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624

Alaska State Legislature

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House of Representatives

MEMORANDUM

April 16, 1984

TO: Members Senate Resources Committee
FROM: Representative Ron Larson *R.L.*
SUBJECT: HB 624

The following piece of legislation passed the House March 20, 1984 by a division of 40 to 0. Any consideration you may be able to give this particular piece of legislation in moving it through the Senate would be very much appreciated.

HB 624 - "An Act relating to qualifications for a homesite."

This legislation will allow current holders of homesite parcels to transfer their rights in the property to another individual, when due to an incapacitating illness or injury, he or she cannot fulfill the on site residency requirements. This allowance would be the same as is currently provided for under the homestead statutes, AS 38.09.030(c)(4).

Under present homesite statutes, if a person has fulfilled all requirements except for residency, he or she could lose the rights to the property because of a serious illness or injury preventing them from residing on the homesite. Often, in the case of a disabling illness or injury, a person is required to live closer to medical facilities or may require special care.

The homesite law does provide for a legal transfer of property upon a person's death; however, if they survive a serious illness or operation, which incapacitates them, they would lose all their rights and property improvements on their homesite. This bill would simply provide the same provisions under the homesite law which were provided for in the homestead statutes, dealing with this type of emergency.

cc: Senator Kerttula

The 1981 amendment added the second sentence of subsection (b).

Sec. 38.08.020. Public notice. The director shall publish notice of the availability of the land in the same manner as provided in AS 38.05.345(e). (§ 2 ch 142 SLA 1977; am § 9 ch 181 SLA 1978; am § 41 ch 85 SLA 1979)

Effect of amendments. — The 1978 amendment deleted the former first sentence, which read "Following classification of land for homesite entry, offerings of homesite entry land shall be made on a rotating basis from among the four judicial districts of the state."

The 1979 amendment substituted "in

the same manner as provided in AS 38.05.345(e)" for "for at least three consecutive weeks through the electronic media and in at least three newspapers of general circulation in the state, at least one of which, if possible, shall be a newspaper of general circulation in the vicinity of the available land."

Sec. 38.08.030. Applications for homesite entry; fees. (a) To qualify for a homesite entry permit, an applicant shall

(1) at the time of application have attained the age of 18;

(2) submit proof acceptable to the commissioner that the applicant is a resident of the state at the time of application, and that the applicant has been a resident of the state for not less than one year immediately preceding the date the application was submitted;

(3) agree to comply with the requirements for obtaining a patent to land set out under AS 38.08.060.

(b) Fees for filing an application may not exceed \$10. (§ 2 ch 142 SLA 1977; am § 10 ch 181 SLA 1978; am § 67 SLA 1983)

Effect of amendments. — The 1978 amendment substituted "three years" for "six years" in paragraph (2) of subsection (a).

The 1983 amendment, effective July 16, 1983, rewrote paragraph (2) of subsection (a).

Sec. 38.08.040. Issuance of entry permit. (a) An applicant meeting the qualifications for homesite entry under AS 38.08.030 shall be issued a revocable permit to occupy and improve the homesite in order to qualify for issuance of patent as provided in this chapter. The application fee is the sole rent chargeable on the permit for its duration.

(b) *[Repealed, § 19 ch 67 SLA 1983.]*

(c) The permit may not be assigned, conveyed or otherwise transferred, but rights under the permit may devolve by testate or intestate succession. An attempt to assign, convey, or to otherwise transfer the permit, is void and constitutes a substantial breach.

(d) An applicant may apply for more than one available homesite. No person holding a homesite patent may apply for a homesite entry permit, no person may simultaneously hold more than one homesite entry permit, and no person who is a member of the homesite entry

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(1) the minimum distance between homestead entries in the area;
(2) the dimensions, configuration, orientation or other design requirements for a homestead entry in the area;

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

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

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

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

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

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

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

(g) The commissioner may limit the number of persons permitted to stake homestead entries within an area designated under (a) of this section by a lottery of qualified applicants. (§ 1 ch 103 SLA 1983)

Sec. 38.09.020. Homestead entry permits. (a) A homestead entry permit entitles an applicant to enter land within an area designated under AS 38.09.010 and to survey, occupy, and improve the land in order to qualify for a patent under this chapter.

(b) An applicant for a homestead entry permit shall personally stake the corners and flag the boundaries of the land entered under this chapter and shall personally file with the cimmissioner a description of the land entered. A homestead entry shall be described by aliquot parts unless otherwise permitted by the commissioner. (§ 1 ch 103 SLA 1983)

Sec. 38.09.030. Qualification for homestead entry. (a) An applicant for a homestead entry permit shall

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

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

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

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

(5) assume full responsibility for the accuracy of the description of the land filed with the commissioner under AS 38.09.020(b).

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

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

- (1) by testate or intestate succession;
- (2) to a spouse during marriage;
- (3) by order of a court as part of a divorce settlement;
- (4) to either a member of the immediate family or a grantee of the applicant in the case of an extreme emergency or illness which disables the applicant. (§ 1 ch 103 SLA 1983)

Sec. 38.09.040. Revocation of entry permits. (a) A homestead entry permit may be revoked by the commissioner for any substantial breach of the permit conditions or the requirements of this chapter, including

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

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

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

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

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

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

(c) If a homestead entry permit is revoked under (a) of this section, improvements or personal property upon the land shall be managed under AS 38.05.090 and the state land remains available for homestead entry under this chapter. (§ 1 ch 103 SLA 1983)

Sec. 38.09.050. Issuance of patent. (a) The commissioner shall issue a patent to homestead entry land if the permit holder

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

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

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

INTENT OF LEGISLATION

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Introduced: 2/13/84
Referred: Resources

1 IN THE HOUSE

BY LARSON

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HOUSE BILL NO. 624

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - SECOND SESSION

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A BILL

6 For an Act entitled: "An Act relating to qualifications for a homesite."

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

8 * Section 1. AS 38.08.040(c) is repealed and reenacted to read:

9 (c) The permit may not be assigned, conveyed, or in any manner
10 transferred except by testate or intestate succession, to a spouse
11 during marriage, by order of a court as part of a divorce settlement,
12 or to either a member of the immediate family or a grantee of the
13 applicant in the case of an extreme emergency or illness that disables
14 the applicant. An attempt to assign, convey, or in any manner
15 transfer the permit except as permitted by this subsection is void and
16 constitutes a substantial breach of the permit.

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*Homesite
AS 38.09.030(c)*