. SURVEY AND TITLE. (a) The applicant shall pro-
28 vide for a survey by a land surveyor registered in the state under
29 AS 08.48 of the land for which he seeks a homestead grant. Surveys shall

1 conform to regulations adopted by the department and in force on the
2 effective date of this Act. The survey shall be performed within five
3 years after receiving notice of the right to possession under AS 38.05.-
4 430, with extensions granted at the discretion of the commissioner.
5 Failure to have a survey completed in a timely manner shall result in
6 forfeiture of the homestead grant. A copy of the survey shall be sent
7 to the commissioner.

8 (b) Upon receipt of a copy of the survey required in (a) of this
9 section, the commissioner shall grant a patent to the applicant which
10 conveys title to the surveyed land in fee simple subject to the follow-
11 ing conditions:

12 (1) the grantee of the patent shall occupy the homestead for
13 a cumulative total of 15 months within the five-year period immediately
14 after conveyance of the patent; and

15 (2) the grantee of the patent shall erect a permanent, habit-
16 able dwelling on the homestead which meets all applicable state and
17 local regulations within five years after the conveyance of the patent.

18 (c) If a grantee fails to comply with the conditions of a home-
19 stead patent, the grantee shall forfeit title to the homestead land.
20 The commissioner shall request the attorney general to bring an action
21 to eject the grantee from the homestead land and to declare the right of
22 reentry of the state.

23 Sec. 38.05.450. RESTRICTIONS. A grantee of homestead entry land
24 may not remove timber or materials on a commercial basis, sell, or
25 otherwise dispose of the land until five years after a grant of patent
26 under AS 38.05.410 - 38.05.540.

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

1 (b) Following the period specified in (a) of this section during
2 which homestead entry land is totally exempt from taxation, a munici-
3 pality shall exempt from taxation not less than 10 per cent of the
4 increase in assessed value of improvements to homestead entry land if
5 the increase in assessed value is directly attributable to an increase
6 in the agricultural productivity of the land. The exemption provided in
7 this subsection shall continue for five years after the date of the
8 grant of patent or from the date of approval for the exemption by the
9 local assessor, whichever is later.

10 Sec. 38.05.470. BOROUGH AND CITY SELECTIONS. Notwithstanding
11 other provisions of law, land subject to borough and city selection
12 under AS 29.18.201 - 29.18.203 which is classified as homestead entry
13 land under AS 38.05.420 is available for homestead entry as well as
14 borough and city selection.

15 Sec. 38.05.480. DEDICATION OF LAND FOR ACCESS TO PUBLIC AND NAVI-
16 GABLE WATER. A tract 100 feet wide between each section of land ac-
17 quired from the state under AS 38.05.410 - 38.05.540 is dedicated for
18 public access to public and navigable water. The section line is the
19 center of the dedicated access route.

20 Sec. 38.05.500. EXECUTION FOR SATISFACTION OF DEBTS. Homestead
21 entry land under AS 38.05.410 - 38.05.540 is exempt from execution on a
22 judgment to enforce a judicial lien, process, or proceeding to collect
23 an unsecured debt until a patent is granted.

24 Sec. 38.05.520. FALSE INFORMATION. (a) Intentionally filing
25 false information for the purpose of obtaining a homestead grant under
26 AS 38.05.410 - 38.05.540 is a felony. In addition to criminal penal-
27 ties, the defendant shall, upon conviction, lose all right, title, and
28 interest to any land obtained under the provisions of AS 38.05.410 -
29 38.05.540.

1 (b) The filing of false information in connection with an applica-
2 tion, survey, proof of residency, or title search under AS 38.05.410 -
3 38.05.540 may result in forfeiture of the homestead grant or grant of
4 patent at the discretion of the commissioner but does not affect the
5 right, title, or interest of a bona fide purchaser for value from the
6 applicant or assignees of the applicant.

7 Sec. 38.05.530. DEFINITIONS. In AS 38.05.410 - 38.05.540,

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

11 (2) "habitable dwelling" means a dwelling of a permanent
12 nature, together with fixtures and facilities, including sanitary facili-
13 ties, required or customary in the vicinity of the land made available
14 for homestead entry;

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

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

19 (A) except for brief intervals, military service, atten-
20 dance at an educational or training institution, or for absences
21 for good cause, is physically present in the state for the required
22 period;

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

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

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

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

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(5) "suitable for agricultural use" means land, which
(A) if unclassified under AS 38.05.300, contains soils equivalent to classes I - V as defined by the United States Soil Conservation Service; or
(B) is classified for agricultural, grazing, utility or open-to-entry purposes under AS 38.05.300;

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

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

(A) has not been set aside by statute for one or more particular uses or purposes; or
(B) has not been disposed of through lease, sale, or other administrative action.

Sec. 38.05.540. SHORT TITLE. AS 38.05.410 - 38.05.540 may be cited as the Alaska Homestead Act.

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

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

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

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

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

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

- 1 * Sec. 4. AS 29.53.020(a) is amended by adding a new paragraph to read:
2 (7) homestead entry land to the extent provided in AS 38.05.-
3 460.
4 * Sec. 5. AS 34.15.340(a) is amended by adding a new paragraph to read:
5 (7) applications for homestead grants.
6 * Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-
7 070(c).

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