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Original sponsors: Uehling, Tischer,
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1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 130 (Resources) am S

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to homesteads; 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 ACT.

11 Sec. 38.09.010. DESIGNATION OF LAND FOR HOMESTEAD ENTRY. (a)

12 The commissioner shall designate and make available for homestead
13 entry state land, including land classified for agricultural use.
14 State land made available for homestead entry under this chapter shall
15 be distributed throughout the state.

16 (b) The commissioner shall complete a cadastral survey of home-
17 stead entry state land before designating the state land for homestead
18 entry. No portion of land made available for homestead entry may be
19 located more than a mile from a survey control monument.

20 (c) Notice of the designation and offering of land for homestead
21 entry shall be given by the commissioner under AS 38.05.345.

22 (d) Land designated for homestead entry is not subject to a
23 preference right under AS 38.05.

24 (e) The commissioner shall prescribe a homestead entry procedure
25 for each area designated under (a) of this section. The homestead
26 entry procedure shall establish

27 (1) the minimum distance between homestead entries in the
28 area;

29 (2) the dimensions, configuration, orientation or other

1 design requirements for a homestead entry in the area;

2 (3) a description of land within the area that may not be
3 included in a homestead entry;

4 (4) a requirement that a landmark, monument or other point
5 be used as a point of reference for the measurement of distances
6 within an area;

7 (5) a specification of the type of stakes to be used to
8 mark the corners of a homestead entry;

9 (6) the time within which a homestead entry must be staked.

10 (f) The commissioner shall establish the maximum size of a
11 homestead entry that may be selected in each area designated under (a)
12 of this section except that the commissioner may not permit an entry
13 on more than

14 (1) 160 acres of land classified for agricultural use; or

15 (2) 40 acres of land not classified for agricultural use.

16 (g) The commissioner may limit the number of persons permitted
17 to stake homestead entries within an area designated under (a) of this
18 section by a lottery of qualified applicants.

19 Sec. 38.09.020. HOMESTEAD ENTRY PERMITS. (a) A homestead entry
20 permit entitles an applicant to enter land within an area designated
21 under AS 38.09.010 and to survey, occupy, and improve the land in
22 order to qualify for a patent under this chapter.

23 (b) An applicant for a homestead entry permit shall personally
24 stake the corners and flag the boundaries of the land entered under
25 this chapter and shall personally file with the commissioner a
26 description of the land entered. A homestead entry shall be described
27 by aliquot parts unless otherwise permitted by the commissioner.

28 Sec. 38.09.030. QUALIFICATION FOR HOMESTEAD ENTRY. (a) An
29 applicant for a homestead entry permit shall

1 (1) submit proof acceptable to the commissioner that the
2 applicant is at least 18 years of age and has been a resident of the
3 state for not less than one year immediately before the date of appli-
4 cation;

5 (2) pay a fee of \$5 per acre according to the description
6 provided by the applicant;

7 (3) agree to comply with the requirements of AS 38.09.050;

8 (4) certify that the corners of the land entered have been
9 staked and the boundaries have been flagged;

10 (5) assume full responsibility for the accuracy of the
11 description of the land filed with the commissioner under AS 38.09.-
12 020(b).

13 (b) Except as provided in (c) of this section, an applicant may
14 not hold more than one homestead entry permit at one time and may not
15 receive a patent to more than one homestead entry in a lifetime.

16 (c) The homestead entry permit may not be assigned, conveyed, or
17 in any manner transferred except

18 (1) by testate or intestate succession;

19 (2) to a spouse during marriage;

20 (3) by order of a court as part of a divorce settlement;

21 (4) to either a member of the immediate family or a grantee
22 of the applicant in the case of an extreme emergency or illness which
23 disables the applicant.

24 Sec. 38.09.040. REVOCATION OF ENTRY PERMITS. (a) A homestead
25 entry permit may be revoked by the commissioner for any substantial
26 breach of the permit conditions or the requirements of this chapter,
27 including

28 (1) an assignment, conveyance, or transfer of the permit
29 not authorized under AS 38.09.030(c);

1 (2) failure of the permit holder to submit a plat of survey
2 to the commissioner within two years after the issuance of the permit
3 or under (b) of this section;

4 (3) failure of the permit holder to erect a dwelling in the
5 time required under AS 38.09.050(a), except that if the commissioner
6 finds that the dwelling has been nearly completed and progress toward
7 completion is being made at the expiration of the time required, the
8 commissioner may extend the time required for completion for not more
9 than one year;

10 (4) failure to brush the boundaries of the land within 90
11 days after issuance of the homestead entry permit;

12 (5) failure to clear and either put into production or
13 prepare for cultivation 25 percent of the land classified for agricul-
14 tural use within five years after the issuance of the permit.

15 (b) If the commissioner determines that a permit holder has made
16 a good faith effort to obtain a plat of survey, the commissioner may
17 extend the time required for completion of the plat of survey for not
18 more than three years after the issuance of the permit.

19 (c) If a homestead entry permit is revoked under (a) of this
20 section, improvements or personal property upon the land shall be
21 managed under AS 38.05.090 and the state land remains available for
22 homestead entry under this chapter.

23 Sec. 38.09.050. ISSUANCE OF PATENT. (a) The commissioner shall
24 issue a patent to homestead entry land if the permit holder

25 (1) resides and lives on the homestead entry land for not
26 less than 25 months within five years after the issuance of the home-
27 stead entry permit;

28 (2) completes an approved survey of the land within two
29 years after the issuance of the permit or under AS 38.09.040(b);

1 (3) erects a habitable, permanent dwelling on the homestead
2 within three years after the issuance of the homestead entry permit;

3 (4) brushes the boundaries of the land within 90 days after
4 the issuance of the permit;

5 (5) clears and either puts into production or prepares for
6 cultivation 25 percent of the land classified for agricultural use
7 within five years after issuance of the permit.

8 (b) Nothing in this chapter prohibits a homestead entry permit
9 holder from residing in a temporary dwelling on the homestead before
10 erection of the permanent dwelling.

11 (c) The commissioner may reserve or exclude from a patent ease-
12 ments or rights-of-way for roads, trails, trap lines, public access
13 ways, utility corridors, and transportation facilities.

14 (d) A patent to homestead entry land not purchased under AS
15 38.09.090 shall provide that the land may not be subdivided before
16 five years after the issuance of patent.

17 (1) the land may not be sold, leased, or otherwise conveyed
18 before five years after the date that the patent is issued except
19 under the provisions of AS 38.09.030(c); and

20 (2) the land may not be subdivided before five years after
21 the issuance of patent.

22 (e) A patent to homestead entry land purchased under AS
23 38.09.090 shall contain the following conditions:

24 (1) the land may not be sold, leased, or otherwise conveyed
25 until at least five years after the date that the patent is issued
26 except under the provisions of AS 38.09.030(c); and

27 (2) the land may not be subdivided before ten years after
28 the issuance of patent.

29 Sec. 38.09.060. MARKING BOUNDARIES. If it is impractical to

1 brush the boundaries of a homestead entry, an applicant shall flag the
2 boundaries.

3 Sec. 38.09.070. PRIORITY OF APPLICATIONS. The commissioner
4 shall issue a homestead entry permit to the first applicant for land
5 to comply with AS 38.09.020(b).

6 Sec. 38.09.080. LAND WITHIN MUNICIPALITIES. (a) If a munic-
7 ipality has filed a selection of state lands under AS 29.18.201 -
8 29.18.213 with the commissioner, the state lands selected may not be
9 designated for homestead entry; if the commissioner determines that
10 land selected by a municipality is not available for patent to the
11 municipality under AS 29.18.201 - 29.18.213, the state land is avail-
12 able for designation by the commissioner for homestead entry under
13 AS 38.09.010.

14 (b) The disposal of homestead entry land is subject to local
15 platting, recording, or subdivision requirements established under
16 AS 29.33 and AS 40.15.

17 Sec. 38.09.090. PURCHASE. If an applicant complies with the
18 requirements of AS 38.09.050(a)(2), (4), and (5) and pays to the com-
19 missioner an amount equal to five percent of the fair market value
20 within two years of the issuance of an entry permit, an applicant may
21 purchase the land under AS 38.05.065. The purchase price is the fair
22 market value of the land at the issuance of the entry permit as de-
23 termined by the commissioner.

24 Sec. 38.09.100. LESSEES OF REMOTE PARCELS. (a) A lessee of a
25 remote parcel under AS 38.05.077 may elect to obtain title to the
26 remote parcel under AS 38.09.050. If a lessee of a remote parcel
27 elects to obtain title under AS 38.09.050, the effective date of this
28 Act shall be considered the date of the issuance of the homestead
29 entry permit.

1 (b) Except as provided in (a) of this section, nothing in this
2 chapter affects the rights and obligations of lessees of remote
3 parcels under AS 38.05.077.

4 Sec. 38.09.110. REGULATIONS. The commissioner shall adopt
5 regulations to implement this chapter.

6 Sec. 38.09.900. DEFINITIONS. In this chapter

7 (1) "brush" means to clear a swath along the boundary lines
8 of a homestead entry so that the boundary lines may be identified from
9 the ground;

10 (2) "commissioner" means the commissioner of natural re-
11 sources;

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

17 (4) "permanent dwelling" does not include a mobile home
18 unless it is placed on and attached to a permanent foundation;

19 (5) "resident" means an individual who has resided in the
20 state for one year, is a U.S. citizen and does not claim residence in
21 another state, and shows by all attending circumstances an intent to
22 make this state the individual's permanent residence.

23 * Sec. 2. AS 38.04.020(d)(1) is amended to read:

24 (1) land suitable for homestead [REMOTE PARCEL] disposal;

25 * Sec. 3. AS 38.04.020(e)(1) is amended to read:

26 (1) for survey and disposal of land proposed to be made
27 available for homestead [REMOTE PARCEL] staking, with the general
28 location of the land;

29 * Sec. 4. AS 38.04.020(g)(1) is amended to read:

1 (1) Land designated as suitable for homestead [REMOTE
2 PARCEL] disposal shall be classified and surveyed under this chapter
3 and AS 38.05 and made available for staking and lease under AS 38.09
4 [AS 38.05.077].

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

6 (f) If only one application for a parcel is received, the com-
7 missioner shall offer the parcel to the applicant who applied for the
8 parcel if the applicant is qualified to participate in the lottery.
9 If more than one application is received for a parcel, [OR IF MORE
10 APPLICATIONS ARE RECEIVED FOR THE RIGHT TO SELECT A REMOTE PARCEL
11 OFFERED UNDER AS 38.05.077 THAN THE NUMBER OF REMOTE PARCELS AUTHO-
12 RIZED,] the commissioner shall select the applicant who is entitled to
13 receive a conveyance of the land by lottery. If the commissioner does
14 not receive an application for a parcel of state land or if a pur-
15 chaser fails to sign a lease agreement or contract of sale, the parcel
16 shall be offered to the first eligible person to apply for the parcel.
17 If the parcel was designated as a homesite and offered to the public
18 under AS 38.05.047(f), the parcel shall be disposed of under the terms
19 required by AS 38.08.

20 * Sec. 6. AS 38.05.067(e) is amended to read:

21 (e) This section does not apply to the sale of state land under
22 AS 38.04.020(g)(2) and AS 38.09 [, AS 38.05.077, and 38.05.078].

23 * Sec. 7. AS 38.05.077 and 38.05.078 are repealed.

24 * Sec. 8. Section 1 of this Act takes effect immediately in accordance
25 with AS 01.10.070(c).

26 * Sec. 9. Sections 2 - 7 of this Act take effect July 1, 1984.