

Introduced: 4/8/83
Referred: Labor & Commerce
and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Code Revision
Commission)

1 IN THE HOUSE

2

HOUSE BILL NO. 342

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 filing and recording and to
7 recordable documents; and providing for an effective
8 date."

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

10 * Section 1. AS 19.10.260(2) is amended to read:

11 (2) file and record in the local recording district, after
12 completion of highway construction, an accurate right-of-way map that
13 will contain sufficient engineering and survey information designating
14 where the resulting boundary lines are located on private or municipal
15 property along the highway.

16 * Sec. 2. AS 29.33.160(b) is amended to read:

17 (b) The platting board shall file and record [SUBMIT] an ap-
18 proved plat with [TO] the district recorder in compliance with AS 40.-
19 15.010 - 40.15.020.

20 * Sec. 3. AS 29.33.170 is amended to read:

21 Sec. 29.33.170. WAIVER IN CERTAIN CASES. (a) The platting
22 authority shall, in individual cases, waive the preparation, sub-
23 mission for approval, filing, and recording of a plat upon satis-
24 factory evidence that

25 (1) each tract or parcel of land will have adequate access
26 to a public highway or street;

27 (2) each parcel created is five acres in size or larger and
28 that the land is divided into four or fewer parcels;

29 (3) the conveyance is not made for the purpose of, or in

1 connection with, a present or projected subdivision development;

2 (4) no dedication of a street, alley, thoroughfare or other
3 public area is involved or required.

4 (b) In other cases the platting authority may waive the prepara-
5 tion, submission for approval, filing, and recording of a plat, if the
6 transaction involved does not fall within the general intent of
7 AS 29.33.150 - 29.33.240 and AS 40.15 if it is not made for the pur-
8 pose of, or in connection with, a present or projected subdivision
9 development and no dedication of a street, alley, thoroughfare, park
10 or other public area is involved or required.

11 * Sec. 4. AS 29.33.190 is amended to read:

12 Sec. 29.33.190. PENALTIES. (a) The owner or agent of the owner
13 of land located within a subdivision who transfers, sells, or enters
14 into a contract to sell land in a subdivision before a plat of the
15 subdivision has been prepared, approved, filed, and recorded, is
16 guilty of a misdemeanor and upon conviction is punishable by a fine of
17 not more than \$500 for each lot or parcel transferred, sold, or in-
18 cluded in a contract to be sold. The borough may enjoin a transfer,
19 sale, or contract to sell, and may recover the penalty by appropriate
20 legal action.

21 (b) A [NO] person may not file or record a plat or seek to have
22 a plat filed or recorded unless it bears the approval of the platting
23 board. A person who knowingly violates this requirement is punishable
24 upon conviction by a fine of not more than \$500.

25 * Sec. 5. AS 29.33.200 is amended to read:

26 Sec. 29.33.200. ALTERATION OF REPLAT PETITION. A filed or [NO]
27 recorded plat may not be altered or replatted except upon petition of
28 the owners of a majority of the land affected by the alteration or
29 replat or by the platting board. A [NO] platted street may not be

1 vacated, except upon petition of the municipality or owners of the
2 majority of the front feet of the land fronting the part of the street
3 sought to be vacated. The petition shall be filed with the platting
4 board. It shall be accompanied by a copy of the existing plat showing
5 the proposed alteration or replat.

6 * Sec. 6. AS 29.33.230 is amended to read:

7 Sec. 29.33.230. FILING AND RECORDING. If the alteration or
8 replat is approved, the revised plat must be filed and recorded by the
9 platting board and is thereafter the lawful plat.

10 * Sec. 7. AS 34.07.020(14) is amended to read:

11 (14) a reference to the file number and recording informa-
12 tion for [OF] the floor plans of the building affected which are
13 required to be filed and recorded simultaneously with the declaration
14 under AS 34.07.030.

15 * Sec. 8. AS 34.07.030 is amended to read:

16 Sec. 34.07.030. FILING AND RECORDING OF SURVEY MAP AND FLOOR
17 PLANS WITH VERIFIED STATEMENT. There shall be filed and recorded
18 simultaneously with the recording of the declaration in the recording
19 district in which the property is located

20 (1) a survey map of the surface of the land submitted under
21 [TO] the provisions of this chapter showing the location of the build-
22 ing on it;

23 (2) a set of the floor plans of the building showing the
24 layout, apartment numbers and dimensions of the apartments in suffi-
25 cient detail to identify and locate each apartment with certainty,
26 stating the name of the building or that it has no name, and bearing
27 the verified statement of a registered architect or registered profes-
28 sional engineer certifying that it is an accurate copy of portions of
29 the plans of the building as filed with and approved by the

1 governmental entity having jurisdiction over the approval or issuance
2 of permits for the construction of the building, or a statement that
3 no approval or permit is required.

4 * Sec. 9. AS 34.07.040(a) is amended to read:

5 (a) If the floor plans do not include a verified statement by a
6 registered architect or registered professional engineer that the
7 plans fully and accurately depict the layout, apartment numbers, and
8 dimensions of the apartments as built, there shall be recorded before
9 the first conveyance of an apartment an amendment to the declaration
10 to which shall be attached a verified statement of a registered archi-
11 tect certifying that the plans previously filed and recorded or being
12 filed and recorded simultaneously with the amendment fully and accu-
13 rately depict the layout, apartment number and dimensions of the
14 apartments as built.

15 * Sec. 10. AS 34.07.050 is amended to read:

16 Sec. 34.07.050. FORM OF FLOOR PLANS. The recording office shall
17 prescribe the style, size, form, and quality of floor plans filed and
18 recorded under AS 34.07.030.

19 * Sec. 11. AS 38.04.045(b) is amended to read:

20 (b) Before the conveyance of surface rights to state land, an
21 official cadastral survey shall be accomplished, unless a comparable,
22 acceptable survey exists that has been conducted by the federal Bureau
23 of Land Management. The rectangular survey section corner positions
24 shall be monumented and shown on a cadastral survey plat approved by
25 the state. However, for those areas where the state may wish to convey
26 surface estate outside of an official cadastral survey grid, the
27 director may waive monumentation of all individual section corner
28 positions and substitute an official control survey with control
29 points being monumented at approximately two-mile intervals and shown

1 on control survey plats approved by the state. No portion of land to
2 be conveyed may be located more than two miles from such a survey
3 control monument. The lots and tracts in state subdivisions shall be
4 monumented and the cadastral survey and plats for the subdivision
5 shall be approved by the state. Where land is located within a muni-
6 cipality with planning, platting, and zoning powers, plats for state
7 subdivisions shall comply with local ordinances and regulations in the
8 same manner and to the same extent as plats for subdivisions by other
9 landowners. State subdivisions shall be filed and recorded in the
10 district recorder's office. The requirements of this section do not
11 apply to land made available through a cabin permit system, material
12 sales, or short-term leases; however, for short-term leases the lessee
13 must comply with local subdivision ordinances unless waived by the
14 municipality under procedures specified by ordinance.

15 * Sec. 12. AS 40.15.010 is amended to read:

16 Sec. 40.15.010. APPROVAL, FILING, AND RECORDING OF SUBDIVISIONS.
17 Before the lots or tracts of any subdivision or dedication may be sold
18 or offered for sale, the subdivision or dedication shall be submitted
19 for approval to the authority having jurisdiction, as prescribed in
20 this chapter. The regular approval of the authority shall be shown on
21 it or attached to it and the subdivision or dedication shall be filed
22 and recorded [FOR RECORD] in the office of the recorder. The recorder
23 may [SHALL] not accept a subdivision or dedication for filing and
24 recording unless it shows this approval. If no platting authority
25 exists as provided in AS 40.15.070 - 40.15.130, lands may be sold
26 without approval.

27 * Sec. 13 AS 40.15.020 is amended to read:

28 Sec. 40.15.020. PLATS TO BE ACKNOWLEDGED AND CONTAIN CERTIFICATE
29 THAT TAXES AND ASSESSMENTS ARE PAID. Every plat shall be acknowledged

1 before an officer authorized to take acknowledgment of deeds. A cer-
2 tificate of acknowledgment shall be endorsed on or annexed to the plat
3 and recorded with it. A person filing and recording a plat, map, sub-
4 division, or replat of property, or vacating the whole or any portion
5 of an existing plat, map, subdivision, or replat shall [, AT THE TIME
6 OF FILING IT FOR RECORD OR FILING THE PETITION TO VACATE,] file and
7 record with it a certificate from the tax-collecting official or
8 officials of the area in which the land is located that all taxes
9 levied against the property at that date are paid.

10 * Sec. 14. AS 40.15.030 is amended to read:

11 Sec. 40.15.030. DEDICATION OF STREETS, ALLEYS AND THOROUGHFARES.

12 When an area is subdivided and a plat of the subdivision is approved,
13 filed, and recorded, all streets, alleys, thoroughfares, parks and
14 other public areas shown on the plat are considered to be [DEEMED TO
15 HAVE BEEN] dedicated to public use.

16 * Sec. 15. AS 40.15.040 is amended to read:

17 Sec. 40.15.040. CERTIFIED COPY OF PLAT AS [IS] EVIDENCE. A copy

18 of a plat certified by the recorder of the recording district in which
19 it is filed or recorded as a true and complete copy of the original
20 filed or recorded in the recording office for the district [ON FILE IN
21 HIS OFFICE] is admissible in evidence in all courts in the state with
22 the same effect as the original.

23 * Sec. 16. AS 40.15.050 is amended to read:

24 Sec. 40.15.050. [RECORDED] PLATS LEGALIZED. All plats filed

25 with the recorder [RECORDED] before March 30, 1953, whether executed
26 and acknowledged in accordance with this chapter or not, are validated
27 and all streets, alleys or public thoroughfares shown on these plats
28 are considered to be [AS HAVING BEEN] dedicated to public use. [THIS
29 SECTION DOES NOT PROHIBIT THE ABANDONMENT OF A PLAT RECORDED BEFORE

1 MARCH 30, 1953, IF A SUBSEQUENT PLAT IS FILED INDICATING ABANDONMENT.]
2 The last plat of the area on file with the recorder [OF RECORD] on
3 March 30, 1953, is the official plat of the area as of that date, and
4 the streets, alleys, or thoroughfares shown on it are considered
5 [DEEMED] to be [THE STREETS, ALLEYS OR THOROUGHFARES] dedicated to
6 public use. The streets, alleys or thoroughfares shown on an earlier
7 plat of the same area or any part of it which is in conflict with
8 those shown on the official plat are considered to be [IS DEEMED TO
9 HAVE BEEN] abandoned and vacated.

10 * Sec. 17. AS 40.15.060 is amended to read:

11 Sec. 40.15.060. MISSING PLATS. When [WHERE] a filed or recorded
12 plat is missing and no present record is available except by reference
13 to the missing plat, a counterpart copy, approved by the platting
14 authority, may be filed and recorded as of the original date of the
15 missing plat and after filing and recording [RECORDATION] has the same
16 legal effect and notice as the original missing plat.

17 * Sec. 18. AS 40.15.070 is amended to read:

18 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be
19 subdivided or dedicated is situated within a first or second class
20 borough, the proposed subdivision or dedication shall be submitted to
21 the borough planning commission for approval. If the land is situated
22 within a city in the unorganized borough or the third class borough,
23 the proposed subdivision or dedication shall be submitted to the city
24 planning commission for approval. The borough planning commission is
25 the platting authority for the first or second class borough, the city
26 planning commission is the platting authority for the city, and the
27 Department of Natural Resources [DIVISION OF LANDS] is the platting
28 authority in the remaining areas of the state and third class borough
29 for the change or vacation of existing plats or a portion of such

1 plats, as provided in AS 40.15.075. If the borough or the city does
2 not have a planning commission, the borough assembly or the city
3 governing body, respectively, is the platting authority and the pro-
4 posed subdivision or dedication shall be submitted to it. A [NO]
5 subdivision may not be filed and recorded [FOR RECORD] until it is
6 approved by the platting authority.

7 * Sec. 19. AS 40.15.075 is amended to read:

8 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD
9 CLASS BOROUGH. The Department of Natural Resources [DIVISION OF
10 LANDS] is the platting authority in the area outside organized bor-
11 oughs and outside cities in the unorganized borough and in the third
12 class borough for only the purposes of hearing and acting on petitions
13 for the change or vacation of plats and shall execute this function
14 substantially in conformity with the provisions of AS 29.33.210 -
15 29.33.240. Costs of publication and mailing as well as other costs
16 authorized in AS 29.33.210 shall be paid to the Department of Natural
17 Resources [DIVISION] by the petitioner. The Department of Natural
18 Resources shall adopt reasonable regulations governing the exercise of
19 the authority conferred by this section [UPON THE DIVISION OF LANDS].

20 * Sec. 20. AS 40 is amended by adding a new chapter to read:

21 CHAPTER 17. RECORDING IN PUBLIC RECORDS.

22 Sec. 40.17.010. PLACE OF RECORDING AND ACCESS TO RECORDS. (a)
23 The Department of Natural Resources shall provide at each public
24 office designated by the department.

25 (1) the documents and indices or alternative document re-
26 trieval system of the recording district or districts served by that
27 public office;

28 (2) a machine, device or system with which to retrieve
29 stored documents;

1 (3) a means for making copies of recorded documents and a
2 person authorized by the recorder to certify the copies;

3 (4) to the extent money is appropriated for the purpose, a
4 machine, device, or system capable of rapidly transmitting a document
5 eligible for recording to a recorder at one place of recording in the
6 state, and a person to operate the machine, device, or system; if the
7 department determines that it is not feasible to provide a machine,
8 device, or system in an office serving a recording district, it shall
9 provide for transmitting documents from the office by other expedi-
10 tious means.

11 (b) The department shall provide the staff and equipment to re-
12 ceive and record documents and to store them permanently.

13 (c) The recorder shall record class B documents at a single
14 place in the state designated by the department. Other recording
15 offices may not accept a class B document for recording.

16 (d) When rapid recording and retrieval and secure storage of
17 class A documents can be provided for all recording districts with a
18 single place of recording in the state, the recorder shall record
19 class A documents at a single place in the state designated by the
20 department.

21 (e) The recorder shall provide reasonable public access during
22 business hours to recorded documents, indices, and facilities provided
23 for in this section.

24 Sec. 40.17.020. RECORDING CONVEYANCES. (a) A conveyance that
25 is eligible for recording as a class A document under AS 40.17.030 and
26 40.17.110 may be recorded only as a class A document, and only in the
27 records of the recording district in which land affected by the con-
28 veyance is located. If land affected by the conveyance is located in
29 more than one recording district, an original conveyance may be

1 recorded in the records of any district in which part of the land is
2 located and an original or a certified copy may be recorded in the
3 records of each other district in which part of the land is located.
4 A certified copy so recorded has the same effect from the time it is
5 recorded as though it were the original conveyance.

6 (b) A certified copy of a conveyance that is eligible for re-
7 cording as a class A document under AS 40.17.030 and 40.17.110 and
8 that has been recorded or filed in a public recorder's office in
9 another state or in the United States Bureau of Land Management may be
10 recorded only as a class A document, and only in the records of a
11 recording district where land affected by the conveyance is located.
12 When so recorded, it has the same effect from the time it is recorded
13 as though it were the original conveyance.

14 Sec. 40.17.030. FORMAL REQUISITES FOR RECORDING. (a) To be
15 eligible for recording, a document must be

16 (1) legible or capable of being converted into legible form
17 by a machine or device used in the recording office;

18 (2) capable of being copied by the method used in the
19 recording office;

20 (3) accompanied by the proper fee for recording and include
21 or be accompanied by information, stamps, certificates, taxes, or fees
22 that under other laws are necessary to qualify the document for re-
23 cording;

24 (4) accompanied by or include the information needed to
25 index a class A document under regulations of the department, or the
26 names needed to index a class B document under AS 40.17.040(c);

27 (5) accompanied by or include the name and address of the
28 person to whom the document is to be returned after recording; and

29 (6) accompanied by or include the mailing addresses of all

1 persons named in the document who grant or acquire an interest under
2 the document if it is a conveyance; this paragraph does not apply to a
3 release of a security interest.

4 (b) A class B document may not be recorded unless, in addition
5 to the name required in (a)(5) of this section, it is accompanied by
6 or includes the name of the person in whose behalf the document is
7 recorded.

8 (c) A signature, acknowledgment, seal, or witness is required
9 for a document to be eligible for recording only when required for the
10 specific document by this chapter or by other law.

11 (d) A name, address, or other information required by this
12 section shall be contained in the document that is to be recorded, or
13 shall be recorded with the document.

14 Sec. 40.17.040. INDEXING. (a) A document must be indexed based
15 on its classification under AS 40.17.110.

16 (b) For class A recorded documents, the recorder shall maintain
17 an index system in the manner prescribed by regulations adopted by the
18 department. The system must be designed so the public may find class
19 A documents by names of grantors and grantees, and the system may
20 include other means for locating the documents. The recorder shall
21 maintain the index to class B documents at the one place of recording
22 for class B documents.

23 (c) For class B documents, the recorder may make no index en-
24 tries except the name or names chosen for indexing by the person who
25 presents the document for recording, the date of recording, and the
26 serial number or identifying code of the document.

27 Sec. 40.17.050. INCORPORATION OF MASTER FORM. A recorded master
28 form, or a numbered paragraph of it, may be incorporated by reference
29 in a recorded document by referring to the form by its recording

1 information and the number of the paragraph to be incorporated. The
2 reference has the same effect as if the master form or the numbered
3 paragraph were reproduced in full in the record at the place where the
4 reference to the form or paragraph is made.

5 Sec. 40.17.060. DOCUMENTS EXECUTED UNDER FORMER LAW. If a docu-
6 ment included under AS 40.17.110(b) or (c) was executed in accordance
7 with the law in effect at the time the document was executed, the
8 document remains recordable as a class A document regardless of later
9 amendments to the law changing the manner in which that document is to
10 be executed.

11 Sec. 40.17.070. DUTIES OF RECORDER. (a) The recorder shall
12 promptly record all documents presented which are recordable in ac-
13 cordance with AS 40.17.020, 40.17.030 and 40.17.110.

14 (b) The recorder shall maintain separate daily logs and indices
15 for class A and class B documents with a separate system of serial
16 numbers for each class. The daily log and index for class B documents
17 shall be maintained in the central recording office.

18 (c) As a document is recorded, the recorder shall

19 (1) indicate on or attach to each class A document the
20 date, hour, and minute of recording, enter that information and a
21 consecutive serial number in a daily log of class A documents without
22 delay in the order in which the documents are received, and note the
23 serial number on the document;

24 (2) indicate on or attach to each class B document the date
25 of recording, enter the date of recording and a consecutive serial
26 number in a daily log of class B documents, and note the serial number
27 on the document.

28 (d) The recorder shall mark each document to show in which class
29 it is recorded. If a document presented for recording as a class A

1 document is reviewed and rejected for recording as a class A document,
2 the recorder shall indicate on or attach to the document the date,
3 hour, and minute of rejection and a citation of the statute requiring
4 rejection. If the document is later determined to be recordable as a
5 class A document in the form in which it was earlier presented to the
6 recorder, later recording does not relate back to the time and date of
7 rejection. Recording is effective when the document is accepted for
8 recording, regardless of the cause of the rejection.

9 (e) The recorder shall promptly copy recorded documents and
10 place them in permanent records and shall note the recording informa-
11 tion at the entry of each document in the daily log.

12 (f) Promptly after recording a document, the recorder shall make
13 the index entries required in this chapter and in the regulations of
14 the department.

15 (g) After recording, the recorder shall return the document to
16 the person who presented it or a person designated by the person who
17 presented it.

18 (h) The recorder shall certify copies and provide a certified
19 copy of a recorded document to a person who tenders the proper fee.

20 (i) The recorder need not record part of a document if the part
21 is identified and preceded by the words "From Previously Recorded
22 Master Form--Do Not Record" and the recorded part contains a reference
23 to the master form's recording information.

24 Sec. 40.17.080. EFFECT OF RECORDING ON TITLE AND RIGHTS: CON-
25 STRUCTIVE NOTICE. (a) Subject to (c) and (d) of this section, from
26 the time a class A document is recorded in the records of the record-
27 ing district in which land affected by it is located, the recorded
28 document is constructive notice of the contents of the document to
29 subsequent purchasers and holders of a security interest in the same

1 property or a part of the property. Recording of a class B document
2 does not provide constructive notice for any purpose. The class of a
3 document is determined under AS 40.17.110.

4 (b) A conveyance of real property in the state (other than a
5 lease for a term of less than one year) is void as against a subse-
6 quent innocent purchaser in good faith for valuable consideration of
7 the property or a part of the property whose conveyance is first
8 recorded as a class A document. An unrecorded conveyance is valid as
9 between the parties to it and as against one who has actual notice of
10 it. In this subsection, "purchaser" includes a holder of a consensual
11 interest in real property which secures payment or performance of an
12 obligation.

13 (c) The recording of an assignment of a security interest is not
14 in itself notice to the debtor. The debtor may pay the assignor
15 unless the debtor has actual notice of the assignment.

16 (d) A recorded option or agreement to enter into a contract in
17 the future ceases to be constructive notice for any purpose

18 (1) when six months have elapsed after the date of record-
19 ing of the option or agreement, if the recorded option or agreement
20 contains no expiration date;

21 (2) when 30 days have elapsed after the expiration date of
22 the option or agreement, if the recorded option or agreement contains
23 an expiration date.

24 Sec. 40.17.090. CONVEYANCES AND RECORDED DOCUMENTS AS EVIDENCE.

25 (a) A conveyance that is acknowledged, proven, or certified under
26 AS 34.15.150 - 34.15.250 is admissible as evidence of the conveyance
27 without further proof.

28 (b) An acknowledged and recorded signed class A document relat-
29 ing to title to real property creates presumptions with respect to

1 title that

2 (1) the document is genuine and was executed as the volun-
3 tary act of the person purporting to execute it;

4 (2) the person executing the document and the person on
5 whose behalf it is executed are the persons they are purported to be
6 and the person executing it was neither incompetent nor a minor at any
7 relevant time;

8 (3) delivery of the document occurred notwithstanding a
9 lapse of time between dates on the document and the date of recording;

10 (4) any necessary consideration was given;

11 (5) the grantee, transferee, or beneficiary of an interest
12 created or claimed by the document acted in good faith at all relevant
13 times up to and including the time of the recording;

14 (6) a person purporting to act as an agent, attorney in
15 fact under a recorded power of attorney or authority, officer of an
16 organization, or in a fiduciary or official capacity, held the posi-
17 tion the person purported to hold, acted within the scope of the
18 person's authority, and in the case of an organization, the authoriza-
19 tion satisfied all requirements of law; and in the case of an agent,
20 acted for a principal who was neither incompetent nor a minor at any
21 relevant time and who had not revoked the agency;

22 (7) if the document purports to be executed in accordance
23 with or to be a final determination in a judicial or administrative
24 proceeding, or to be executed under a power of eminent domain, the
25 court, official body, or condemnor acted within its jurisdiction and
26 all steps required for the execution of the title document were taken;

27 (8) the recitals and other statements of fact in a convey-
28 ance are true if the matter stated is relevant to the purpose of the
29 document;

1 (9) the persons named in, signing, or acknowledging the
2 document and persons named in, signing, or acknowledging another
3 related document in a chain of title are identical, if the persons
4 appear in those documents under identical names, or under variants of
5 the names, including inclusion, exclusion, or use of

6 (A) commonly recognized abbreviations, contractions,
7 initials, or colloquial or other equivalents;

8 (B) first or middle names or initials;

9 (C) simple transpositions that produce substantially
10 similar pronunciations;

11 (D) articles or prepositions in names or titles;

12 (E) descriptions of entities as corporations, com-
13 panies, or abbreviations or contractions of either; or

14 (F) name suffixes, such as "Senior" or "Junior",
15 unless other information appears of record indicating that they
16 are different persons; and

17 (10) all other requirements for the execution, delivery and
18 validity of the document have been satisfied.

19 (c) The presumptions stated in (b) of this section arise even if
20 the document purports only to release a claim or convey an interest of
21 the person executing it or of the person on whose behalf it is exe-
22 cuted.

23 (d) Facts stated in a recorded certificate of a public official
24 in affidavit form or under the seal of the official's office and
25 derived from information or documents obtained or kept by the official
26 as part of official duties are presumed to be true.

27 (e) If presumptions created by this section are inconsistent,
28 the presumption applies that is founded upon weightier consideration
29 of policy and logic. If these considerations are of equal weight,

1 neither presumption applies.

2 Sec. 40.17.100. RECORDING A RECONVEYANCE. When the parties to a
3 recorded conveyance absolute in its terms intend it to serve only as
4 security for repayment of a debt, the conveyance is absolute as to all
5 persons who rely upon it in good faith and for value before a recon-
6 veyance is recorded.

7 Sec. 40.17.110. CLASSES OF DOCUMENTS ELIGIBLE FOR RECORDING.

8 (a) A signed document listed in (b) of this section or included under
9 (c) of this section that meets the requisites for recording under
10 AS 40.17.030 may be recorded as a class A document. The recorder may
11 not record as a class B document a document that would be a class A
12 document except for a technical defect in the document. A document
13 that meets the requisites for recording under AS 40.17.030 and that is
14 not a conveyance or a defective class A document, is a class B docu-
15 ment the recording of which is permitted for the safekeeping of a
16 record copy of the document. The effect on title and rights of re-
17 cording class A and class B documents is set out in AS 40.17.080.

18 (b) The recorder may record as a class A document only

19 (1) a conveyance acknowledged or proven under AS 34.15.-
20 150 - 34.15.250 or a certified copy of the conveyance if recording the
21 copy is permitted by AS 40.17.020;

22 (2) an acknowledged or proven power of attorney or other
23 instrument granting or revoking a power to act as agent or attorney
24 for another person;

25 (3) a contract for the sale or purchase of real property,
26 when acknowledged or proven by all parties to the contract;

27 (4) an option for the purchase of real property when it is
28 acknowledged by the person granting the option;

29 (5) a certificate of a public official or an affidavit of

1 any person that may affect the title to or any interest in real prop-
2 erty in the state that is described in the certificate or affidavit,
3 stating facts relating to age, sex, birth, death, capacity, relation-
4 ship, family history, heirship, names, identity of parties, marital
5 status, possession or adverse possession, adverse use, residence,
6 service in the armed forces, conflicts and ambiguities in description
7 of land in recorded instruments, and the happening of any condition or
8 event that may terminate an estate or interest; a certificate or
9 affidavit recorded under this section must contain the recording
10 information of a recorded document referred to in it;

11 (6) an instrument by which a real property security agree-
12 ment is subordinated or waived as to priority;

13 (7) a document creating a condition, covenant, restriction,
14 or reservation relating to rights in real property;

15 (8) an assignment of all or part of a security interest in
16 real property;

17 (9) a release of lien or security interest in real prop-
18 erty;

19 (10) a conformed copy of a document that is otherwise re-
20 cordable as a class A document under this section, when the person
21 offering the document attaches to it an affidavit that

22 (A) the conformed copy was received by the person in
23 the course of the transaction;

24 (B) the original is not in the person's possession;
25 and

26 (C) the instrument offered for recordation is a con-
27 formed copy;

28 (11) a conveyance from the United States of an interest in
29 real property in the state;

- 1 (12) a certified copy of a petition in bankruptcy;
- 2 (13) a notice of an action previously filed and pending in a
3 court of the state or the United States affecting title to real prop-
4 erty in the state, if the notice contains the case number assigned by
5 the court and a description of the property affected in the recording
6 district;
- 7 (14) notice of an action for divorce, separate maintenance,
8 annulment or dissolution of marriage previously filed and pending in a
9 court of any state or the United States affecting title to real prop-
10 erty in this state, if the notice contains the case number assigned by
11 the court;
- 12 (15) notice of a pending judicial proceeding to compel
13 recording or indexing, if the notice contains the case number assigned
14 by the court;
- 15 (16) a certified copy of a judgment decree or order of a
16 court of a state in an action for divorce, separate maintenance,
17 annulment or dissolution of marriage requiring the execution of a
18 conveyance of real property in this state;
- 19 (17) a list of real property granted by a governmental
20 entity to the state, a municipality, or a corporation;
- 21 (18) a conveyance executed by an officer of the state by
22 authority of law in the state;
- 23 (19) a notice limiting future advances under a recorded
24 security agreement;
- 25 (20) a certified copy of a judgment or decree of a court of
26 the state or of a court of record of the United States or a certified
27 copy of a satisfaction of judgment or decree;
- 28 (21) a certificate of attachment or an order or proceeding
29 of record discharging attachment;

- 1 (22) a condemnation order;
- 2 (23) a declaration of taking;
- 3 (24) a copy of the record of the meeting of a cemetery
- 4 association;
- 5 (25) a cooperative contract;
- 6 (26) a list of persons whose cooperative contracts have been
- 7 terminated;
- 8 (27) a letter of conservatorship;
- 9 (28) an employee's lien for failure to make payments to a
- 10 benefit fund;
- 11 (29) an employment security contributions lien;
- 12 (30) a verified workers' compensation lien;
- 13 (31) a mining claim, location, or lease;
- 14 (32) a grubstake contract;
- 15 (33) a mining assessment work affidavit;
- 16 (34) a notice to contribute or forfeit an interest in a
- 17 mining claim;
- 18 (35) a subdivision plat;
- 19 (36) a signed and sworn-to certificate of limited partner-
- 20 ship and a signed and sworn-to amendment to a certificate of limited
- 21 partnership;
- 22 (37) a condominium declaration, amendments to it, an instru-
- 23 ment by which property may be removed from the provisions of AS 34.07
- 24 and an instrument affecting the property or apartment controlled by
- 25 AS 34.07;
- 26 (38) a survey map and floor plan for a condominium;
- 27 (39) a substitution of trustee under a deed of trust, or
- 28 other person having a power of sale under a real property security
- 29 agreement, when executed and acknowledged by all the beneficiaries;

- 1 (40) notice and affidavits required in default and sale
2 under a deed of trust;
- 3 (41) a notice of right to mechanics' or materialmen's lien;
- 4 (42) an attested or notarized copy of a notice of nonrespon-
5 sibility for construction, alteration, or repair;
- 6 (43) an acknowledgment of right to mechanics' or material-
7 men's lien;
- 8 (44) a verified claim of any of the liens provided by
9 AS 34.35;
- 10 (45) a verified notice of completion of a building or im-
11 provement;
- 12 (46) a bond guaranteeing payment of the sum recovered on a
13 mechanics' or materialmen's lien;
- 14 (47) a notice extending a mechanics' or materialmen's lien;
- 15 (48) a state tax lien;
- 16 (49) a federal tax lien;
- 17 (50) an instrument transferring a water appropriation or a
18 certified copy of it;
- 19 (51) a financing statement covering goods that are or are to
20 become fixtures to real property described in the financing statement;
21 if the debtor does not have an interest of record in the real prop-
22 erty, the financing statement must show the name of the record owner
23 of the real property;
- 24 (52) an assignment of rents;
- 25 (53) a memorandum of lease as defined in AS 40.17.120(b);
- 26 (54) a state highway right-of-way map;
- 27 (55) an armed forces report of separation;
- 28 (56) a document amending or correcting a recorded document
29 listed in this section if the amending or correcting document is

1 executed by the same parties who executed the original document; and

2 (57) a master form that can be incorporated by reference in
3 documents later recorded.

4 (c) A document specifically permitted or required to be recorded
5 by another law of the state or made recordable as a class A document
6 by regulation of the department may be recorded as a class A document.

7 Sec. 40.17.120. RECORDING MEMORANDUM OF LEASE. (a) Recording a
8 memorandum of lease substantially complying with (b) of this section
9 has the same effect as recording the lease.

10 (b) A memorandum of lease is a document signed by the lessor and
11 lessee and containing a reference to an unrecorded lease, sublease, or
12 agreement to lease or sublease, and supplying at least the following
13 information:

14 (1) the names of the parties;

15 (2) any addresses of the parties set out in the lease;

16 (3) the date of the lease;

17 (4) a description of the real property leased or subleased;

18 (5) the commencement and termination dates of the lease if
19 fixed and, if not fixed, the method by which the dates are to be
20 fixed; and

21 (6) a statement of the conditions upon which a party may
22 exercise a right to extend or renew the lease or to exercise a right
23 to purchase or refuse to purchase the real property or part of it.

24 Sec. 40.17.130. ACTIONS AGAINST RECORDER AND STATE. (a) If the
25 recorder fails to record and index a document properly, the recorder
26 may be compelled to record and index the document properly by an
27 action filed in the superior court.

28 (b) The state is liable to a person injured by the failure of
29 the recorder to perform duties under this chapter. Neither the

1 recorder nor a state employee performing duties of the recorder is
2 individually liable for a good faith error or omission made in the
3 course of employment.

4 Sec. 40.17.140. DEFINITIONS. In this chapter

5 (1) "acceptance" means the determination by the recorder
6 that a document is recordable under this chapter accompanied by mark-
7 ing an identifying code on the document and entering the document in a
8 daily log;

9 (2) "certified copy" means a copy of a document certified
10 as correct by the custodian or other person authorized to make the
11 certification;

12 (3) "conveyance" means a transfer of an interest in real
13 property other than by will or operation of law;

14 (4) "department" means the Department of Natural Resources;

15 (5) "document" means a writing, plat, or map, and includes
16 information in a form (such as electronic, mechanical, or magnetic
17 storage; microfilm; or electronic data transmission signals) that can
18 be converted into legible writing, plat, or map form by a machine or
19 device;

20 (6) "place of recording" means a place designated by the
21 department where documents recordable under this chapter are recorded;

22 (7) "record" means the acceptance of a document by the re-
23 corder that the recorder has determined is recordable under this
24 chapter and that is presented for recording in the place of recording
25 designated for the recording district where affected property is
26 located whether or not the place of recording is in that district, and
27 whether or not under applicable law the recorder is directed to record
28 the document;

29 (8) "recorder" means the commissioner of the department or

1 the commissioner's designee;

2 (9) "recording district" means a part of the state des-
3 igned a recording district under AS 44.37.025; and

4 (10) "recording information" means information (book and
5 page, document number, electronic retrieval code, or other specific
6 information) needed to find a document in the public records.

7 * Sec. 21. AS 40 is amended by adding a new chapter to read:

8 CHAPTER 19. RECORDING FEDERAL LIENS.

9 Sec. 40.19.010. SCOPE. The provisions of AS 40.19.010 - 40.19.-
10 040 apply to federal tax liens and to other federal liens notice of
11 which under an Act of Congress or a regulation adopted under the
12 authority of an Act of Congress is required or permitted to be filed
13 or recorded in the same manner as a notice of federal tax lien.

14 Sec. 40.19.020. PLACE OF RECORDING. (a) Notices of lien,
15 certificates, and other notices affecting a federal tax lien or other
16 federal lien must be recorded in accordance with AS 40.19.010 - 40.-
17 19.040.

18 (b) Notices of lien upon real property for obligations payable
19 to the United States and certificates and notices affecting the lien
20 shall be recorded in the records of the recording district in which
21 the real property subject to the lien is situated.

22 (c) Notices of federal lien upon personal property, whether tan-
23 gible or intangible, for obligations payable to the United States and
24 certificates and notices affecting the lien shall be recorded in the
25 records of the recording district where the person against whose
26 interest the lien applies resides at the time of recording of the
27 notice of lien.

28 (d) For purposes of (c) of this section the residence of a cor-
29 poration or partnership is the place in which the principal executive

1 office of the business is located.

2 Sec. 40.19.030. EXECUTION OF NOTICES AND CERTIFICATES. Certi-
3 fication of notices of lien, certificates, or other notices affecting
4 federal liens by the United States Secretary of the Treasury or by the
5 designee of the United States Secretary of the Treasury, or by an
6 official or entity of the United States responsible for filing, re-
7 cording, or certifying, of notice of any other lien, entitles the
8 notices or certificates to be recorded and no other attestation,
9 certification, or acknowledgement is necessary.

10 Sec. 40.19.040. DUTIES OF RECORDER. (a) If a notice of federal
11 lien, a rerecording of notice of federal lien, or a notice of revoca-
12 tion of a certificate described in (b) of this section is presented to
13 the recorder under AS 40.17, the recorder shall endorse on the notice
14 an identification and the date and time of recording and enter it
15 first in a daily log of class A documents and then in an alphabetical
16 index showing the name of the person named in the notice, the date and
17 time of recording, the title of the official or entity certifying the
18 lien, and the total amount appearing on the notice of lien.

19 (b) If a rerecorded notice of federal lien referred to in (a) of
20 this section or a certificate of release, nonattachment, discharge, or
21 subordination of lien or a revocation of any of these certificates is
22 presented to the recorder for recording, the recorder shall record it
23 in the way a document listed in (a) of this section would be recorded
24 and shall enter the rerecorded notice or the certificate or revocation
25 with the date of recording in the alphabetical index together with a
26 reference to the recording information for the original notice or
27 certificate to which it relates.

28 (c) A lien on file with records of a recording district on the
29 effective date of this section is considered to have been recorded at

1 the date and time it was filed.

2 (d) In this section "rerecording" includes recording of a lien
3 previously filed.

4 Sec. 40.19.050. UNIFORMITY OF APPLICATION AND CONSTRUCTION. To
5 the extent the provisions of this chapter follow the Uniform Federal
6 Lien Registration Act (1978) they shall be applied and construed to
7 effectuate their general purpose to make uniform the law with respect
8 to the subject of this chapter among the states enacting it.

9 * Sec. 22. AS 34.15 is amended by adding a new section to read:

10 Sec. 34.15.015. USE OF RECORDED MASTER FORM. If reference is
11 made in a document to a recorded master form, a copy of the form, or
12 so much of it as is incorporated by reference, must be provided to
13 each party to the transaction by the party that furnished the docu-
14 ment.

15 * Sec. 23. AS 43.10.042 is repealed and reenacted to read:

16 Sec. 43.10.042. RECORDING LIEN AND CERTIFICATE OF DISCHARGE.
17 (a) A lien imposed under this title is not valid as against a mort-
18 gagee or other lien holder, pledgee, purchaser, or judgment creditor
19 until notice of it is recorded as a class A document in the records of
20 the recording district where the property subject to the lien is
21 situated. However, regardless of the date the liens are recorded, a
22 lien arising out of a tax due under AS 43.56 and AS 43.75, including
23 the penalties and interest on the tax, is a lien prior, paramount, and
24 superior to all other liens, mortgages, hypothecations, conveyances,
25 and assignments, upon all the real and personal property of the person
26 liable for the tax, and upon all the real and personal property used
27 with the permission of the owner to carry on the business which is
28 subject to the tax.

29 (b) AS 40.19.040 applies to a notice of state tax lien and

1 documents relating to a state tax lien as well as to a notice of
2 federal lien and documents relating to a federal lien.

3 * Sec. 24. AS 44.37.025 is amended to read:

4 Sec. 44.37.025. RECORDING. (a) The Department of Natural Re-
5 sources shall adopt regulations [,] establishing, modifying, or dis-
6 continuing recording districts or precincts and prescribing the re-
7 cords to be maintained and the instruments to be recorded, consistent
8 with AS 40.17.

9 (b) The department shall [ENGAGE AND COMPENSATE RECORDERS AND
10 DEPUTY RECORDERS,] prescribe and account for recording fees [,] and do
11 all other things necessary to maintain the recording system estab-
12 lished under the laws of this state.

13 (c) The department, with the concurrence of the administrative
14 director of courts, may appoint judicial employees to perform services
15 in connection with recording, providing access to, and copying [RE-
16 CORD] documents in locations where the department has no employees
17 available to perform those functions [SERVE AS RECORDERS].

18 * Sec. 25. In the following statutes the revisor of statutes is di-
19 rected to delete the requirement or permission that a document be filed or
20 filed for record and to substitute a corresponding requirement or permis-
21 sion that the document be recorded: AS 09.40.050; AS 09.55.370; AS 10.15.-
22 230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.047;
23 AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050, 27.10.-
24 060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.10.230;
25 AS 27.15.010; AS 29.33.230; AS 32.10.010, 32.10.240; AS 34.07.020, 34.07.-
26 040, 34.07.050, 34.07.070; AS 34.20.090; AS 34.35.065, 34.35.160, 34.35.-
27 185, 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.405, 34.35.440;
28 AS 38.05.195, 38.05.200, 38.05.205, 38.05.210, 38.05.220, 38.05.230,
29 38.05.245; AS 45.09.402(f); and AS 46.15.160.

- 1 * Sec. 26. The following laws are repealed: AS 34.15.260 - 34.15.350;
- 2 AS 34.20.020; and AS 43.10.090 - 43.10.150.
- 3 * Sec. 27. This Act takes effect January 1, 1984.