

Introduced: 2/21/79
Referred: Resources and
Judiciary

1 IN THE HOUSE

BY BEIRNE

2 SPONSOR SUBSTITUTE FOR 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 29.33.090 is amended by adding a new subsection to read:

10 (e) Land which is within the boundaries of a borough and which is
11 classified as homestead entry land under AS 38.05.410 is exempt from
12 zoning regulations adopted under (a) of this section and shall remain
13 exempt for one year after the transfer of a grant of patent to the land
14 under AS 38.05.440.

15 * Sec. 2. AS 29.48.030 is amended by adding a new subsection to read:

16 (c) A municipality may not exercise powers under (a)(1) of this
17 section to provide streets and sidewalks on land which is classified as
18 homestead entry land under AS 38.05.410 until one year after the trans-
19 fer of a grant of patent to the land under AS 38.05.440;

20 * Sec. 3. AS 38.05.410(a) is amended to read:

21 (a) All [VACANT, UNAPPROPRIATED, AND UNRESERVED] general grant
22 land which was vacant, unappropriated, and unreserved as of November 2,
23 1978, and all land patented to the state after November 2, 1978, is
24 classified and available as homestead entry land except trust land. The
25 land shall remain classified as homestead entry land until 30 per cent
26 or 30,000,000 acres, whichever comes first, of the state general grant
27 land has passed into private ownership through the homestead program
28 established in AS 38.05.410 - 38.05.540. The director may reclassify
29 for public purposes up to 500,000 acres of land which was vacant, un-

1 appropriated and unreserved general grant land as of November 2, 1978,
2 and which is classified as homestead entry land under this section. The
3 director may reclassify for public purposes up to 500,000 acres of land
4 which is patented to the state after November 2, 1978.

5 * Sec. 4. AS 38.05.420(a) is amended to read:

6 (a) A person who has been a resident of the state, as defined in
7 AS 38.05.530, continuously for the three years preceding application,
8 shall receive a homestead grant upon

9 (1) recording in person or by his attorney in fact authorized
10 under a power of attorney, a written application in the form prescribed
11 by AS 34.15.045 in the recording district in which the homestead entry
12 land is located; and

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

14 (A) a copy of the recorded application,

15 (B) proof of residency,

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 * Sec. 5. AS 38.05.420(d) is amended to read:

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

1 05.540 or more than 20 acres in Southeast Alaska east of the 141st meri-
2 dian extrapolated to the sea.

3 * Sec. 6. AS 38.05.420(e) is amended to read:

4 (e) Within any 90-day period established in AS 38.05.430 [AS 38.05.
5 440], a person who is eligible for a homestead grant may file one appli-
6 cation for a grant. If within a 90-day period more than one person
7 applies and qualifies for the same homestead entry land, priority shall
8 be established by the earliest date and time of recording. If more than
9 one person applies for the same land at the same date and time, priority
10 shall be established by lot. An applicant may withdraw his application
11 at any time during the 90-day period. If an application is unsuccessful
12 for any reason, including withdrawal by the applicant, the applicant
13 may submit another application within the 90-day period in which the
14 previous application was submitted.

15 * Sec. 7. AS 38.05.420 is amended by adding new subsections to read:

16 (h) A person may fulfill the requirements of (a)(1) and (2) of
17 this section in person or by mail. Except as provided in (i) of this
18 section, for the purpose of determining date and time of recording under
19 (e) of this section, the recording office shall record all applications
20 received under AS 38.05.410 - 38.05.540 by mail as received at 10:00
21 a.m. of the day on which they are received or, if received after 10:00
22 a.m., as received at 10:00 a.m. of the next day, excluding Saturdays,
23 Sundays and holidays. Applications delivered by mail to the recording
24 office on Saturdays shall be recorded as received at 10:00 a.m. of the
25 next day, excluding Sundays and holidays.

26 (i) For the purpose of determining date and time of recording
27 under (e) of this section, the following periods are established as
28 simultaneous filing periods, during which periods all applications
29 received by a recording office under AS 38.05.410 - 38.05.540 shall be

1 recorded as received at the same time on the same date:

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

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

7 * Sec. 8. AS 38.05.440 is amended to read:

8 Sec. 38.05.440. SURVEY. It is the responsibility of the applicant
9 to provide for a survey by a land surveyor registered in the state under
10 AS 08.01 of the land for which he seeks a homestead grant. Surveys
11 shall conform to regulations adopted by the division of lands, and in
12 force on the effective date of this Act. The survey shall be performed
13 within five years after the right to possession provided in AS 38.05.-
14 430, with extensions granted at the discretion of the director. Failure
15 to have a survey done shall result in forfeiture of the homestead grant.
16 Subject to AS 38.05.125 and 38.05.127, the director of the division of
17 lands shall issue a grant of patent conveying title [TITLE TO THE LAND
18 PASSES] in fee simple to the grantee upon completion and recording of
19 the survey in the recording district in which the homestead entry land
20 is located. A copy of the survey shall be sent to the director.

21 * Sec. 9. AS 38.05.450(b) is amended to read:

22 (b) No grantee of homestead entry land may extract timber or
23 materials on a commercial basis, sell, subdivide, or otherwise dispose
24 of the land until one year after a grant of patent under AS 38.05.410 -
25 38.05.540, except that rights acquired under a grant issued under
26 AS 38.05.410 - 38.05.540 may be transferred at any time by will or in
27 accordance with the laws of intestate succession.

28 * Sec. 10. AS 38.05.450 is amended by adding a new subsection to read:

29 (c) An attempt within the time period established in (b) of this

1 section to extract timber or materials on a commercial basis from land
2 subject to this section or to sell, subdivide, or otherwise dispose of
3 land subject to this section other than by will or intestate succession
4 is void and is grounds for revocation of the right to take possession
5 under AS 38.05.430 and of the right to a grant of patent under AS 38.-
6 05.440.

7 * Sec. 11. AS 38.05.480 is amended to read:

8 Sec. 38.05.480. DEDICATION OF LAND FOR ACCESS [TO PUBLIC AND
9 NAVIGABLE WATER]. Within and adjacent to the boundary of [A TRACT OF
10 100 FEET WIDE BETWEEN] each grant [SECTION] of land acquired from the
11 state under AS 38.05.410 - 38.05.540 there is dedicated for public
12 access a tract of land 50 feet wide [TO PUBLIC AND NAVIGABLE WATER. THE
13 SECTION LINE IS THE CENTER OF THE DEDICATED ACCESS ROUTE].

14 * Sec. 12. AS 38.05.530(4)(C) is amended to read:

15 (C) has established residency for voting purposes in the
16 state and is a registered voter except that a person who has lost
17 the right to vote as a result of a criminal conviction is exempt
18 from the requirement of this subparagraph;

19 * Sec. 13. AS 38.05.530(4)(D) is amended to read:

20 (D) has not, within the period of required residency,
21 claimed residency in another state except for the purpose of
22 qualifying for resident tuition rates at an educational or training
23 institution in another state; and

24 * Sec. 14. 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

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

10 * Sec. 15. This Act takes effect February 28, 1979.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29