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and Randolph

Offered: 5/14/82
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 2 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public land; and providing for an
7 effective date."

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

9 * Section 1. AS 38 is amended by adding a new chapter to read:

10 CHAPTER 09. HOMESTEAD ENTRY.

11 Sec. 38.09.010. HOMESTEAD ENTRY. (a) The director may designate
12 and make available for homestead entry under this chapter state land
13 available

14 (1) under AS 38.05.057; or

15 (2) under AS 38.05.077 unless the director determines that
16 the land is more suitable for recreational or residential use.

17 (b) A homestead entry made under AS 38.05.057 may not exceed 320
18 acres.

19 (c) A homestead entry made under AS 38.05.077 may not exceed 160
20 acres.

21 (d) A person who has applied for or received state land under this
22 chapter is not eligible for a loan under AS 03.10 for the habitable
23 dwelling or the clearing of the land required under AS 38.09.040.

24 Sec. 38.09.020. QUALIFICATIONS FOR HOMESTEAD ENTRY. A person is
25 qualified to apply for a homestead entry under this chapter if the
26 person is

27 (1) qualified under AS 38.05.057 to participate in the dis-
28 posal of land by lottery; or

29 (2) qualified under AS 38.05.077 to make an entry under the

1 remote parcel disposal procedures.

2 Sec. 38.09.030. APPLICATION FOR HOMESTEAD ENTRY. (a) A person
3 who has staked the exterior boundaries of a homestead entry under AS 38.-
4 05.077 and a person who has been selected to purchase land designated
5 for homestead entry by lottery shall apply for the homestead entry on a
6 form prepared by the department.

7 (b) The department may charge a fee for filing an application
8 under this chapter.

9 (c) A person who within the eight years immediately preceding the
10 date of the application under (a) of this section has leased a remote
11 parcel from the state or applied for a homestead entry under this chapter
12 is not eligible for land under this chapter.

13 (d) A person who has obtained more than 15 acres of state land is
14 not eligible for land under this chapter.

15 Sec. 38.09.040. PATENT FOR HOMESTEAD ENTRY. (a) A person who has
16 made a homestead entry under this chapter and filed an application under
17 AS 38.09.030(a) is entitled to a patent if, within seven years from the
18 date of the application, the applicant

19 (1) occupies the land for a total of 35 months;

20 (2) erects a habitable dwelling;

21 (3) clears and prepares for cultivation not less than one-
22 fourth of the land entered if the land is limited to agricultural use
23 except that the commissioner may substitute a development plan in place
24 of the clearing requirement if the commissioner determines that clearing
25 of the land is inappropriate;

26 (4) brushes the boundaries of the homestead entry and main-
27 tains the brushed boundaries so that they are easily visible from the
28 ground;

29 (5) causes a survey of the homestead entry to be made that is

1 acceptable to the director.

2 (b) The director shall require an applicant for homestead entry to
3 submit proof necessary to establish compliance with the requirements of
4 (a) of this section. An applicant is not required to submit proof under
5 (a)(4) or (5) of this section if the land comprising the homestead entry
6 has been surveyed.

7 (c) As used in this section, "habitable dwelling"

8 (1) means a permanent dwelling of not less than 400 square
9 feet and its fixtures and facilities;

10 (2) does not include a mobile home unless it is permanently
11 attached to a permanent foundation.

12 Sec. 38.09.050. HOMESTEAD APPLICATION VOID. An application for
13 homestead entry and the interest of the applicant under the homestead
14 entry is void if the applicant fails to comply with a requirement of
15 AS 38.09.040(a). On the request of the director, the attorney general
16 shall bring an action to declare the homestead entry void and, if neces-
17 sary, to eject the homestead applicant.

18 * Sec. 2. AS 38.04.020(g)(3) is amended to read:

19 (3) Land designated agricultural, commercial, industrial, or
20 suitable for other disposal may [SHALL] be sold under AS 38.05.055 or
21 38.05.057. Land designated agricultural or suitable for disposal other
22 than as commercial or industrial may be sold under AS 38.05.077.

23 * Sec. 3. AS 38.04.021(a) is amended to read:

24 Sec. 38.04.021. DISPOSAL OF MUNICIPAL [GRANT] LAND [ENTITLEMENTS].

25 (a) A municipality may apply for financial assistance for the execution
26 of a land disposal program [OF GENERAL GRANT LAND ENTITLEMENTS RECEIVED
27 FROM THE STATE UNDER AS 29.18.201 - 29.18.213] by submitting a request
28 to the commissioner for inclusion in the request submitted to the legis-
29 lature under AS 38.04.020(e). A municipality may request financial

1 assistance for expenses of surveying land, designing subdivision plats,
2 installing improvements required by municipal ordinance or regulation of
3 the local platting board, and other reasonable direct costs of land
4 disposal.

5 * Sec. 4. AS 38.05.057(a) is amended to read:

6 (a) The commissioner may dispose of land, including land limited
7 to use for agricultural purposes, by lottery. The purchase price of
8 land sold by lottery shall be the fair market value of the land as
9 determined by the commissioner. The commissioner may sell land by
10 lottery for less than the fair market value of the land if he determines
11 that scarcity of land for private use in the area of the land to be sold
12 has resulted in unrealistic land values. Before the commissioner deter-
13 mines the purchase price for land which is located in a municipality and
14 which is to be sold under this section, he shall consult with the
15 assessor of the municipality. The lottery shall be conducted in public
16 by the commissioner or his representative. An applicant may not be
17 selected to purchase land unless he is present on the date and at the
18 place that the lottery is conducted unless medical reasons, attendance
19 at school, or military service [OUTSIDE THE STATE] prevent attendance.
20 [AN APPLICANT MAY BE REPRESENTED BY AN AGENT ON THE DAY OF THE LOTTERY
21 IF THE LAND OFFERED FOR SALE IS COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL
22 LAND.] On the day of the lottery a purchaser selected by lot shall
23 deposit an amount equal to five percent of the purchase price, or if the
24 purchaser elects to use land discounts granted under AS 38.05.058, five
25 percent of the purchase price after deduction of the discount. If the
26 land is designated for homestead entry, the applicant selected by lottery
27 for homestead entry must file an application under AS 38.09.030(a).

28 * Sec. 5. AS 38.05.077(a) is amended to read:

29 (a) The commissioner shall designate remote parcel selection areas

1 and shall dispose of remote parcels in accordance with AS 38.04.020.
2 The commissioner may set the number of remote parcels that may be
3 selected in each remote parcel selection area. A remote parcel may be
4 purchased under AS 38.05.078 or an applicant may receive a patent to a
5 remote parcel under AS 38.09. A remote parcel purchased under AS 38.05.-
6 078 may not exceed 40 acres. A remote parcel acquired under AS 38.09
7 may not exceed 160 acres.

8 * Sec. 6. AS 38.05.077(b) is amended to read:

9 (b) The commissioner may designate remote parcel selection areas
10 where staking will be restricted to aliquot parts when parcels are 40
11 acres or larger and shall prescribe parcel selection procedures for each
12 remote parcel selection area designated under (a) of this section. The
13 parcel selection procedures shall include

14 (1) the maximum size of a remote parcel that may be selected
15 in the parcel selection area;

16 (2) (repealed)

17 (3) the minimum distance between remote parcels in the parcel
18 selection area;

19 (4) parcel dimensions, configuration, orientation and other
20 parcel design requirements;

21 (5) a description of land within the area that may not be
22 included in a parcel;

23 (6) a requirement that landmarks, monuments or other points
24 be used as points of reference for the measurement of distances within
25 an area; and

26 (7) specification for the type of stakes to use to mark the
27 corners of a parcel.

28 * Sec. 7. AS 38.05.077(d) is amended to read:

29 (d) Not later than 15 days after staking the exterior boundaries

1 of a remote parcel, the person who staked the parcel shall file a sketch
2 plat with the department which shows the location of the remote parcel.
3 At the time of filing the sketch plat, the person who staked the parcel
4 shall apply to lease the land or apply for homestead entry under AS 38.-
5 09. An application [TO LEASE THE LAND] shall be on a standard form
6 prepared by the department. The annual rental payment for the first
7 year of the lease shall be submitted to the department with the applica-
8 tion. After the application to lease a remote parcel is approved, the
9 commissioner shall offer to lease the land to the person who staked the
10 remote parcel. A lease granted under this section shall contain the
11 following terms:

12 (1) a remote parcel may be leased for five years;

13 (2) a remote parcel lease may be renewed at the option of the
14 lessee for a second five-year period under the same terms as provided
15 for the first five-year period of the remote parcel lease;

16 (3) a rental payment shall be paid annually and shall be \$10
17 for each acre;

18 (4) unless the land is surveyed, the lessee shall, within one
19 year of approval of the lease application and continuously for the lease
20 period, physically delineate the boundaries of the parcel by brushing a
21 line so that they are readily visible from the ground.

22 * Sec. 8. AS 38.05.077(i)(3) is amended to read:

23 (3) certify that the applicant [HE] has not previously leased
24 a remote parcel from the state nor made application for a homestead entry
25 on state land within eight years immediately preceding the date of stak-
26 ing a remote parcel.

27 * Sec. 9. AS 38.05.082(a) is amended to read:

28 (a) The director, with the approval of the commissioner, may lease
29 tide, [AND] submerged, and shore lands for fisheries development. Fish-

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eries development includes the utilization of shore gill nets, [OR] set
nets, or fish wheels for the taking of fish. Every lease issued under
this section shall reserve to the public a right-of-way for access to
navigable waters and other tide, [AND] submerged, and shore lands.

* Sec. 10. AS 03.10.030 is amended by adding a new subsection to read:

(g) A person who has received state land under AS 38.09 is not
eligible for a loan under this chapter for improvements to that land
before patent to the land has been received.

* Sec. 11. This Act takes effect July 1, 1982.