

HB

130

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

June 10, 1983
3:10 p.m.

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chair	Senator Mulcahy
Senator Ziegler, Vice Chair	Senator Sturgulewski
Senator P. Fischer	

CALENDAR

- HCR 31- Relating to protection and preservation of the Kenai River.
- SB 43 An Act granting homesteads to Alaska citizens; and providing for an effective date.
- SB 102 An Act relating to homesteads; and providing for an effective date.
- HB 130 An Act relating to homesteads; and providing for an effective date.
- HCR 37 Relating to an economic development policy.
- HCR 27 Requesting the state to collect and use information on trapping for land use planning and land disposal.

HCR 31

Representative Fritz, sponsor of HCR 31, explained why the resolution is needed and urged its passage.

Senator Gilman supported the bill, and pointed out that the resolution will not solve the problems of the Kenai River, but will more succinctly identify them.

There was discussion of fiscal notes, the need for a Senate letter of intent, and regulatory power.

Jay Hogan, director of the Office of Management and Budget Governmental Coordination, said the Administration supports the resolution and stated that necessary work could be done between departments with existing funds.

Randy Bayliss, Department of Environmental Conservation, supported the intent of the resolution.

Senator Fahrenkamp said the bill would be held until Monday, 6/13.

HB 130, SB 43, and SB 130

Sharon Barton, Department of Natural Resources, explained how a homestead program would fit in with current land disposal programs offered by the State. She addressed the provisions of the proposed committee substitute for HB 130, and recommended a lottery be used to limit the number of stakers in some areas.

Doug Woodby, Alaska Environmental Lobby, encouraged study of whether a homestead program is necessary and urged a restriction on conveyance to limit speculation.

HCR 37

Dave Gray, Resource Development Council, supported the resolution.

Senator Sturgulewski moved to report HCR 37 out of committee with individual recommendations. The motion passed without objection.

HCR 27

Senator Fahrenkamp said HCR 27 would be held over until Monday.

The meeting was adjourned at 4:00 p.m.

HOMESTEAD BILL SUMMARY

Prepared 4/4/83
Amended 4/15/83

	SB 102 Governor	CSHB 130 (Res) Passed out of House Resources 3/29/83	CSHB 130 (Fin) Passed out of House Finance 4/14/83
Method of Disposal	Lottery, over-the-counter designated parcels	Staking	Strike corners and flag boundaries
Parcel Size	160 acre maximum	40-160 acres	2.5-160 acres
Fee	\$500/\$400 refund	\$5 per acre	\$5 per acre
Survey Required	Within 18 months	Within 2 years	Within 2 years
Build Habitable Dwelling	Within 3 years, with fixtures/facilities required, customary	Within 3 years, with fixtures/facilities required, customary	Within 3 years, with fixtures/facilities required, customary
Occupy the Land	None	25 months within 5 years	25 months within 5 years
Clearing Required	25% in 5 years, and put into production or prepare for cultivation	Must brush boundaries within 30 days	Must brush boundaries within 90 days
Nature of Patent Issued	Ag. rights patent	Surface estate patent	Surface estate patent
Applicant Qualifications	age 18, 1-year resident; only one homestead	age 18, 1 year resident, only one homestead	age 18, 1-year resident, only one homestead
Comments:	Provides for AMFC construction loan for veterans.		

Not adopted



25 mi
out
8
5 years

SCS for CS for HB 130 (Res)

AMENDMENT

by Vic Fischer

page 5, line 11.

Add new subsections:

(d) A patent to homestead entry land not purchased under 38.09.090 shall contain the following conditions:

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

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

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

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

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

page 6, after line 4

Delete the language after "commissioner." through "patent." before line 6.

The effect of this amendment would be to change the prohibition against sale or subdivision of purchased land from five to ten years and to prohibit sale or subdivision of land gained through "sweat equity" for five years. This would help discourage speculation.

HB 130

A M E N D M E N T

Offered in the HOUSE

By Bettisworth

TO:

"* Sec. . AS 38.05 is amended by adding a new section to read:

Sec. 38.05.064. SALE OF SMALL CABIN SITES. A person who has acquired rights to a small cabin site on state-owned land under existing law for hunting, trapping, mining or prospecting, recreational, or other use before January 1, 1980 may request the commissioner to issue a patent to not to exceed one acre of the land occupied by the cabin and surrounding it. A person may exercise rights under this section only if the law under which the rights to the cabin were acquired does not also authorize the issuance of a patent. The commissioner may require, if necessary, the completion of a survey of the land at the expense of the person possessing the rights to the small cabin site. The commissioner shall issue a patent on the completion of a survey satisfactory to the commissioner and the payment to the commissioner of the amount determined by the commissioner to equal the fair market value of the land."

If the committee needs to act on the bill, the approach that makes best sense to me is to amend it so that the homesteads are clearly for agricultural use, as an alternative to the ag development projects. Arguments can be made that it makes sense to give away 160 acres of land in exchange for "sweat equity" in developing a farm; this would result in less subsidy than the present system of selling very large acreages at nominal prices and then piling on million-dollar loans.

Of course, the very basic issue of whether we need a homesteading program at all should be discussed. What signals does "free land" send Outside, compared to PF dividends? What needs are not being met by the existing disposal programs? Is "homesteading" not a romanticized concept which results in land destruction and dashed dreams? Does giving away land in large acreages, in so random a fashion, serve the best interests of Alaskans? Should we not take the time to learn some lessons from our existing disposals (conflicting uses, loss of habitat, poor quality or totally unsuitable land being disposed of for ag or homesites, loss of lands for public use-- state forests and marine parks, conflicts with subsistence uses)?

These are the main issues, as I see them, and some suggestions:

1. Rights conveyed-- ag or all surface. This hinges on the question of whether homesteading is for ag use or just a windfall that a person can use for speculation purposes. Suggestion-- ag only. This

restriction should include clearing and production requirements, restrictions to ag soils, and provisions discouraging speculation-- such as you can't sell for x years, if you do you pay the state the market value of the land less your improvements.

2. Staking or lottery. Staking is part of the romantic vision but results in overstaking, odd shaped pieces, access and easement problems, confusion, etc. Suggestion-- lottery.

3. Size. 160 acres is OK for ag-- too much otherwise.

4. Occupancy and dwelling requirements. Again, is the intent that the owner live on the land and do something with it or just get a windfall? Requiring ag use pretty much moots the occupancy question (unless you worry about share cropping). Requiring x months/year encourages summer homes, seasonal (e.g. oil) workers. Requiring a dwelling encourages on-site living but also something shoddy.

5. Applicability of land classification/use statutes. Any homestead program should be in accordance with related statutes in 38.04 and 38.05. None of the bills now do this.

Tanana Chiefs Conference, Inc.

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Phone (907) 452-8251

May 19, 1983

The Honorable Betty Fahrenkamp
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

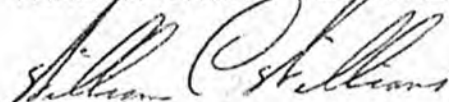
The Tanana Chiefs Conference has some specific concerns about the homesteading bill, HB 130:

1. We would like homestead disposals to be covered under the existing disposal statutes and regulations rather than create additional disposal programs. This is not entirely clear in HB 130 language.
2. Following the terms of the remote parcel system, we would like to see a 10-year restriction on subdivisions. This provision is critical in terms of discouraging speculation. Considering all the problems associated with current subdivision disposals, a multitude of private subdivisions could really wreck havoc with local economics and social structures. Obviously, those subdivisions would not have agency or public review.
3. A clearing requirement on parcels of non-agricultural quality would be quite disruptive to wildlife habitat, as well as nonsensical. If additional sweat equity is desired on those parcels, perhaps requirements such as the ones for federal trade and manufacturing sites would be appropriate.
4. Agricultural entries should have some sort of soil requirement such as 50% Class II-III soils.

We strongly urge you to incorporate these concerns in any homestead bill passing out of your committee.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.



William C. "Spud" Williams
President

WCW:LJ/1155m

cc: John Sackett

136n1

MAY 23 1983

Senate Resources Committee

HB 130

Amendment 1

Sec. 38.09.010 (a) delete all and insert:

The commissioner shall classify for agricultural use and make available for homestead entry state land in accordance with AS 38.04 and AS 38.05.

Rationale

This amendment makes two changes. First, the purpose of homestead disposal will clearly be for agricultural uses rather than a remote parcel or homesite disposal. This is a more responsible dispensation of public trust lands than is the undirected give-away proposed in the current bill. Second, language requiring land to be disposed throughout the state is deleted. This would be an undue constraint given the limited distribution of productive agricultural soils. Additionally, disposal of lands in rural Alaska, as in western and northwestern sectors, may create user conflicts with existing subsistence uses.

Amendment 2

Sec. 38.09.010 (c) a new section, insert:

Land designated for homestead entry shall have at least 50% of the surface area of soil classes II - III as defined by the U.S. Soil Conservation Service.

Rationale

This limits disposal to those lands of known agricultural potential and will serve to restrict the majority of disposals to areas already experiencing development.

Amendment 3

Sec. 38.09.020 (a) A homestead entry permit entitles an applicant to enter land within a designated parcel and to survey, occupy, and improve the land in order to qualify for [A] an agricultural rights patent pursuant to AS 38.05 [UNDER THIS CHAPTER].

Sec. 38.09.050. ISSUANCE OF PATENT. (a) The commissioner shall issue [A] an agricultural rights patent to homestead entry land if the permit holder....

Rationale

This limits the rights conveyed to agricultural only in keeping with the agricultural intent of homesteading.

Sec. 38.09.050 (4) clears and puts into production for cultivation 25 percent of the land within five years after the date of issuance of the homestead entry permit.

Rationale

This provision would assure that each homestead parcel was actually used for agricultural purposes, as intended by this legislation.

Amendment 4

Sec. 38.09.020 (b) [AN APPLICANT FOR A HOMESTEAD ENTRY PERMIT SHALL STAKE THE CORNERS AND FLAG THE BOUNDARIES OF THE LAND ENTERED AND SHALL FILE WITH THE COMMISSIONER A DESCRIPTION OF THE LAND ENTERED] The commissioner shall issue homestead entry permits either by lottery or in order of application. Simultaneous applications shall be determined by lottery. A homestead entry may not exceed 10 percent of the total acreage of a parcel of state land made available after the effective date of this Act. A homestead entry shall be described by aliquot parts and may not be less than 2 1/2 acres or greater than 40 [160] acres.

Rationale

This replaces claim by staking with selection by lottery to prevent over staking, odd shaped parcels, and litigation associated with staking, as well as to protect easements and to control land use. The maximum size of each homestead is decreased to a reasonably adequate acreage.

Amendment 5

add a new section:

Sec. 38.09.100(?) RESTRICTIONS. (a) A grantee of homestead entry land may not convey title to the land for 20 years after a grant of patent under AS 38.05.440 except by testate or intestate succession.

(b) For a period of 99 years following grant of patent, upon conveyance of the homestead land or parts thereof, except for conveyance by testate or intestate succession, the grantee or person who has received title under (a) shall pay to the state the full appraised market value of the conveyed land, exclusive of all improvements to the land, including but not limited to structures, wells, roads, and clearings.

Rationale

This inhibits speculation via resale and protects the interests of the state which is disposing of the land to encourage homesteading. Section (b) provides for repayment of the land's value to the state should the land be sold, yet allows the seller to reap full benefits from any improvements to the land.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M
JUNEAU, ALASKA 99811
PHONE: 465-2400

June 2, 1983

The Honorable Bettye Fahrenkamp
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Fahrenkamp:

We have been asked for a statement regarding the Committee Substitute for House Bill 130 (Finance), which is now before the Senate Resources Committee. While we were pleased with the improvements made on the bill in the House Resources Committee, there are two or three areas of remaining difference between the Administration recommendations on a homestead program and the current version of the bill. We appreciate the opportunity to comment on these differences.

1. CSHB 130 provides for a homestead program by staking. We recommend that the department be allowed the flexibility to offer homestead by staking or by lottery. While we would envision offering most homestead areas by staking, such a lottery provision would provide the opportunity to offer a more orderly disposal in areas where we expect very high demand.

2. The current proposed legislation authorizes parcels ranging in size from 2 1/2 acres to 160 acres with very little flexibility for the department to regulate the parcel size or density of staking. We recommend that, in the interest of good land management, the flexibility be given to the department to regulate both parcel size and density.

3. The bill currently envisions a maximum parcel size of 160 acres regardless of proposed use. We believe that a maximum size of 160 acres is appropriate on lands with agricultural potential. However, it does not seem to be a good balance of State resources to offer parcels of 160 acres at no cost for individual residential or recreational

The Honorable Bettye Fahrenkamp
Page 2
June 2, 1983

use. The department recommends a maximum size of 40 acres for residential or recreational parcels, which is the current maximum acreage in the remote parcel program, and a maximum of 160 acres for areas classified as agricultural. The "sweat equity" requirement on those larger agricultural parcels might then include an additional clearing requirement.

4. The bill requires cadastral survey at pivot points on the area boundary, which will result in lower cost to the State on the front end and increased cost to the applicant as individual parcel boundaries are surveyed. While we do not object to passing the survey cost on to the applicant, State survey of the current statutory minimum (i.e. 2-mile monumentation) will result in substantial savings in administrative costs and will serve the State and private development interests in the future. Furthermore, once a surveyor is mobilized in an area, additional points are relatively cost effective to place as part of an original survey.

To clarify the zero fiscal note, it should be noted that the department would view a homestead program as another method of disposing of state land within our current land disposal program. The cost of administering the program would be covered by the current appropriation to DNR for land disposal. Therefore, the department will be required to reduce offerings by other land disposal methods in order to absorb the cost of the homestead program.

As you know, the Administration supports the homestead concept, and we look forward to working with Senate Resources toward a workable program. We are available to testify at your convenience and offer other assistance as needed.

Sincerely,



Esther C. Wunnicke
Commissioner

cc: Emil Notti, Legislative Assistant
Office of the Governor

Tom Hawkins, Director
Div. of Land & Water Management

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
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(907) 465-3834
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Senate

Committee on Resources

MINUTES

June 13, 1983
3:04 p.m.

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chair	Senator V. Fischer
Senator Ziegler, Vice Chair	Senator Mulcahy
Senator Eliason	Senator Sturgulewski
Senator F. Fischer	

CALENDAR

- HCR 31 Relating to protection and preservation of the Kenai River.
- HCR 27 Requesting the state to collect and use information on trapping for land use planning and land disposal.
- HB 130 An Act relating to homesteads; and providing for an effective date.
- SB 219 An Act relating to the processing of permits by state agencies; and providing for an effective date.

HCR 31

Representative Fritz, sponsor of the resolution, encouraged support of the resolution, and proposed deleting the last resolve clause in the measure in order to remove the fiscal impact.

Jay Nelson, Alaska Environmental Lobby, said that the Kenai Peninsula Conservation Society and the Katchemak Bay Conservation Society both favored the resolution, and he encouraged passage of the measure.

Senator Mulcahy moved that lines 18-22, page 2, be deleted, and asked unanimous consent. The motion passed without objection.

Senator Mulcahy moved that the Resources Committee Substitute be adopted and reported out with individual recommendations. The motion passed without objection.

HCR 27

Sandra Schubert, Resources Committee staff, explained the differences between the proposed committee substitute and the original resolution.

Kay Wallace, staff to Representative Hurlbert, said the Representative supported the committee substitute and encouraged the Committee's support.

Senator Mulcahy moved that the Resources Committee Substitute be reported out of Committee with individual recommendations. The motion passed without objection.

HB 130

Pat Pourchot, Resources Committee aide, explained the proposed committee substitute. He outlined requirements for homesteads and obtaining patent. He said the committee substitute tried to simplify and combine a homestead program and the existing remote parcel program. He explained an amendment proposed by the Department of Natural Resources which would allow the Department to limit the number of stakers in a lottery, when necessary.

Representative Rick Uehling, sponsor of the bill, said, in reference to DNR's proposed amendment, that the House would prefer a land-rush approach rather than restricting lotteries.

Senator Vic Fischer moved adoption of DNR's proposed amendment. The motion passed without objection.

Senator Mulcahy moved the amended Resources Committee Substitute be reported out of committee with individual recommendations. The motion passed without objection.

SB 219

Jim Palmer, Resources Committee aide, explained the proposed committee substitute. The committee discussed the provisions of the measure.

Phil Holdsworth, Alaska Miners Association, hoped that the intent of the language allowing flexibility of time limits (page 2, line

6, draft committee substitute) would mean that processing time could be shortened as well as lengthened. Senator Fahrenkamp said that was the intent.

Senator Mulcahy moved that the proposed committee substitute be adopted and reported out as a Resources Committee Substitute with individual recommendations. The motion passed without objection.

The meeting was adjourned at 3:37 p.m.

Specific Comparisons

HB 167/HB 130

Findings (A)

Neither House Bill contains a findings section.

Land Identification (B)

The main difference in the two bills is HB 167 specifically directs that the Commissioner shall designate land and make it available for homestead entry. HB 130 does not.

HB 167 also requires a cadastral survey to establish section corners to be paid for by the state, requires public notice and denies any preference rights such as length of residency, veteran, etc.

Qualifications for Applicants (C)

HB 167 requires staking of the parcel which can be up to 160 acres and requires that entry permits be set out on a first come first serve basis. HB 130 requires applicants to be qualified under (AS 38.05.057) the lottery program or (AS 38.05.077) the remote parcel disposal procedures. HB 130 also disqualifies a person who has leased a remote parcel, or applied for a homestead entry within the previous 8 years.

HB 167 prohibits the conveyance of a permit in any manner except by testate or interstate succession. HB 130 does not address conveyance. HB 167 requires a specific fee of \$500.00 for applicants of which \$400.00 is refundable after meeting all other patent requirements. HB 130 simply states that a fee may be charged. HB 167 also requires a commitment from the applicant that he or she agrees to all conditions necessary for patent.

Revocation of Permit (D)

HB 167 spells out specific prohibited actions that must not take place or the state may condemn and the property revert to state ownership in 90 days.

Those conditions are:

- 1) an assignment, conveyance, or other transfer of the permit;
- 2) failure of the permittee to submit a plat of survey to the director within 18 months after issuance of the permit;
- 3) failure to erect a dwelling or to clear the land in the time required under AS 38.09.040(a), except that if the director finds that the dwelling or clearing has been nearly completed and progress toward completion is being made at the expiration of the time required, the director may extend the time required for completion for not more than one year;

4) failure to brush the boundaries of the parcel within one year.

HB 130 also requires compliance with specific criteria and authorizes the A.G. to eject the homestead applicant if called on by the director to do so. The required criteria is as follows:

- 1) occupies the land for a total of 35 months;
- 2) erects a habitable dwelling;
- 3) clears and prepares for cultivation not less than
 - (A) one-fourth of the land entered if the land is limited to agricultural use; or
 - (B) one-eighth of the land entered if the land is not limited to agricultural use;
- 4) brushes the boundaries of the homestead entry and maintains the brushed boundaries so that they are easily visible from the ground;
- 5) causes a survey of the homestead entry to be made that is acceptable to the director.
 - (b) The director shall require an applicant for homestead entry to submit proof necessary to establish compliance with the requirements of (a) of this section. An applicant is not required to submit proof under (a) (4) or (5) of this section if the land comprising homestead entry has been surveyed.
 - (c) As used in this section, "habitable dwelling"
 - (1) means a permanent dwelling of not less than 200 square feet and its fixtures and facilities;
 - (2) does not include a mobile home unless it is permanently attached to a permanent foundation.
 - (d) A person who has applied or received state land under this chapter is not eligible for a state loan under AS 03.10 for the habitable dwelling or the clearing of the land required under this section.

HB 130 also states that a person who has received state land under a homestead provision is not eligible for a state loan until patent is received.

Patent Requirements

HB 130

- 1) occupies the land for a total of 35 months;
- 2) erects a habitable dwelling;
- 3) clears and prepares for cultivation not less than
 - (A) one-fourth of the land entered if the land is not limited to agricultural use; or
 - B) one-eighth of the land entered if the land is not limited to agricultural use;
- 4) brushes the boundaries of the homestead entry and maintains the brushed boundaries so that they are easily visible from the ground;
- 5) causes a survey of the homestead entry to be made that is acceptable to the director.
 - (b) The director shall require an applicant for homestead entry to submit proof necessary to establish compliance with the requirements of (a) of this section. An applicant is not required to submit proof under (a) (4) or (5) of this section if the land comprising homestead entry has been surveyed.
 - (c) As used in this section, "Habitable dwelling"
 - (1) means a permanent dwelling not less than 200 square feet and its fixtures and facilities;
 - (2) does not include a mobile home unless it is permanently attached to a permanent foundation.
 - (d) A person who has applied or received state land under this chapter is not eligible for a state loan under AS 03.10 for the habitable dwelling or the clearing of the land required under this section.

HB 167

Sec. 38,09.040. ISSUANCE OF PATENT. (a) The director shall issue a patent to homestead entry land if the permit holder for that parcel

- (1) resides on the homestead entry land for not less than five months a years for five years;
- (2) completes an approved survey of the land within 18 months after issuance of the permit;

- (3) erects, within three years after the date of issuance of the homestead entry permit, a habitable, permanent, single-family dwelling on the homestead; for the purposes of this paragraph, a mobile home is not a permanent dwelling unless it is placed on and attached to a permanent foundation;
- (4) clears five percent of the land within five years after the issuance of the homestead entry permit; for the purposes of this paragraph, land used for improvements is considered to be cleared;
- (5) brushes the boundaries of the parcel within one year after issuance of the permit.

Municipal Considerations

HB 167 allows potential municipal and borough land to be designated for homestead land and also prevents those entities from selecting those lands already designated as homestead lands. HB 167 also exempts homestead entry land from local platting, recording, or subdivision requirements established under AS 29.33 and AS 40.15 unless it is subdivided in the future.

HB 130 requires that the Commissioner of DNR consult with a municipal assessor before determining the purchase price of land located in the municipality.

Authorization of Regulations

HB 167 gives authority to commissioner to adopt regulations for implementing homestead provisions. HB 130 does not address regulation authority.

Definitions

HB 167
Sec. 38.09.900 DEFINITIONS. In this chapter

- (1) "commissioner" means the commissioner of natural resources;
- (2) "director" means the director of the division of land and water management in the Department of Natural Resources;
- (3) "Habitable dwelling" means a dwelling of a permanent nature, together with fixtures and facilities, including sanitary facilities, required by law or customary in the vicinity of the land made available for homestead entry;
- (4) "resident" means a person who has resided in the state for at least one year, does not claim residence in another state, and shows by all attending circumstances an intent to make this state the person's permanent residence.

	SB 102 Governor	SB 43 Moss	CSHB 130(Fin) am	AS 38.05.077-078 Remote Parcels	AS 38.08 Homesites
Method of Disposal	Lottery, over-the-counter designated parcels	Application*	Stake corners and flag boundaries by aliquot parts	Stake boundaries	Lottery or over-the-counter applications or surveyed parcels
Parcel Size	160 acre maximum	160 acre maximum	2.5-160 acres, not to exceed 10% of area open	40 acre maximum	5 acre maximum
Fee	\$500/\$400 refund	\$100 or \$75 with title search	\$5 per acre	\$10/acre annual lease then fair market value	\$10 application purchase with terms
Survey Required	Within 18 months	Within 5 years	Within 2 years	Before expiration of 5-yr. lease or additional 5-year extension	Reimbursement of survey and platting by state
Build Habitable Dwelling	Within 3 years, with fixtures/facilities required, customary	Within 5 years, with fixtures/facilities required, customary	Within 3 years, with fixtures/facilities required, customary	None	Within 5 years
Occupy the Land	None	15 months in 5 years	25 months within 5 years	None	35 months within 7 yrs
Clearing Required	25% in 5 years, and put into production or prepare for cultivation	None	Must brush boundaries within 90 days	None	None
Structure of Patent Issued	Ag. rights patent	Surface estate patent	Surface estate patent	Surface estate	Surface estate
Applicant Qualifications	age 18, 1-year resident; only one homestead permit or patent	age 18, 1-year resident, registered voter, only one homestead	age 18, 1-year resident, only one homestead permit, patent to no more than 160 acres	Age 18, 1-year resident, no remote parcel lease within past 8 years	Age 18, 3-year resident, or 20-year cumulative residence, only 1 entry permit and 1 patent
Comments:	Provides for AIFC construction loan for veterans. Disposals not subject to local platting, subdivision requirements	*Affidavit required agreeing to certain things; must publish notice of application. 1-year exemption from property taxes then tax break for aa. development	Disposals subject to local platting, subdivision requirements	Land cannot be sold before 10 years after sale.	

STATEMENT BEFORE SENATE JUDICIARY COMMITTEE ON
SCS CSHB 150, HOMESTEADING

MAJOR PROVISION

---ESTABLISHES "SWEAT EQUITY" LAND DISPOSAL PROGRAM WHICH ALLOWS PEOPLE TO GAIN TITLE TO STATE LAND THROUGH COMPLETING SURVEY, BUILDING HABITABLE DWELLING AND LIVING ON THE LAND.

MAJOR CHANGES IN HOUSE BILL BY RESOURCES

- REDUCED ACREAGE FROM 160 TO 40 ACRES FOR NON-AG LAND. 160 MAXIMUM FOR AG LAND
- AUTHORIZED DNR TO ESTABLISH STAKING PROCEDURES, POSSIBLE LOTTERY TO LIMIT NUMBERS OF STAKERS
- ADDED CLEARING REQUIREMENT (25%) FOR AG LANDS
- PHASED REPEAL AND ROLL IN OF CURRENT REMOTE PARCEL PROGRAM FOR DISPOSAL EFFICIENCY AND USER UNDERSTANDING
- OPTION TO PURCHASE LAND AT FAIR MARKET VALUE. PURCHASED LAND SUBJECT TO NON-SALE, SUBDIVISION FOR FIVE YEARS
- COMMISSIONER CAN EXTEND SURVEY TIME FROM 2 TO 3 YEARS IF GOOD-FAITH EFFORT

SUMMARY

PROGRAM CAN FIT WELL INTO CURRENT DISPOSAL PROGRAM. MORE CHANGES IN DISPOSAL PROGRAM PROBABLY NEEDED--WILL STUDY DURING INTERIM. ACHIEVES GOAL OF OFFERING LOWER COST LAND, INCLUDING AG LAND, WITHIN PRUDENT DISPOSAL FRAMEWORK AND EXISTING PROGRAM ELEMENTS. WOULD AVOID "LAND RUSHES" AND INDISCRIMINATE STAKING OF STATE LANDS.



M E M O R A N D U M

TO: William Zybach, Special Assistant to the Mayor
FROM: Depts. of Land Management and Planning
RE: Review and Recommendations CSHB 130 (fin)
DATE: June 3, 1983

Handwritten signature and initials

The Departments of Land Management and Community Planning and Development have reviewed CSHB 130(fin) and have serious concerns regarding passage in its present form.

The concerns are focused in four general areas:

- a. Impact on responsibilities and financial burdens of municipalities.
 - b. Potential impact on municipal entitlements.
 - c. Natural Resources vs. Land use considerations.
 - d. Potential survey requirement pitfalls for entryman.
- A. All municipalities which exercise planning platting and zoning authority have adopted a comprehensive plan to guide the physical, social and economic development in an orderly manner and to provide for a systematic development of infrastructure required to support such growth. To create unanticipated pockets of population, in what must be remote areas, will seriously jeopardize the validity of these plans by generating demands for community services which cannot be satisfied in an economic or reasonable manner.

To anticipate this type of impact, and to preclude dense development in a remote area, proposed sec. 38.09.010(a) should be amended by adding; "The designation of any lands for homestead entry within a jurisdiction exercising planning, platting and zoning authority, will be consistent with the local Comprehensive Plan."

- B. The Fairbanks North Star Borough is entitled to 112,000 acres of land under provision of AS 29.18. As of the date of this writing we anticipate a shortfall of approximately 2,000 acres due to inaccuracies in acreage estimates, surveys, and exclusions of waterbodies and state interest lands not yet identified or specified. Existing selections must be amended to encompass new lands which may or may not fall in areas which may be designated under proposed 38.09.010(a), and will not be protected by 38.09.080(a).

To provide the time necessary for the Commissioner to audit selection status, and then allow this and other municipalities suffering similar shortfalls the time required to amend selections, the bill should be amended.

An addition to 38.09.080, as subparagraph (c) should read:

"No State lands within municipalities may be designated for homestead entry prior to July 1, 1985".

- C. The bill does not directly address land use classifications established under AS 38.04.065, yet the letter of intent accompanying the bill appears to be a direction that existing classifications will not affect homestead entry land designation inasmuch as private land for settlement is "...a legitimate and vital use of a natural resource".

The Borough supports this concept only to the point where a resource, critical to the public at large, may be placed in jeopardy by transfer to private ownership. In the Fairbanks North Star Borough forest resources are within this critical category. Firewood and lumber needs may be anticipated to fall well below local demand unless those areas, which are presently well wooded, are managed as a renewable resource. To protect this and other specific resources, proposed 38.09.010(a) should be amended by to read:

(a) "In accordance with 38.04.065, the Commissioner shall classify..."

- D. Although the purpose of the bill is to make lands available to the public inexpensively, the mechanisms prescribed could cause personal and financial hardship to naive entryman. The specific portions contributing to this potential hardship are:

38.09.010(b) - requires monumenting of only external corners of homestead entry designated lands without regard to the size of the tract so designated. It is assumed, but not specified that the boundaries will be equivalent to aliquot parts within the rectangular system.

38.09.020(b) - requires the entryman to stake, flag and describe by aliquot parts the land entered upon. If the land has not been surveyed within the rectangular system at least to the section unit it is incredible to expect any degree of accuracy in the description submitted for permit.

38.09.030(a-5) - assigns full responsibility for the accuracy of homestead entry descriptions to the entryman regardless of the location or reasonable control.

38.09.040(a-4) - provides for revokation of permit if boundaries are not brushed.

38.09.050 - requires the construction of a permanent dwelling in what must be a remote area within three years of the date of entry, residence upon the land for 25 months within five years and complete an approved survey within two years.

Combined, these requirements provide a real threat to the purpose of this bill. Basis for survey control for any homestead entry may be three or more miles from the site entered upon. The homestead survey must be conducted in accordance with survey instructions promulgated by Division of Technical Services (DTS), at times a matter of two to five months from the request date. At least one and probably more sections must be surveyed in order to define the proper section to be further subdivided and to complete the survey. The plat must then be drawn, submitted to DTS, reviewed, revised and then, perhaps approved. This process alone can consume a year or more of the available time. SURVEY EXPENSES MAY WELL EXCEED THE LAND VALUE OF THE ENTIRE HOMESTEAD OF THE INDIVIDUAL ENTRYMAN.

In the meantime one can expect the entryman to be spending time and money in constructing the required dwelling and brushing which cannot match the boundaries described in the permit. The resulting survey may define the boundaries of the described homestead, but the improvements may be somewhere else. What then?

To mitigate the potential problems, the bill should be changed as follows:

Either

38.09.010(b) the Commissioner shall complete a cadastral survey of homestead entry land that establishes monuments at all external section corners within lands so designated and a control point at the intersection etc.

or

38.09.020(b) a homestead entry may (shall) be described by aliquot parts or by metes and bounds located by reference to a prominent geographic landmark. (AND MAY NOT BE LESS THAN 2½ ACRES OR GREATER THAN 160 ACRES.)

Without changing either one or the other of the above two requirements the entire purpose of the bill is subverted. Unless there is a rectangular system in place, an entryman cannot be required to conform or lose his parcel. Exclusive of the rectangular system, a metes and bounds description is the only viable way of location.

DDM/SB/kea

dm

fairbanks north star borough

p.o. box 1267 520 fifth ave. fairbanks, alaska 99707 907-452-4761



MEMORANDUM

TO: Bill Zybach, Special Assistant to the Mayor
FROM: Dawn Mach, Director, Department of Land Management
RE: Municipal Land Disposal Grant Program
DATE: June 3, 1983

dawn

During 1981, the State legislature adopted HB 31. One element of that legislation created the Municipal Land Disposal Grant Program. This grant program, which requires a one-fifth match from the municipality, was originally funded by a two million dollar appropriation. Of this amount, the Fairbanks North Star Borough received \$312,000 which was matched by \$63,000 from the Land Management budget, bringing the total to \$375,000.

The Municipal Land Disposal Grant Program was not funded again until the present legislative session. As an item within the Department of Natural Resources budget, the appropriation currently proposed is \$700,000. This amount will likely be divided between several municipalities. If the money were dispersed in a manner similar to 1981, the Fairbanks North Star Borough's share would be approximately \$100,000. It is possible that we would get nothing. Because of changes in our ordinances establishing procedures for choosing parcels to be offered for sale, we have not yet encumbered the \$375,000. I anticipate that this will be accomplished during July, 1983.

One thing that should be kept in mind regarding grants or appropriations to this Borough's land disposal program is that, with the establishment of the Land Sale Revenue (or Enterprise) Fund, proceeds from the sale of Borough land will be directed back into the program. This means that if one 1,200 acre sale was funded by seed money from the State, downpayments in the year of the sale and all future principal and interest payments will be available to initiate additional sales.

Please keep me informed regarding the status of existing or proposed funding sources for our land disposal program. By all means, let me know if you need further information or my assistance. Thanks for your efforts.

DDM/hs

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
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Senate

Committee on Resources

June 13, 1983

Memo

To: Senate Resource Committee Members

From: Senate Resources Committee Staff

Subject: Proposed CS for CSHB 130, Homesteads

Attached is a proposed CS which we will be considering today at 3:00pm. This bill contains several changes from the draft which was handed out on June 10. The additional changes are marked with an asterisk below.

The proposed Committee CS makes the following changes from the House CS:

- Would require DNR to provide lands classified for agriculture in addition to other lands made available for homestead entry. Ag lands could be larger parcels (up to 160 acres), would require a 25% clearing and preparation for cultivation in addition to the other "sweat equity" requirements, and under existing statute only a rights patent would be issued.
- Would change the maximum acreage available for homestead staking for non-ag lands from 160 acres to 40 acres.
- Would give DNR latitude similar to current remote parcel statute to specify staking conditions, parcel spacing, acreage, etc.
- Applicants would be limited to one homestead per lifetime rather than 160 acres per lifetime as in House CS.
- The remote parcel program would be repealed and most of the relevant requirements and benefits rolled into the homestead program. Current remote parcel lessees would be protected and would also have the option of obtaining patent through sweat equity requirements of homestead program.
- Like remote parcel program homestead entry stakers would have the option of purchasing parcels at fair market value if they elect to within two years of staking and meet survey, brushing, and clearing requirements (ag only).
- * ---If land purchased within two years, patent would contain condition that land not be sold or subdivided within 5 years of patent.
- The time to complete a survey by entrymen could be administratively extended from two to three years if a good-faith effort to obtain a survey has been made.

---To facilitate individual surveys and avoid staking errors, DNR is required to monument no less than one mile from each homestead entry available for staking. The House bill only required exterior boundary monumentation.

- * ---Sections 2-6 were added to the draft CS to conform^{to} other sections in Title 38 to the repeal of the remote parcel program. Where applicable, references to remote parcels or to the statute sections were substituted with references to homesteads and its statute chapter.
- * ---Section 9 on page 8 was added to have the repeal of the remote parcel program and other statute references take effect July 1, 1984 rather than immediately with the homestead program. The purpose is to permit the DNR time to continue to offer remote parcel lands before the homestead program can be implemented.

AMENDMENT

One optional amendment is attached which would authorize the DNR to conduct a lottery to limit the number of stakers permitted to go out and stake in a certain area.

HOMESTEAD BILL SUMMARY

	CSHB 130(Fin) am (House-passed)	SCS CSHB 130(Resources) (Senate Resources-passed)
Method of Disposal	Stake corners, flag boundaries. file by aliquot parts	Same, subject to DNR staking procedures, possible lottery to limit number of stakers
Parcel Size	2.5-160 acres, not to exceed 10% of area open	40 acres maximum for non-ag land 160 acres maximum for ag land
Fee	\$5/acre filing fee	Same
Survey	Required within 2 years	Required within 2 years, except that commissioner can extend a year with good-faith effort
Habitable Dwelling	Build within 3 years, or 4 years if substantially complete	Same
Reside on Land	Must reside 25 months within 5 years	Same
Clearing	Must brush boundaries within 90 days	Same. If ag land, must clear 25% and prepare for cultivation within 5 years
Nature of Patent	Surface estate patent after sweat equity requirements met.	Surface estate patent after sweat equity met, or after down payment within 2 years of staking if applicant opts for fair market value purchase. If purchased, can't sell or subdivide for 5 years. Ag rights only patent to ag lands.
Applicant Qualifications	Age 18, 1-year resident, Only patent to 160 acres in lifetime.	Age 18, 1-year resident, Only one homestead patent per lifetime.
Other Provisions	Disposals subject to local platting, subdivision requirements.	Same. Repeals remote parcel program effective July 1, 1984 and rolls in major provisions into homestead program



DNR Land Disposal Programs*

DISPOSAL PROGRAM	PARCEL SIZE	PRICE TO PURCHASER	TERMS	FREQUENCY OF PARTICIPATION	METHOD OF DETERMINING WINNER	OVER THE COUNTER	APPLICANT QUALIFICATIONS		ON SITE REQUIREMENTS FOR TITLE	
							AGE	AK. RESID.		
LOTTERY	ANY	APPRAISED FAIR MARKET VALUE	5% DEPOSIT, MAXIMUM 20 YEAR PAYOFF	1 PER 8 YEARS EXCEPT FOR SALE BY LOTTERY OF PLANNED AGR. PROJECTS	LOTTERY	APPLIES TO REMAINING PARCELS	18	1 YEAR	NONE	* LAND DISCOUNT APPLICABLE (EXCEPT FOR COMMERCIAL OR INDUSTRIAL PARCELS)
AUCTION SALE	ANY	BID PRICE (MINIMUM BID: APPRAISED VALUE)	5% DEPOSIT, 20 YEAR PAYOFF	1 PARCEL PER AUCTION	HIGH BID AT PUBLIC AUCTION	APPLIES TO REMAINING PARCELS	18	NONE	NONE	LAND DISCOUNT APPLICABLE (EXCEPT FOR COMMERCIAL OR INDUSTRIAL PARCELS)
HOMESITE	GENERALLY 5 ACRES OR LESS	SURVEY AND PLATTING COSTS ONLY	PAYMENTS SPECIFIED BY CONTRACT	1 IN A LIFE-TIME PER HOUSEHOLD	LOTTERY	APPLIES TO REMAINING PARCELS	18	3 YEARS IMMEDIATE PRIOR OR RESID W/ 20 YEARS CUMMUL	CONSTRUCT DWELLING WITHIN 5 YEARS. OCCUPY LAND 35 MONTHS IN 7 YEARS	ENTRY PERMIT NON ASSIGNABLE
REMOTE PARCEL	MAXIMUM 40 ACRES	APPRAISED FAIR MARKET VALUE AS OF DATE OF LEASE	LEASE: \$10 PER ACRE PURCHASE: 5% DOWN 20-YEAR PAYOFF	1 PER 8 YEARS	UNLIMITED: FIRST COME, FIRST-SERVED BASIS		18	1 YEAR	STAKE CORNERS, BRUSH LINES AND SURVEY PARCEL	<ul style="list-style-type: none"> * LEASE CANNOT BE ASSIGNED, CONVEYED OR OTHERWISE TRANSFERRED * LAND MAY NOT BE SOLD, LEASED CONVEYED OR SUBDIVIDED FOR 10 YEARS FROM DATE OF SALE CONTRACT * LAND DISCOUNT APPLICABLE
					LIMITED: DRAWING	APPLIES TO REMAINING ENTRIES				
LEASE	ANY	% OF APPRAISED VALUE OR HIGH BID	PAYMENTS SPECIFIED BY CONTRACT	1 PARCEL PER AUCTION	HIGH BID AT PUBLIC AUCTION	APPLIES TO REMAINING PARCELS	18	NONE	NONE	DEVELOPMENT PLAN FOR COMMERCIAL/INDUSTRIAL USE REQUIRED
AGRICULTURAL INTEREST	ANY	APPRAISED VALUE OR HIGH BID	SEE LOTTERY OR AUCTION TERMS	1 PER 8 YEARS	BY LOTTERY OR HIGH BID AT PUBLIC AUCTION	APPLIES TO LOTTERY, MAY APPLY TO AUCTION	18	1 YEAR	<ul style="list-style-type: none"> * A FARM DEVELOPMENT PLAN MAY BE REQUIRED * A FARM CONSERVATION PLAN IS REQUIRED 	<ul style="list-style-type: none"> * MAY REQUIRE PRE QUALIFICATION * RECEIVES AGR INTEREST ONLY * LAND DISCOUNT APPLICABLE

Southcentral District Office

Frontier Building, 10th Floor
3601 C Street
Pouch 7-005
Anchorage, Alaska 99510
(907) 276-2653

Mat-Su Area Office
Century Plaza, Suite 202
Mile .5 Knik Road
Pouch 4008
Wasilla, Alaska 99687
(907) 376-4595

Kenai Peninsula Area Office
Mile 92 Sterling Highway
P.O. Box 1130
Soldotna, Alaska 99669
(907) 262-4124

Southeastern District Office

Marine View Apartments, Room 407
230 S. Franklin Street
Juneau, Alaska 99801
(907) 465-3400

Haines Area Office
Gateway Building, 2nd Floor
P.O. Box 263
Haines, Alaska 99827
(907) 766-2120

Ketchikan Office
State Office Building, Room 205
P.O. Box 7438
Ketchikan, Alaska 99901
(907) 225-4181

Northcentral District Office

4429 Airport Way
Fairbanks, Alaska 99701
(907) 479-2243

Delta Area Office
Mile 267.5 Richardson Highway
P.O. Box 1149
Delta Junction, Alaska 99737
(907) 895-4226

* THIS CHART CONTAINS GENERAL REQUIREMENTS ONLY. IT DOES NOT LIST ALL CONDITIONS OR EXCEPTIONS. AS THE INFORMATION GIVEN HERE IS SUBJECT TO CHANGE AND MAY VARY IN SPECIFIC SALES, ALWAYS REVIEW THE CURRENT REQUIREMENTS AND PROCEDURES IN THE DISPOSAL BROCHURE THAT INCLUDES THE LAND YOU WISH TO PURCHASE. THE APPLICANT MUST BE PRESENT AT THE ACTUAL DISPOSAL TO BE AWARDED PARCELS IN MOST LAND SALES. SEE THE SALES BROCHURE FOR EXCEPTIONS.

FY-83 ORDER (D.O. 83-17)

Department of Natural Resources

Specific Disposal Targets

- Identify 67,000 net acres for FY-85
- Develop 67,000 net acres for FY-84
- Offer 67,000 net new acres in FY-83
- Return all previously offered projects to over-the-counter inventory in FY-83
- Minimum 15,000+ acres small Ag annually
- Target 7/1/85 for minimum over the counter:
 - A. Remote Parcel - 150,000 net stakable
 - B. Sub Division - 20,000 net acres
- Pursue Homestead Legislation

General Disposal Policies

- Improve Quality
- Emphasize Accessible Areas
- Remote Areas - Restricted to Community Expansion & Development Areas & Limited Recreation
- Encourage Capital Improvement Funding for Municipalities/State
- Pursue Inventory Replacement/Over-The-Counter Program
- Other Policies