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Referred: Resources and
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1 IN THE SENATE

BY RODEY, FAHRENKAMP AND STIMSON

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SENATE BILL NO. 472

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to homesteads; and providing for an effective date."

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

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* Section 1. AS 38.05 is amended by adding new sections to read:

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ARTICLE 13. HOMESTEAD GRANTS OF STATE LAND.

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Sec. 38.05.410. LAND AVAILABLE FOR HOMESTEAD ENTRY. (a) No later than January 1, 1981, the commissioner shall classify and make available for homestead entry at least 100,000 acres of vacant, unappropriated and unreserved general grant land excluding trust land.

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(b) The commissioner shall publish annual notice in at least three newspapers of general circulation in the state and shall make available to the public information relating to the location and availability of land for homestead entry under this section.

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(c) The commissioner shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) to implement the provisions of AS 38.05.410 - 38.05.500.

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Sec. 38.05.420. ELIGIBILITY AND APPLICATION. (a) A person who has been a resident of the state, as defined in AS 38.05.490, continuously for five years preceding his application, shall receive a homestead grant upon

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(1) filing with the commissioner the following materials:

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(A) written application in the form prescribed by the commissioner by regulation;

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(B) proof of residency in the state;

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(C) a \$100 filing fee;

(2) filing an affidavit with the commissioner which states that

(A) the application to enter homestead entry land is made in good faith for the purpose of actual settlement, and not for the benefit of any other person;

(B) the applicant will comply with the requirements specified in AS 38.05.410 - 38.05.500 which are necessary to acquire a grant of patent for the land applied for;

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

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

(E) the applicant has not made, and will not make, an agreement with a person by which the title he may receive from the state would benefit that person; and

(3) plainly marking the exterior boundaries of the land to be entered.

(b) The commissioner shall immediately stamp an application received under this section with the date and time of receipt.

(c) A person who has been a resident of the state for at least five years is eligible to receive one homestead grant of not more than 160 acres. A person may not receive more than one homestead grant under this chapter.

(d) A person who is eligible for a homestead grant may not file more than one application for a grant within any 90-day period. If more

1 than one person applies and qualifies for the same homestead entry land,
2 priority shall be established by the earliest date and time of filing
3 the application with the commissioner. If more than one person applies
4 for the same land at the same date and time, priority shall be estab-
5 lished by lot.

6 (e) The applicant shall publish notice of the application once a
7 week for three consecutive weeks in at least one newspaper of general
8 circulation in the vicinity of the land to which he seeks a homestead
9 grant. Where there is no newspaper in the vicinity, notices shall be
10 posted in three public places near the land. The notice shall contain a
11 description of the land and shall state that the application for the
12 homestead grant was made in accordance with the Alaska Homestead Act
13 (AS 38.05.410 - 38.05.500). Title to the homestead entry land may not
14 pass to the applicant unless preceded by notice as required in this
15 section. The provisions of AS 38.05.305 (notice and review by munici-
16 palities and regional corporations) and AS 38.05.345 (public notice) do
17 not apply to land disposals under AS 38.05.410 - 38.05.500.

18 Sec. 38.05.430. RIGHT TO POSSESSION. The commissioner shall
19 notify each successful applicant for a homestead grant of the approval
20 of his homestead allowance and of his right to immediate possession. If
21 the commissioner determines that an applicant is ineligible or that the
22 land applied for does not qualify, he shall inform the applicant by
23 registered mail and include the reason for that finding.

24 Sec. 38.05.440. SURVEY AND TITLE. (a) The applicant shall pro-
25 vide for a survey of the land for which he seeks a homestead grant. The
26 survey shall be made by a land surveyor registered in the state under
27 AS 08.48. The survey shall conform to regulations adopted by the
28 department and in force on the effective date of this Act. The survey
29 shall be performed within two years after receiving notice of the right

1 to possession under AS 38.05.430, but extensions may be granted at the
2 discretion of the commissioner. Failure to have a timely survey com-
3 pleted results in forfeiture of the homestead grant. A copy of the
4 survey shall be sent to the commissioner.

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

9 (1) the grantee of the patent shall continuously occupy the
10 homestead for seven consecutive years immediately after conveyance of
11 the patent; however, absences from the homestead shall be allowed if
12 they are for brief intervals, military service, or for good cause as
13 determined by the commissioner; and

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

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

22 Sec. 38.05.450. RESTRICTIONS. A grantee of homestead entry land
23 may not remove timber or materials on a commercial basis, sell, or
24 otherwise dispose of the land until seven years after a grant of patent
25 under AS 38.05.410 - 38.05.500.

26 Sec. 38.05.460. DEDICATION OF LAND FOR ACCESS TO PUBLIC AND NAVI-
27 GABLE WATER. The commissioner shall, by regulation, provide for the
28 reservation of a sufficient amount of land around or through each parcel
29 of homestead entry land acquired from the state under AS 38.05.410 -

1 38.05.500 to provide reasonable public access to public and navigable
2 water.

3 Sec. 38.05.470. EXECUTION FOR SATISFACTION OF DEBTS. Homestead
4 entry land under AS 38.05.410 - 38.05.500 is exempt from execution on a
5 judgment to enforce a judicial lien, process, or proceeding to collect
6 an unsecured debt until a patent is granted.

7 Sec. 38.05.480. FALSE INFORMATION. (a) Intentionally filing
8 false information for the purpose of obtaining a homestead grant under
9 AS 38.05.410 - 38.05.500 is a class B felony. In addition to criminal
10 penalties, the defendant shall, upon conviction, lose all right, title,
11 and interest to any land obtained under the provisions of AS 38.05.410 -
12 38.05.500.

13 (b) Filing of false information in connection with an application,
14 survey, proof of residency, or title search under AS 38.05.410 -
15 38.05.500 may result in forfeiture of the homestead grant or grant of
16 patent at the discretion of the commissioner but does not affect the
17 right, title, or interest of a bona fide purchaser for value from the
18 applicant or assignees of the applicant.

19 Sec. 38.05.490. DEFINITIONS. In AS 38.05.410 - 38.05.500,

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

23 (2) "habitable dwelling" means a dwelling of a permanent
24 nature, together with fixtures and facilities, including sanitary
25 facilities, required or customary in the vicinity of the land made
26 available for homestead entry;

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

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

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and who

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

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

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

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

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

(5) "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;

(6) "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;

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

(C) has not been nominated for selection or selected by a municipality to satisfy a general grant land entitlement under AS 29.18.201 - 29.18.203; or

(D) has not been deposited in the land disposal bank by the commissioner under AS 38.04.020.

Sec. 38.05.500. SHORT TITLE. AS 38.05.410 - 38.05.500 may be cited as the Alaska Homestead Act.

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

Sec. 34.15.055. 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 38.05.490, since 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.

* Sec. 3. AS 34.15.340(a) is amended by adding a new paragraph to read:

(7) applications for homestead grants.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-070(c).