

Introduced: 2/27/85  
Referred: Judiciary

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

1 IN THE HOUSE

2 HOUSE BILL NO. 244

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH 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 is amended to read:

11 Sec. 19.10.260. REPLACEMENT OF PERMANENT MARKERS AND FILING OF  
12 RIGHT-OF-WAY MAP AFTER CONSTRUCTION. The department shall:

13 (1) replace all permanent markers on private or municipal  
14 property that were destroyed or lost during highway construction to  
15 permit persons to determine accurately new boundary lines resulting  
16 from the construction;

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

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

23 (b) The platting board shall file and record [SUBMIT] an ap-  
24 proved plat with [TO] the district recorder in compliance with AS 40.-  
25 15.010 and 40.15.020.

26 \* Sec. 3. AS 29.33.170 is amended to read:

27 Sec. 29.33.170. WAIVER IN CERTAIN CASES. (a) The platting  
28 authority shall, in individual cases, waive the preparation, sub-  
29 mission for approval, filing, and recording of a plat upon

1       satisfactory evidence that

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

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

6               (3) the conveyance is not made for the purpose of, or in  
7 connection with, a present or projected subdivision development;

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

10              (b) In other cases the platting authority may waive the prepara-  
11 tion, submission for approval, filing, and recording of a plat, if the  
12 transaction involved does not fall within the general intent of  
13 AS 29.33.130 - 29.33.240 and AS 40.15 if it is not made for the pur-  
14 pose of, or in connection with, a present or projected subdivision  
15 development and no dedication of a street, alley, thoroughfare, park  
16 or other public area is involved or required.

17 \* Sec. 4. AS 29.33.190 is amended to read:

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

27              (b) A person may not file or record a plat or seek to have a  
28 plat filed or recorded unless it bears the approval of the platting  
29 board. A person who knowingly violates this requirement is punishable

1 upon conviction by a fine of not more than \$500.

2 \* Sec. 5. AS 29.33.200 is amended to read:

3 Sec. 29.33.200. ALTERATION OF REPLAT PETITION. A filed or  
4 recorded plat may not be altered or replatted except upon petition of  
5 the owners of a majority of the land affected by the alteration or  
6 replat or by the platting board. A platted street may not be vacated,  
7 except upon petition of the municipality or owners of the majority of  
8 the front feet of the land fronting the part of the street sought to  
9 be vacated. The petition shall be filed with the platting board. It  
10 shall be accompanied by a copy of the existing plat showing the pro-  
11 posed alteration or replat.

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

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

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

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

21 \* Sec. 8. AS 34.07.030 is amended to read:

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

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

29 (2) a set of the floor plans of the building showing the

1 layout, apartment numbers and dimensions of the apartments in suffi-  
2 cient detail to identify and locate each apartment with certainty,  
3 stating the name of the building or that it has no name, and bearing  
4 the verified statement of a registered architect or registered profes-  
5 sional engineer certifying that it is an accurate copy of portions of  
6 the plans of the building as filed with and approved by the govern-  
7 mental entity having jurisdiction over the approval or issuance of  
8 permits for the construction of the building, or a statement that no  
9 approval or permit is required.

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

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

21 \* Sec. 10. AS 34.07.050 is amended to read:

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

25 \* Sec. 11. AS 34.15 is amended by adding a new section to read:

26 Sec. 34.15.015. USE OF RECORDED MASTER FORM. If reference is  
27 made in a document to a recorded master form, a copy of the form, or  
28 so much of it as is incorporated by reference, must be provided to  
29 each party to the transaction by the party that furnished the

1 document.

2 \* Sec. 12. AS 38.04.045(b) is amended to read:

3 (b) Before the conveyance of surface rights to state land, an  
4 official cadastral survey shall be accomplished, unless a comparable,  
5 acceptable survey exists that has been conducted by the federal Bureau  
6 of Land Management. The rectangular survey section corner positions  
7 shall be monumented and shown on a cadastral survey plat approved by  
8 the state. However, for those areas where the state may wish to  
9 convey surface estate outside of an official cadastral survey grid,  
10 the director may waive monumentation of all individual section corner  
11 positions and substitute an official control survey with control  
12 points being monumented and shown on control survey plats approved by  
13 the state. No portion of land to be conveyed may be located more than  
14 two miles from such a survey control monument except that the commis-  
15 sioner may waive this requirement on a determination that topographic  
16 features, diffuse settlement, or the public interest do not justify  
17 the requirement. The lots and tracts in state subdivisions shall be  
18 monumented and the cadastral survey and plats for the subdivision  
19 shall be approved by the state. Where land is located within a muni-  
20 cipality with planning, platting, and zoning powers, plats for state  
21 subdivisions shall comply with local ordinances and regulations in the  
22 same manner and to the same extent as plats for subdivisions by other  
23 landowners. State subdivisions shall be filed and recorded in the  
24 district recorder's office. The requirements of this section do not  
25 apply to land made available through a cabin permit system, material  
26 sales, or short-term leases; however, for short-term leases the lessee  
27 must comply with local subdivision ordinances unless waived by the  
28 municipality under procedures specified by ordinance.

29 \* Sec. 13. AS 40.15.010 is amended to read:

1           Sec. 40.15.010. APPROVAL, FILING, AND RECORDING OF SUBDIVISIONS.

2       Before the lots or tracts of any subdivision or dedication may be sold  
3       or offered for sale, the subdivision or dedication shall be submitted  
4       for approval to the authority having jurisdiction, as prescribed in  
5       this chapter. The regular approval of the authority shall be shown on  
6       it or attached to it and the subdivision or dedication shall be filed  
7       and recorded [FOR RECORD] in the office of the recorder. The recorder  
8       may [SHALL] not accept a subdivision or dedication for filing and  
9       recording unless it shows this approval. If no platting authority  
10      exists as provided in AS 40.15.070 - 40.15.130, lands may be sold  
11      without approval.

12     \* Sec. 14 AS 40.15.020 is amended to read:

13           Sec. 40.15.020. PLATS TO BE ACKNOWLEDGED AND CONTAIN CERTIFICATE  
14      THAT TAXES AND ASSESSMENTS ARE PAID. Every plat shall be acknowledged  
15      before an officer authorized to take acknowledgment of deeds. A cer-  
16      tificate of acknowledgment shall be endorsed on or annexed to the plat  
17      and recorded with it. A person filing and recording a plat, map, sub-  
18      division, or replat of property, or vacating the whole or any portion  
19      of an existing plat, map, subdivision, or replat shall [, AT THE TIME  
20      OF FILING IT FOR RECORD OR FILING THE PETITION TO VACATE,] file and  
21      record with it a certificate from the tax-collecting official or  
22      officials of the area in which the land is located that all taxes  
23      levied against the property at that date are paid.

24     \* Sec. 15. AS 40.15.030 is amended to read:

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

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

1 \* Sec. 16. AS 40.15.040 is amended to read:

2           Sec. 40.15.040. CERTIFIED COPY OF PLAT AS [IS] EVIDENCE. A copy  
3 of a plat certified by the recorder of the recording district in which  
4 it is filed or recorded as a true and complete copy of the original  
5 filed or recorded in the recording office for the district [ON FILE IN  
6 HIS OFFICE] is admissible in evidence in all courts in the state with  
7 the same effect as the original.

8 \* Sec. 17. AS 40.15.050 is amended to read:

9           Sec. 40.15.050. [RECORDED] PLATS LEGALIZED. All plats filed  
10 with the recorder [RECORDED] before March 30, 1953, whether executed  
11 and acknowledged in accordance with this chapter or not, are validated  
12 and all streets, alleys or public thoroughfares shown on these plats  
13 are considered to be [AS HAVING BEEN] dedicated to public use. [THIS  
14 SECTION DOES NOT PROHIBIT THE ABANDONMENT OF A PLAT RECORDED BEFORE  
15 MARCH 30, 1953, IF A SUBSEQUENT PLAT IS FILED INDICATING ABANDONMENT.]  
16 The last plat of the area on file with the recorder [OF RECORD] on  
17 March 30, 1953, is the official plat of the area as of that date, and  
18 the streets, alleys, or thoroughfares shown on it are considered  
19 [DEEMED] to be [THE STREETS, ALLEYS OR THOROUGHFARES] dedicated to  
20 public use. The streets, alleys or thoroughfares shown on an earlier  
21 plat of the same area or any part of it which is in conflict with  
22 those shown on the official plat are considered to be [IS DEEMED TO  
23 HAVE BEEN] abandoned and vacated.

24 \* Sec. 18. AS 40.15.060 is amended to read:

25           Sec. 40.15.060. MISSING PLATS. When [WHERE] a filed or recorded  
26 plat is missing and no present record is available except by reference  
27 to the missing plat, a counterpart copy, approved by the platting  
28 authority, may be filed and recorded as of the original date of the  
29 missing plat and after filing and recording [RECORDATION] has the same

1 legal effect and notice as the original missing plat.

2 \* Sec. 19. AS 40.15.070 is amended to read:

3 Sec. 40.15.070. PLATTING AUTHORITY. If land proposed to be  
4 subdivided or dedicated is situated within a first or second class  
5 borough, the proposed subdivision or dedication shall be submitted to  
6 the borough planning commission for approval. If the land is situated  
7 within a city in the unorganized borough or the third class borough,  
8 the proposed subdivision or dedication shall be submitted to the city  
9 planning commission for approval. The borough planning commission is  
10 the platting authority for the first or second class borough, the city  
11 planning commission is the platting authority for the city, and the  
12 Department of Natural Resources [DIVISION OF LANDS] is the platting  
13 authority in the remaining areas of the state and third class borough  
14 for the change or vacation of existing plats or a portion of such  
15 plats, as provided in AS 40.15.075. If the borough or the city does  
16 not have a planning commission, the borough assembly or the city  
17 governing body, respectively, is the platting authority and the pro-  
18 posed subdivision or dedication shall be submitted to it. ▲ [NO]  
19 subdivision may not be filed and recorded [FOR RECORD] until it is  
20 approved by the platting authority.

21 \* Sec. 20. AS 40.15.075 is amended to read:

22 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD  
23 CLASS BOROUGHES. The Department of Natural Resources [DIVISION OF  
24 LANDS] is the platting authority in the area outside organized bor-  
25 oughs and outside cities in the unorganized borough and in the third  
26 class borough for only the purposes of hearing and acting on petitions  
27 for the change or vacation of plats and shall execute this function  
28 substantially in conformity with the provisions of AS 29.33.210 -  
29 29.33.240. Costs of publication and mailing as well as other costs

1 authorized in AS 29.33.210 shall be paid to the Department of Natural  
2 Resources [DIVISION] by the petitioner. The Department of Natural  
3 Resources shall adopt reasonable regulations governing the exercise of  
4 the authority conferred by this section [UPON THE DIVISION OF LANDS].

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

6 CHAPTER 17. RECORDING IN PUBLIC RECORDS.

7 Sec. 40.17.010. PLACE OF RECORDING AND ACCESS TO RECORDS. (a)

8 The Department of Natural Resources shall provide at each public  
9 office designated by the department

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

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

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

17 (4) to the extent money is appropriated for the purpose, a  
18 machine, device, or system capable of rapidly transmitting a document  
19 eligible for recording to a recorder at one place of recording in the  
20 state, and a person to operate the machine, device, or system; if the  
21 department determines that it is not feasible to provide a machine,  
22 device, or system in an office serving a recording district, it shall  
23 provide for transmitting documents from the office by other expedi-  
24 tious means.

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

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

1 (d) When rapid recording and retrieval and secure storage of  
2 class A documents can be provided for all recording districts with a  
3 single place of recording in the state, the recorder shall record  
4 class A documents at a single place in the state designated by the  
5 department.

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

9 Sec. 40.17.020. RECORDING CONVEYANCES. (a) A conveyance that  
10 is eligible for recording as a class A document under AS 40.17.030 and  
11 40.17.110 may be recorded only as a class A document, and only in the  
12 records of the recording district in which land affected by the con-  
13 veyance is located. If land affected by the conveyance is located in  
14 more than one recording district, an original conveyance may be re-  
15 corded in the records of any district in which part of the land is  
16 located and an original or a certified copy may be recorded in the  
17 records of each other district in which part of the land is located.  
18 A certified copy so recorded has the same effect from the time it is  
19 recorded as though it were the original conveyance.

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

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

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

3 (2) capable of being copied by the method used in the  
4 recording office;

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

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

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

14 (6) accompanied by or include the mailing addresses of all  
15 persons named in the document who grant or acquire an interest under  
16 the document if it is a conveyance; this paragraph does not apply to a  
17 release of a security interest.

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

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

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

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

1 (b) For class A recorded documents, the recorder shall maintain  
2 an index system in the manner prescribed by regulations adopted by the  
3 department. The system must be designed so the public may find class  
4 A documents by names of grantors and grantees, and the system may  
5 include other means for locating the documents. The recorder shall  
6 maintain the index to class B documents at the one place of recording  
7 for class B documents.

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

12 Sec. 40.17.050. INCORPORATION OF MASTER FORM. A recorded master  
13 form, or a numbered paragraph of it, may be incorporated by reference  
14 in a recorded document by referring to the form by its recording  
15 information and the number of the paragraph to be incorporated. The  
16 reference has the same effect as if the master form or the numbered  
17 paragraph were reproduced in full in the record at the place where the  
18 reference to the form or paragraph is made.

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

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

28 (b) The recorder shall maintain separate daily logs and indices  
29 for class A and class B documents with a separate system of serial

1 numbers for each class. The daily log and index for class B documents  
2 shall be maintained in the central recording office.

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

4 (1) indicate on or attach to each class A document the  
5 date, hour, and minute of recording, enter that information and a  
6 consecutive serial number in a daily log of class A documents without  
7 delay in the order in which the documents are received, and note the  
8 serial number on the document;

9 (2) indicate on or attach to each class B document the date  
10 of recording, enter the date of recording and a consecutive serial  
11 number in a daily log of class B documents, and note the serial number  
12 on the document.

13 (d) The recorder shall mark each document to show in which class  
14 it is recorded. If a document presented for recording as a class A  
15 document is reviewed and rejected for recording as a class A document,  
16 the recorder shall indicate on or attach to the document the date,  
17 hour, and minute of rejection and a citation of the statute requiring  
18 rejection. If the document is later determined to be recordable as a  
19 class A document in the form in which it was earlier presented to the  
20 recorder, later recording does not relate back to the time and date of  
21 rejection. Recording is effective when the document is accepted for  
22 recording, regardless of the cause of the rejection.

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

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

29 (g) After recording, the recorder shall return the document to

1 the person who presented it or a person designated by the person who  
2 presented it.

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

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

9 Sec. 40.17.080. EFFECT OF RECORDING ON TITLE AND RIGHTS: CON-  
10 STRUCTIVE NOTICE. (a) Subject to (c) and (d) of this section, from  
11 the time a class A document is recorded in the records of the record-  
12 ing district in which land affected by it is located, the recorded  
13 document is constructive notice of the contents of the document to  
14 subsequent purchasers and holders of a security interest in the same  
15 property or a part of the property. Recording of a class B document  
16 does not provide constructive notice for any purpose. The class of a  
17 document is determined under AS 40.17.110.

18 (b) A conveyance of real property in the state (other than a  
19 lease for a term of less than one year) is void as against a subse-  
20 quent innocent purchaser in good faith for valuable consideration of  
21 the property or a part of the property whose conveyance is first  
22 recorded as a class A document. An unrecorded conveyance is valid as  
23 between the parties to it and as against one who has actual notice of  
24 it. In this subsection, "purchaser" includes a holder of a consensual  
25 interest in real property which secures payment or performance of an  
26 obligation.

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

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

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

6 (2) when 30 days have elapsed after the expiration date of  
7 the option or agreement, if the recorded option or agreement contains  
8 an expiration date.

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

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

13 (b) An acknowledged and recorded signed class A document relat-  
14 ing to title to real property creates presumptions with respect to  
15 title that

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

18 (2) the person executing the document and the person on  
19 whose behalf it is executed are the persons they are purported to be  
20 and the person executing it was neither incompetent nor a minor at any  
21 relevant time;

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

24 (4) any necessary consideration was given;

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

28 (6) a person purporting to act as an agent, attorney in  
29 fact under a recorded power of attorney or authority, officer of an

1 organization, or in a fiduciary or official capacity, held the posi-  
2 tion the person purported to hold, acted within the scope of the  
3 person's authority, and in the case of an organization, the authorisa-  
4 tion satisfied all requirements of law; and in the case of an agent,  
5 acted for a principal who was neither incompetent nor a minor at any  
6 relevant time and who had not revoked the agency;

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

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

15 (9) the persons named in, signing, or acknowledging the  
16 document and persons named in, signing, or acknowledging another  
17 related document in a chain of title are identical, if the persons  
18 appear in those documents under identical names, or under variants of  
19 the names, including inclusion, exclusion, or use of

20 (A) commonly recognized abbreviations, contractions,  
21 initials, or colloquial or other equivalents;

22 (B) first or middle names or initials;

23 (C) simple transpositions that produce substantially  
24 similar pronunciations;

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

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

28 (F) name suffixes, such as "Senior" or "Junior",  
29 unless other information appears of record indicating that they

1           are different persons; and

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

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

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

12           (e) If presumptions created by this section are inconsistent,  
13 the presumption applies that is founded upon weightier consideration  
14 of policy and logic. If these considerations are of equal weight,  
15 neither presumption applies.

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

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

22           (a) A signed document listed in (b) of this section or included under  
23 (c) of this section that meets the requisites for recording under  
24 AS 40.17.030 may be recorded as a class A document. The recorder may  
25 not record as a class B document a document that would be a class A  
26 document except for a technical defect in the document. A document  
27 that meets the requisites for recording under AS 40.17.030 and that is  
28 not a conveyance or a defective class A document, is a class B docu-  
29 ment the recording of which is permitted for the safekeeping of a

1 record copy of the document. The effect on title and rights of re-  
2 cording class A and class B documents is set out in AS 40.17.080.

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

4 (1) a conveyance acknowledged or proven under AS 34.15.-  
5 150 - 34.15.250 or a certified copy of the conveyance if recording the  
6 copy is permitted by AS 40.17.020;

7 (2) an acknowledged or proven power of attorney or other  
8 instrument granting or revoking a power to act as agent or attorney  
9 for another person;

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

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

14 (5) a certificate of a public official or an affidavit of  
15 any person that may affect the title to or any interest in real prop-  
16 erty in the state that is described in the certificate or affidavit,  
17 stating facts relating to age, sex, birth, death, capacity, relation-  
18 ship, family history, heirship, names, identity of parties, marital  
19 status, possession or adverse possession, adverse use, residence,  
20 service in the armed forces, conflicts and ambiguities in description  
21 of land in recorded instruments, and the happening of any condition or  
22 event that may terminate an estate or interest; a certificate or  
23 affidavit recorded under this section must contain the recording  
24 information of a recorded document referred to in it;

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

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

29 (8) an assignment of all or part of a security interest in

1 real property;

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

4 (10) an exact or fully conformed copy of a document that is  
5 otherwise recordable as a class A document under this section, when  
6 the person offering the document attaches to it an affidavit that

7 (A) the exact or fully conformed copy was received by  
8 the person in the course of the transaction;

9 (B) the original is not in the person's possession;  
10 and

11 (C) the instrument offered for recordation is an exact  
12 or fully conformed copy;

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

15 (12) a certified copy of a petition in bankruptcy;

16 (13) a notice of an action previously filed and pending in a  
17 court of the state or the United States affecting title to real prop-  
18 erty in the state, if the notice contains the case number assigned by  
19 the court and a description of the property affected in the recording  
20 district;

21 (14) notice of an action for divorce, separate maintenance,  
22 annulment or dissolution of marriage previously filed and pending in a  
23 court of any state or the United States affecting title to real prop-  
24 erty in this state, if the notice contains the case number assigned by  
25 the court;

26 (15) notice of a pending judicial proceeding to compel  
27 recording or indexing, if the notice contains the case number assigned  
28 by the court;

29 (16) a certified copy of a judgment decree or order of a

- 1 court of a state in an action for divorce, separate maintenance,  
2 annulment or dissolution of marriage requiring the execution of a  
3 conveyance of real property in this state;
- 4 (17) a list of real property granted by a governmental  
5 entity to the state, a municipality, or a corporation;
- 6 (18) a conveyance executed by an officer of the state by  
7 authority of law in the state;
- 8 (19) a notice limiting future advances under a recorded  
9 security agreement;
- 10 (20) a certified copy of a judgment or decree of a court of  
11 the state or of a court of record of the United States or a certified  
12 copy of a satisfaction of judgment or decree;
- 13 (21) a certificate of attachment or an order or proceeding  
14 of record discharging attachment;
- 15 (22) a condemnation order;
- 16 (23) a declaration of taking;
- 17 (24) a copy of the record of the meeting of a cemetery  
18 association;
- 19 (25) a cooperative contract;
- 20 (26) a list of persons whose cooperative contracts have been  
21 terminated;
- 22 (27) a letter of conservatorship;
- 23 (28) an employee's lien for failure to make payments to a  
24 benefit fund;
- 25 (29) an employment security contributions lien;
- 26 (30) a verified workers' compensation lien;
- 27 (31) a mining claim, location, or lease;
- 28 (32) a grubstake contract;
- 29 (33) a mining assessment work affidavit;

- 1           (34) a notice to contribute or forfeit an interest in a  
2 mining claim;
- 3           (35) a subdivision plat;
- 4           (36) a signed and sworn-to certificate of limited partner-  
5 ship and a signed and sworn-to amendment to a certificate of limited  
6 partnership;
- 7           (37) a condominium declaration, amendments to it, an instru-  
8 ment by which property may be removed from the provisions of AS 34.07  
9 and an instrument affecting the property or apartment controlled by  
10 AS 34.07;
- 11           (38) a survey map and floor plan for a condominium;
- 12           (39) a substitution of trustee under a deed of trust, or  
13 other person having a power of sale under a real property security  
14 agreement, when executed and acknowledged by all the beneficiaries;
- 15           (40) notice and affidavits required in default and sale  
16 under a deed of trust;
- 17           (41) a notice of right to mechanics' or materialmen's lien;
- 18           (42) an attested or notarized copy of a notice of nonrespon-  
19 sibility for construction, alteration, or repair;
- 20           (43) an acknowledgment of right to mechanics' or material-  
21 men's lien;
- 22           (44) a verified claim of any of the liens provided by  
23 AS 34.35;
- 24           (45) a verified notice of completion of a building or im-  
25 provement;
- 26           (46) a bond guaranteeing payment of the sum recovered on a  
27 mechanics' or materialmen's lien;
- 28           (47) a notice extending a mechanics' or materialmen's lien;
- 29           (48) a state tax lien;

- 1 (49) a federal tax lien;
- 2 (50) an instrument transferring a water appropriation or a  
3 certified copy of it;
- 4 (51) a financing statement covering goods that are or are to  
5 become fixtures to real property described in the financing statement;  
6 if the debtor does not have an interest of record in the real prop-  
7 erty, the financing statement must show the name of the record owner  
8 of the real property;
- 9 (52) an assignment of rents;
- 10 (53) a memorandum of lease as defined in AS 40.17.120(b);
- 11 (54) a state highway right-of-way map;
- 12 (55) an armed forces report of separation;
- 13 (56) a document amending or correcting a recorded document  
14 listed in this section if the amending or correcting document is exe-  
15 cuted by the same parties who executed the original document; and
- 16 (57) a master form that can be incorporated by reference in  
17 documents later recorded.

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

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

24 (b) A memorandum of lease is a document signed by the lessor and  
25 lessee and containing a reference to an unrecorded lease, sublease, or  
26 agreement to lease or sublease, and supplying at least the following  
27 information:

- 28 (1) the names of the parties;
- 29 (2) any addresses of the parties set out in the lease;

1 (3) the date of the lease;  
2 (4) a description of the real property leased or subleased;  
3 (5) the commencement and termination dates of the lease if  
4 fixed and, if not fixed, the method by which the dates are to be  
5 fixed; and

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

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

13 (b) The state is liable to a person injured by the failure of  
14 the recorder to perform duties under this chapter. Neither the re-  
15 corder nor a state employee performing duties of the recorder is  
16 individually liable for a good faith error or omission made in the  
17 course of employment.

18 Sec. 40.17.140. DEFINITIONS. In this chapter

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

23 (2) "certified copy" means a copy of a document certified  
24 as correct by the custodian or other person authorized to make the  
25 certification;

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

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

29 (5) "document" means a writing, plat, or map, and includes

1 information in a form (such as electronic, mechanical, or magnetic  
2 storage; microfilm; or electronic data transmission signals) that can  
3 be converted into legible writing, plat, or map form by a machine or  
4 device;

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

7 (7) "record" means the acceptance of a document by the re-  
8 corder that the recorder has determined is recordable under this  
9 chapter and that is presented for recording in the place of recording  
10 designated for the recording district where affected property is  
11 located whether or not the place of recording is in that district, and  
12 whether or not under applicable law the recorder is directed to record  
13 the document;

14 (8) "recorder" means the commissioner of the department or  
15 the commissioner's designee;

16 (9) "recording district" means a part of the state des-  
17 ignated a recording district under AS 44.37.025; and

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

21 \* Sec. 22. AS 40 is amended by adding a new chapter to read:

22 CHAPTER 19. RECORDING FEDERAL LIENS.

23 Sec. 40.19.010. SCOPE. The provisions of AS 40.19.010 - 40.19.-  
24 040 apply to federal tax liens and to other federal liens notice of  
25 which under an Act of Congress or a regulation adopted under the  
26 authority of an Act of Congress is required or permitted to be filed  
27 or recorded in the same manner as a notice of federal tax lien.

28 Sec. 40.19.020. PLACE OF RECORDING. (a) Notices of lien,  
29 certificates, and other notices affecting a federal tax lien or other

1 federal lien must be recorded in accordance with AS 40.19.010 - 40.-  
2 19.040.

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

7 (c) Notices of federal lien upon personal property, whether tan-  
8 gible or intangible, for obligations payable to the United States and  
9 certificates and notices affecting the lien shall be recorded in the  
10 records of the recording district where the person against whose  
11 interest the lien applies resides at the time of recording of the  
12 notice of lien.

13 (d) For purposes of (c) of this section the residence of a cor-  
14 poration or partnership is the place in which the principal executive  
15 office of the business is located.

16 Sec. 40.19.030. EXECUTION OF NOTICES AND CERTIFICATES. Certi-  
17 fication of notices of lien, certificates, or other notices affecting  
18 federal liens by the United States Secretary of the Treasury or by the  
19 designee of the United States Secretary of the Treasury, or by an  
20 official or entity of the United States responsible for filing, re-  
21 cording, or certifying, of notice of any other lien, entitles the  
22 notices or certificates to be recorded and no other attestation,  
23 certification, or acknowledgement is necessary.

24 Sec. 40.19.040. DUTIES OF RECORDER. (a) If a notice of federal  
25 lien, a rerecording of notice of federal lien, or a notice of revoca-  
26 tion of a certificate described in (b) of this section is presented to  
27 the recorder under AS 40.17, the recorder shall endorse on the notice  
28 an identification and the date and time of recording and enter it  
29 first in a daily log of class A documents and then in an alphabetical

1 index showing the name of the person named in the notice, the date and  
2 time of recording, the title of the official or entity certifying the  
3 lien, and the total amount appearing on the notice of lien.

4 (b) If a rerecorded notice of federal lien referred to in (a) of  
5 this section or a certificate of release, nonattachment, discharge, or  
6 subordination of lien or a revocation of any of these certificates is  
7 presented to the recorder for recording, the recorder shall record it  
8 in the way a document listed in (a) of this section would be recorded  
9 and shall enter the rerecorded notice or the certificate or revocation  
10 with the date of recording in the alphabetical index together with a  
11 reference to the recording information for the original notice or  
12 certificate to which it relates.

13 (c) A lien on file with records of a recording district on the  
14 effective date of this section is considered to have been recorded at  
15 the date and time it was filed.

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

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

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

24 Sec. 43.10.042. RECORDING LIEN AND CERTIFICATE OF DISCHARGE.

25 (a) A lien imposed under this title is not valid as against a mort-  
26 gagee or other lien holder, pledgee, purchaser, or judgment creditor  
27 until notice of it is recorded as a class A document in the records of  
28 the recording district where the property subject to the lien is  
29 situated. However, regardless of the date the liens are recorded, a

1       lien arising out of a tax due under AS 43.56 and AS 43.75, including  
2       the penalties and interest on the tax, is a lien prior, paramount, and  
3       superior to all other liens, mortgages, hypothecations, conveyances,  
4       and assignments, upon all the real and personal property of the person  
5       liable for the tax, and upon all the real and personal property used  
6       with the permission of the owner to carry on the business which is  
7       subject to the tax.

8               (b) AS 40.19.040 applies to a notice of state tax lien and  
9       documents relating to a state tax lien as well as to a notice of  
10       federal lien and documents relating to a federal lien.

11       \* Sec. 24. AS 44.37.025 is amended to read:

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

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

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

26       \* Sec. 25. In the following statutes the revisor of statutes is di-  
27       rected to delete the requirement or permission that a document be filed or  
28       filed for record and to substitute a corresponding requirement or permis-  
29       sion that the document be recorded:       AS 09.40.050; AS 09.55.370;

1 AS 10.15.230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.-  
2 047; AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050,  
3 27.10.060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.-  
4 10.230; AS 29.33.230; AS 32.10.010, 32.10.240; AS 34.07.020, 34.07.040,  
5 34.07.050, 34.07.070; AS 34.20.090; AS 34.35.065, 34.35.160, 34.35.185,  
6 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.405, 34.35.440; AS 38.-  
7 05.195, 38.05.200, 38.05.205, 38.05.210, 38.05.220, 38.05.230, 38.05.245,  
8 38.05.250, 38.05.265, 38.05.275; AS 38.20.100; AS 45.09.402(f); and AS 46.-  
9 15.160.

10 \* Sec. 26. The following laws are repealed: AS 34.15.260 - 34.15.350;  
11 AS 34.20.020; and AS 43.10.090 - 43.10.150.

12 \* Sec. 27. This Act takes effect January 1, 1987.