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1 IN THE SENATE

BY MOSS AND P.FISCHER

2

SENATE BILL NO. 43

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH 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 granting homesteads
10 under AS 38.05.410 - 38.05.540 as enacted in sec. 2 of this Act to indi-
11 viduals who have been residents of the state for at least one year is
12 substantially and fairly related to the following state purposes:

13 (1) an encouragement of residents to remain in the state;

14 (2) a reward to those who have contributed substantially to the
15 state's development and economy;

16 (3) an assurance that recipients of state land are familiar
17 with, or at least have had an opportunity to become familiar with, the
18 unique and often hazardous climatic and geographical conditions in the
19 state; and

20 (4) an assurance that state land is distributed only to genuine
21 state 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 except trust land is classified and available as
27 homestead entry land. The commissioner may reclassify for public
28 purposes up to 500,000 acres of land classified as homestead entry
29 land under this section.

1 (b) The commissioner, within 30 days after the effective date of
2 this Act and annually thereafter, shall publish notice in at least
3 three newspapers of general circulation in the state and shall make
4 available to the public information relating to the general availabil-
5 ity 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 one year preceding application, shall receive a homestead
9 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
18 the filing fee is \$75;

19 (3) filing an affidavit with the commissioner which states
20 that

21 (A) the applicant is making the homestead entry
22 honestly and in good faith for the purpose of actual settlement
23 and cultivation and not for the benefit of any other person;

24 (B) the applicant will faithfully comply with the
25 requirements of AS 38.05.410 - 38.05.540 necessary to acquire a
26 grant of patent for the land applied for;

27 (C) the applicant is not acting as agent of any other
28 person in making entry or in collusion with any other person to
29 give the other person the benefits of the land entered, any part

1 of the land, or the timber on the land;

2 (D) the applicant is not applying to enter the land
3 for the purpose of speculation but in good faith to obtain a
4 homestead for the use and benefit of the applicant;

5 (E) the applicant has not directly or indirectly made
6 and will not make an agreement or contract with a person by which
7 the title the applicant receives from the state would benefit
8 that person;

9 (F) the homestead entry land for which the application
10 is made contains soils over at least 50 percent of its surface
11 area in classes I - V as defined by the United States Soil Con-
12 servation Service; and

13 (4) plainly marking the exterior boundaries of the land to
14 be entered.

15 (b) An applicant for a homestead grant may submit to the commis-
16 sioner a title search conducted by a title insurance company autho-
17 rized to do business in the state under AS 21.66.100.

18 (c) Within any 90-day period established in AS 38.05.430, a
19 person who is eligible for a homestead grant may file an application
20 for a grant. If within a 90-day period more than one person applies
21 and qualifies for the same homestead entry land, priority is estab-
22 lished by the earliest date of recording. If more than one person
23 applies for the same land at the same time, priority shall be estab-
24 lished by length of residence in the state, unless equal, in which
25 case priority shall be established by lot.

26 (d) The applicant shall cause notice of the application to be
27 published once a week for three consecutive weeks in at least one
28 newspaper of general circulation in the vicinity of the land. If
29 there is no newspaper in the general vicinity, notices shall be posted

1 in three public places in the vicinity of the land. The notice shall
2 contain a description of the land and shall state that the application
3 for the homestead grant was made in accordance with the Alaska Home-
4 stead Act (AS 38.05.410 - 38.05.540).

5 (e) Title to the homestead entry land may not be transferred to
6 the applicant until the notice required in this section is given by
7 the applicant.

8 (f) The provisions of AS 38.05.305 (notice and review by munici-
9 palities and regional corporations) and AS 38.05.345 (public notice)
10 are not applicable to land disposals under AS 38.05.410 - 38.05.540.

11 (g) If the commissioner determines that an applicant is ineli-
12 gible under this section or that the land applied for does not qualify
13 for homestead grants under AS 38.05.410, the commissioner shall inform
14 the applicant by registered mail and include the reason for that
15 determination.

16 Sec. 38.05.425. LIMITATIONS ON HOMESTEAD GRANTS. (a) A home-
17 stead grant to an applicant under AS 38.05.410 - 38.05.540 may not
18 exceed 160 acres.

19 (b) A person may receive only one homestead grant under AS 38.-
20 05.410 - 38.05.540.

21 Sec. 38.05.430. RIGHT TO POSSESSION. (a) Except as provided in
22 AS 38.05.420(h), 90 days after the effective date of this Act and
23 every 90 days thereafter, the commissioner shall notify the applicants
24 for homestead grants applied for during the previous 90-day period of
25 the approval of their homestead allowance and of their right to imme-
26 diate possession.

27 (b) Notwithstanding the provisions of (a) of this section, a
28 person who has submitted a copy of a title search to the commissioner
29 with the application under AS 38.05.420(b) is entitled to possession

1 of the homestead entry land 30 days after the application if

2 (1) the title search shows no prior claims on the land; and

3 (2) no conflicts exist that require resolution under
4 AS 38.05.420(d).

5 Sec. 38.05.440. SURVEY AND TITLE. (a) The applicant shall pro-
6 vide for a survey of the land by a land surveyor registered under
7 AS 08.48. A survey shall conform to regulations adopted by the com-
8 missioner and in force on the effective date of this Act. The survey
9 shall be performed within five years after receiving notice of the
10 right to possession under AS 38.05.430, with extensions granted at the
11 discretion of the commissioner. Failure to have a survey completed
12 and sent to the commissioner in a timely manner shall result in for-
13 feiture of the homestead grant.

14 (b) Upon receipt of a survey under (a) of this section, the
15 commissioner shall grant a patent to the applicant that conveys unen-
16 cumbered title to the surveyed land subject to AS 38.05.125 and the
17 following conditions:

18 (1) the grantee of the patent shall occupy the land granted
19 as a homestead for a cumulative total of 15 months within the five-
20 year period following patent; the occupancy must be attested to by
21 three persons other than the grantee; and

22 (2) the grantee of the patent shall erect a permanent,
23 habitable dwelling on the land granted as a homestead that meets all
24 applicable state and local regulations within five years after patent.

25 (c) If a grantee fails to comply with the conditions of a home-
26 stead patent established in (b) of this section, the grantee forfeits
27 title to the homestead land. The commissioner shall request the
28 attorney general to bring an action to eject the grantee from the
29 homestead land and to declare the right of reentry of the state.

1 Sec. 38.05.450. RESTRICTIONS. A grantee of homestead entry land
2 may not remove timber or materials on a commercial basis and may not
3 sell or otherwise dispose of title to the land for five years after a
4 grant of patent under AS 38.05.440.

5 Sec. 38.05.460. TAXES. (a) Land acquired under the homestead
6 grant program is exempt from municipal property tax for a period of
7 one year from the date of the grant of patent.

8 (b) Following the period specified in (a) of this section, a
9 municipality shall exempt from taxation not less than 10 percent of
10 the increase in assessed value of improvements to homestead entry land
11 if the increase in assessed value is directly attributable to an
12 increase in the agricultural productivity of the land. The exemption
13 provided in this subsection shall continue for five years after the
14 date of the grant of patent or from the date of approval for the
15 exemption by the local assessor, whichever is later.

16 Sec. 38.05.470. BOROUGH AND CITY SELECTIONS. Notwithstanding
17 other provisions of law, land subject to borough and city selection
18 under AS 29.18.201 - 29.18.203 that is classified as homestead entry
19 land under AS 38.05.420 is available for homestead entry as well as
20 borough and city selection.

21 Sec. 38.05.480. DEDICATION OF LAND FOR ACCESS TO PUBLIC AND
22 NAVIGABLE WATER. A tract 50 feet wide on each side of the section
23 line between each section of land acquired from the state under
24 AS 38.05.410 - 38.05.540 is dedicated for public access to public and
25 navigable water.

26 Sec. 38.05.500. EXEMPTION FROM EXECUTION FOR SATISFACTION OF
27 DEBTS. Homestead entry land under AS 38.05.410 - 38.05.540 is exempt
28 from execution on a judgment to enforce a judicial lien, process, or a
29 proceeding to collect an unsecured debt until a patent is granted.

1 Sec. 38.05.520. FALSE INFORMATION. (a) A person who intention-
2 ally files false information for the purpose of obtaining a homestead
3 grant under AS 38.05.410 - 38.05.540 is guilty of a class C felony.
4 In addition, the defendant shall, on conviction, lose all right,
5 title, and interest to land obtained under the provisions of AS 38.-
6 05.410 - 38.05.540.

7 (b) The filing of false information in connection with an appli-
8 cation, survey, proof of residency, or title search under AS 38.05.-
9 410 - 38.05.540 may result in forfeiture of the homestead grant or
10 grant of patent at the discretion of the commissioner but does not
11 affect the right, title, or interest of a bona fide purchaser for
12 value from the applicant or assignees of the applicant.

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

14 (1) "general grant land" means vacant, unappropriated, and
15 unreserved land patented or tentatively approved to the state from the
16 United States under sec. 6(a) or (b) of the Alaska Statehood Act (72
17 Stat. 339, et seq.) but does not include tidelands or submerged lands;

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

22 (3) "homestead grant" means the right of an applicant for
23 homestead entry land to enter upon the land for which the applicant
24 has applied;

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

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

1 one year;
2 (B) maintains a place of residence in the state;
3 (C) is a registered voter;
4 (D) has not, within one year, claimed residency in
5 another state; and
6 (E) shows by all attending circumstances an intention
7 to establish a permanent residence in the state;

8 (5) "suitable for agricultural use" means land that
9 (A) if unclassified under AS 38.05.300, contains soils
10 equivalent to classes I - V as defined by the United States Soil
11 Conservation Service; or

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

14 (6) "trust land" includes all the land received by grant of
15 the federal government for the purposes of supporting schools, the
16 University of Alaska, and the mental health program of the state;

17 * Sec. 3. AS 29.53.020(a) is amended by adding a new paragraph to read:

18 (9) homestead entry land to the extent provided in AS 38.-
19 05.460.

20 * Sec. 4. AS 34.15 is amended by adding a new section to read:

21 Sec. 34.15.045. HOMESTEAD APPLICATION. (a) A homestead appli-
22 cation may be substantially in the following form:

23 "The applicant (here insert the name and place of residence) has
24 been a resident of Alaska, as defined in AS 38.05.530, for.....-
25 years and hereby applies for a homestead grant for the following
26 described real estate (here insert description), located in the State
27 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. 5. AS 34.15.340(a) is amended by adding a new paragraph to read:

3 (7) applications for homestead grants.

4 * Sec. 6. AS 38.05.125 is amended to read:

5 Sec. 38.05.125. RESERVATION. Each contract for the sale, lease
6 or grant of state land, and each deed to state land, properties or
7 interest in state land, made under AS 38.05.315 - 38.05.325, 38.05.-
8 045 - 38.05.120, 38.05.410 - 38.05.540, AS 38.08, or AS 38.50 except
9 as provided in AS 38.50.050 is subject to the following reservations:
10 "The party of the first part, Alaska, hereby expressly saves, excepts
11 and reserves out of the grant hereby made, unto itself, its lessees,
12 successors, and assigns forever, all oils, gases, coal, ores, miner-
13 als, fissionable materials, geothermal resources, and fossils of every
14 name, kind or description, and which may be in or upon said lands
15 above described, or any part thereof, and the right to explore the
16 same for such oils, gases, coal, ores, minerals, fissionable mater-
17 ials, geothermal resources, and fossils, and it also hereby expressly
18 saves and reserves out of the grant hereby made, unto itself, its
19 lessees, successors, and assigns forever, the right to enter by it-
20 self, its or their agents, attorneys, and servants upon said lands, or
21 any part or parts thereof, at any and all times for the purpose of
22 opening, developing, drilling, and working mines or wells on these or
23 other lands and taking out and removing therefrom all such oils,
24 gases, coal, ores, minerals, fissionable materials, geothermal re-
25 sources, and fossils, and to that end it further expressly reserves
26 out of the grant hereby made, unto itself, its lessees, successors,
27 and assigns forever, the right by its or their agents, servants and
28 attorneys at any and all times to erect, construct, maintain, and use
29 all such buildings, machinery, roads, pipelines, powerlines, and

1 railroads, sink such shafts, drill such wells, remove such soil, and
2 to remain on said lands or any part thereof for the foregoing purposes
3 and to occupy as much of said lands as may be necessary or convenient
4 for such purposes hereby expressly reserving to itself, its lessees,
5 successors, and assigns, as aforesaid, generally all rights and power
6 in, to, and over said land, whether herein expressed or not, rea-
7 sonably necessary or convenient to render beneficial and efficient the
8 complete enjoyment of the property and rights hereby expressly re-
9 served."

10 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-
11 10.070(c).