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1 IN THE HOUSE

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2 HOUSE BILL NO. 44

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH 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  
12 least three years is substantially and fairly related to the following state  
13 purposes:

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  
3 notice in at least three newspapers of general circulation in the state  
4 and shall make available to the public information relating to the  
5 general 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  
11 by AS 34.15.045 in the recording district in which the homestead entry  
12 land 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  
6 not make, an agreement or contract with any person by which the  
7 title 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 percent 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  
13 be 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  
19 acres. A person may not receive more than one homestead grant under  
20 this chapter.

21 (d) Within any 90-day period established in AS 38.05.430, a  
22 person who is eligible for a homestead grant may file one application  
23 for a grant. If within a 90-day period more than one person applies  
24 and qualifies for the same homestead entry land, priority shall be  
25 established 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

1 shall conform to regulations adopted by the department and in force on  
2 the effective date of this Act. The survey shall be performed within  
3 five years after receiving notice of the right to possession under  
4 AS 38.05.430, with extensions granted at the discretion of the commis-  
5 sioner. Failure to have a survey completed in a timely manner shall  
6 result in forfeiture of the homestead grant. A copy of the survey  
7 shall be sent 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 unencumbered title to the surveyed land subject to AS 38.05.125  
11 and the following 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; the required occupancy must be attested  
15 to by three persons other than the grantee; and

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

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

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

29 Sec. 38.05.460. TAXES. (a) Land acquired under the homestead

1 grant program is exempt from municipal property tax for a period of one  
2 year from the date of the grant of patent.

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

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

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

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

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

1 interest to any land obtained under the provisions of AS 38.05.410 -  
2 38.05.540.

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

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

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

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

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

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

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

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

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

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

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

3 (5) "suitable for agricultural use" means land, which

4 (A) if unclassified under AS 38.05.300, contains soils  
5 equivalent to classes I - V as defined by the United States Soil  
6 Conservation Service; or

7 (B) is classified for agricultural, grazing, utility or  
8 open-to-entry purposes under AS 38.05.300;

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

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

15 (A) has not been set aside by statute for one or more  
16 particular uses or purposes; or

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

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

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

22 Sec. 34.15.045. HOMESTEAD APPLICATION. (a) A homestead applica-  
23 tion may be substantially in the following form:

24 "The applicant (here insert the name and place of residence) has  
25 been a resident of Alaska, as defined in AS 38.05.530, for.....years  
26 and hereby applies for a homestead grant for the following described  
27 real estate (here insert description), located in the State of Alaska.  
28 Dated this.....day of....., 19....."

29 (b) The application shall be signed and sealed by the applicant

1 and shall be recorded as directed in this chapter.

2 \* Sec. 4. AS 29.53.020(a) is amended by adding a new paragraph to read:

3 (7) homestead entry land to the extent provided in AS 38.05.-  
4 460.

5 \* Sec. 5. AS 34.15.340(a) is amended by adding a new paragraph to read:

6 (9) applications for homestead grants.

7 \* Sec. 6. AS 38.05.125 is amended to read:

8 Sec. 38.05.125. RESERVATION. Each contract for the sale, lease  
9 or grant of state land, and each deed to state land, properties or  
10 interest in state land, made under AS 38.05.315 - 38.05.325, 38.05.045 -  
11 38.05.120, 38.05.410 - 38.05.540, AS 38.08, or AS 38.50 except as pro-  
12 vided in AS 38.50.050 is subject to the following reservations: "The  
13 party of the first part, Alaska, hereby expressly saves, excepts and  
14 reserves out of the grant hereby made, unto itself, its lessees, succes-  
15 sors, and assigns forever, all oils, gases, coal, ores, minerals,  
16 fissionable materials, geothermal resources, and fossils of every name,  
17 kind or description, and which may be in or upon said lands above  
18 described, or any part thereof, and the right to explore the same for  
19 such oils, gases, coal, ores, minerals, fissionable materials, geo-  
20 thermal resources, and fossils, and it also hereby expressly saves and  
21 reserves out of the grant hereby made, unto itself, its lessees, succes-  
22 sors, and assigns forever, the right to enter by itself, its or their  
23 agents, attorneys, and servants upon said lands, or any part or parts  
24 thereof, at any and all times for the purpose of opening, developing,  
25 drilling, and working mines or wells on these or other lands and taking  
26 out and removing therefrom all such oils, gases, coal, ores, minerals,  
27 fissionable materials, geothermal resources, and fossils, and to that  
28 end it further expressly reserves out of the grant hereby made, unto  
29 itself, its lessees, successors, and assigns forever, the right by its

1 or their agents, servants and attorneys at any and all times to erect,  
2 construct, maintain, and use all such buildings, machinery, roads,  
3 pipelines, powerlines, and railroads, sink such shafts, drill such  
4 wells, remove such soil, and to remain on said lands or any part thereof  
5 for the foregoing purposes and to occupy as much of said lands as may  
6 be necessary or convenient for such purposes hereby expressly reserving  
7 to itself, its lessees, successors, and assigns, as aforesaid,  
8 generally all rights and power in, to, and over said land, whether  
9 herein expressed or not, reasonably necessary or convenient to render  
10 beneficial and efficient the complete enjoyment of the property and  
11 rights hereby expressly reserved."

12 \* Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-

13 070(c).