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102

SENATE RESOURCES COMMITTEE  
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: SB 102

BILL NAME: Relating to homesteads.

SPONSOR(S): Rules/Governor

RELATED BILLS PENDING: SB 43

DATE INTRODUCED: 2-1-83

SSHB 167

REFERRALS: Resources  
Finance

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR  
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

AGENCY RESPONSE:

FISCAL NOTE:

OTHER INTERESTED SENATORS OR  
REPS. NOTIFIED:

HB 130 passed  
legislature

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE  
SUBSTITUTES DRAFTED:

DNR - Wanner + Sharon Barton  
yes Jay Nelson, Environmental Lobby  
yes Pappy Moss

Bill Lovell, Uehling 4821

~~Should release~~ 48602043 ~~respective~~  
Atified: Ray Gillespie, Governor's office  
will not testify Phil Holdsworth

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
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## Senate

### Committee on Resources

TO: Senate Resources Committee Members  
FROM: Senate Resources Committee Staff  
RE: Hearing on Homestead Legislation, SB 43, SB 102, CSHB 130  
DATE: June 2, 1983

We will be hearing the above bills on Wednesday, June 8 at 3:00 p.m. in the Beltz Room. We are not expecting to take final action on the bills at that time, but will hear testimony from the bills' sponsors, the DNR, and other interested persons.

When we heard this legislation earlier in the session, concern was expressed on what objectives we were trying to achieve in the legislation, and how the legislation related to existing disposal programs. In consideration of the measure in the House, the DNR emphasized that any homestead program would be administered in conjunction with other programs and that the total acreage disposed of would not necessarily be increased unless specific "quotas" were established and additional manpower and funding were available. Current disposal goals are about 60,000 acres annually.

Attached for your review is a summary table comparing the provisions of the various bills, a comparison of the reported goals of the homestead legislation and existing state land disposal programs, and a description of DNR's current programs and disposal goals.

The Chairman has stated her intention of studying and making legislative recommendations on the entire land disposal program during the interim.

Also attached is background information on HCR 27 and HCR 31, which will also be heard at our June 8 meeting.

"HOMESTEAD GOALS"

APPLICABLE STATE LAND DISPOSAL PROGRAMS

Return to traditional,  
pioneer way of land settle-  
ment; psychological goals

State "homestead" law repealed in 1979 in favor of other similar disposal programs. Federal "homestead" lands withdrawn in 1973. Federal "homestead" law repealed in 1976 except for Alaska for 10 more years. BLM re-opened Minchumina federal lands for homestead entry in 1982, other areas may be opened.

Cheap or Free Land

All state programs require a minimum of survey costs (\$1000-2000); Most require purchase at fair market value less up to 50% residency discount until April of 1983 (court struck).

Sweat Equity

Homesites. Construct dwelling in 5 years;  
Occupy land 35 mos. in 7 years;  
Reimburse state survey costs.

Disposal by Staking of Land

Remote Parcels.

Larger Acreage

Remote Parcels are maximum 40 acres;  
Ag auction or lottery sales 200-2000+ acres.

Lands Suitable for Agriculture

Auction or Lottery Sales of both large ag project lands and small ag land parcels.



## STATE LAND DISPOSAL FACTS

### CAN STATE LAND BE PURCHASED BY THE PUBLIC?

Yes. The Alaska Department of Natural Resources regularly schedules land sales twice a year. These disposals generally include: 1) subdivision lots and agricultural parcels in the lottery program; 2) low-cost land for the purpose of building a permanent home (limited to one parcel per household) in the homesite program; and 3) unplatted remote acreage for lease and optional purchase in the remote parcel program.

After each land disposal, unawarded parcels are made available over the counter on a first-come, first-served basis, under the same terms and conditions as the original offering.

Other auctions and lotteries — in most cases involving the sale of special agricultural projects or miscellaneous parcels — are usually held several times a year.

### DOES THE STATE OF ALASKA HAVE A HOMESTEADING PROGRAM AT THIS TIME?

No.

### WHO CAN TAKE PART IN STATE LAND SALES?

All applicants must be at least 18 years old. Residents who have lived in the state at least one year immediately prior to a disposal may apply for lottery and remote parcels. Applicants in the homesite program must have resided in the state three years immediately prior to a disposal or must have accumulated a total of 20 years residency and currently be living in Alaska. Residency requirements for large agricultural projects vary. Non-residents may participate in auctions.

### WHERE CAN I APPLY?

Applications are accepted at all Division of Land and Water Management district and area offices. See the reverse side of this fact sheet for addresses and telephone numbers.

### HOW MUCH DOES STATE LAND COST?

In most cases land is sold at fair market value. However, homesites may be acquired for the surveying and platting costs. Parcels disposed of by auction go to the highest bidder, with the appraised value serving as a minimum bid. The sales brochure will include specific pricing information.

Discounts based on the number of years of Alaska residency are available. Please note that discounts do not apply to the homesite program.

### WHAT ARE THE TERMS OF PAYMENT?

If the amount to be paid to the state is \$1,000 or less, it must be paid in a lump sum at the time of purchase. Contracts may

be arranged for amounts exceeding \$1,000. Terms include a down payment of 5 percent (plus fees when applicable) and installment payments with interest for a period of up to 20 years.

### DOES THE STATE PROVIDE ACCESS TO LAND OFFERED IN ITS PROGRAMS?

Legal access exists to all state disposal offerings via existing roads, section-line easements, platted rights of way, trails, lakes, or rivers. Information regarding legal access to a parcel may be obtained at the district office for the area in which the parcel is located. The state has no obligation to construct roads to any parcel.

### DOES ALASKA HAVE "SQUATTERS' RIGHTS"?

No. Building a cabin on state land without a permit or lease is trespassing and subject to legal or administrative action. Permits for authorized uses may be applied for at the district offices.

### HOW CAN I FIND OUT MORE ABOUT THE STATE'S LAND DISPOSAL PROGRAMS?

Two publications are issued to inform the public of each regularly scheduled disposal: 1) the State Land Update, which gives a brief description of locations to be offered, and 2) a detailed sales brochure. The update is mailed automatically to state residents who are on the "Land for Alaskans" mailing list (one copy per household, please). Since the update describes land that is being disposed of under programs that require Alaska residency and is thus of little benefit to non-residents, the mailing list is limited to residents of the state.

The sales brochure gives information on program requirements, procedures, conditions, parcel locations, access, and prices. Copies can be picked up at no charge at district and area offices and at numerous other distribution points throughout the state during the disposal filing period. They are large and costly to mail and, therefore, are not mailed automatically. You may, however, receive a copy by mail if you submit with your request \$3 to cover postage costs.

No mailing lists are maintained for the irregularly held auctions and lotteries, but they are advertised throughout the state.

If you have additional questions about state land disposals in Alaska, or about other programs offered by the Department of Natural Resources, call the information counters at the district offices.



# 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 2 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 IMMED. 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"> <li>* LEASE CANNOT BE ASSIGNED CONVEYED OR OTHERWISE TRANSFERRED</li> <li>* LAND MAY NOT BE SOLD, LEASED CONVEYED OR SUBDIVIDED FOR 10 YEARS FROM DATE OF SALE CONTRACT</li> <li>* LAND DISCOUNT APPLICABLE</li> </ul>
					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"> <li>* A FARM DEVELOPMENT PLAN MAY BE REQUIRED</li> <li>* A FARM CONSERVATION PLAN IS REQUIRED</li> </ul>	<ul style="list-style-type: none"> <li>* MAY REQUIRE PRE QUALIFICATION</li> <li>* RECEIVES AGR INTEREST ONLY</li> <li>* LAND DISCOUNT APPLICABLE</li> </ul>

## 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  
Miles 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) 275-4181

## Northcentral District Office

4420 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.

POLICY ORDER - UPDATED YEARLY

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 60,000 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. Subdivision - 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

STATE OF ALASKA  
THE LEGISLATURE

ALASKA STATE CAPITAL  
GENERAL ASSEMBLY  
1975-1976

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 14, 1983

SUBJECT: Homestead bills -- sectional analysis  
(Work Order No. 13-0723)

TO: Senator H. Pappy Moss

FROM: Richard A. Bradley  
Legislative Counsel

You have requested a sectional analysis of the homestead bills now pending.

As of the date of this writing, the bills include HB 130 (Uehling, et al.), SSHB 167 (Tischer, et al.), SB 43 (Moss et al.), and SB 102 (Rules Committee by request of the Governor).

While a "sectional analysis" would normally walk through each bill and identify the subjects and the treatment by section, it seems that since the bills deal similarly or differently with the various common subjects, the first concern should be an analysis of the various treatments of the common subjects.

I. Common Subjects among the Four Bills.

A. The nature of the patent issued.

HB 130 grants either agricultural rights under sec. 40(a)(3)(A) or a patent without minerals under sec. 40(a)(3)(B).

SSHB 167 grants a patent under sec. 40, by implication without minerals.

SB 43 grants a patent under sec. 440(b) without minerals; see sec. 6.

SB 102 grants an agricultural rights patent under sec. 40(a).

B. The amounts of land available.

HB 130 limits a homestead entry made under AS 38.05.057 to 320 acres; it limits an entry made under AS 38.05.077 to 160 acres. Sec. 10(b) and (c).

SSHB 167 limits a homestead entry to a quarter section or to 160 acres. Sec. 10(c).

SB 43 limits a homestead entry to 160 acres. Sec. 425.

SB 102 limits a homestead entry to a quarter section. <sup>640 a.</sup>  
Sec. 10(c).

C. Responsibilities of the Division of Land and Water Management before entry.

As an aside, there is some confusion over the name of the agency to be assigned the responsibility for implementing the programs. The state directory lists a "division of land and water management". The governor's bill gives the responsibility to the division of lands. Sec. 38.09.900(2). There seems to be no consistency. In an attempt to follow former executive leads, the usage in SSHB 167 was given as "the division of land and water management", see sec. 38.09.900(2), though I agree that the name of the division was changed in the former administration, apparently without the benefit of an executive order.

HB 130 requires the director to designate and permit homestead entry under procedures established in either AS 38.05.057 or AS 38.05.077.

SSHB 167 requires the director to classify and make state land available for homestead entry. The director shall complete a "cadastral survey of homestead entry land which established rectangular survey section corners" before making the land available. Parcels shall be described by aliquot parts or survey.

SB 43 provides that land "suitable for agricultural use" is classified and available for entry. The commissioner is given other affirmative duties under the bill.

SB 102 requires the director to classify and make state land available for homestead entry. The director shall complete a "cadastral survey of homestead entry land which

establishes the section corners" before making the land available. Parcels shall be described by aliquot parts or survey.

D. Qualifications of the applicant at application.

Each bill requires that the applicant be 18 years of age and a one-year resident of the state before application.

HB 130 requires qualification under AS 38.05.057 (disposals by lottery: not have purchased land at a sale by lottery within eight years preceding the sale date) or under AS 38.05.077 (remote parcel disposals: not have leased a remote parcel within eight years preceding the date of staking a remote parcel). Sec. 20(a).

SSHB 167 requires an applicant not hold more than one permit at a time or receive more than 160 acres under this program. Sec. 20(d)(1).

SB 43 requirements are more complicated and are stated in secs. 420(a) and 530(4).

SB 102 requires an applicant not hold more than one permit and not apply for another if the applicant has received a patent under the chapter. Sec. 20(c)(1) and (c) [there are two sec. 20(c)'s].

E. Requirements of the entryman before patent.

HB 130 requires the applicant, within seven years of the date of the application, to occupy the land for a total of 35 months, erect a habitable dwelling, clear and prepare for cultivation either one-fourth of the agricultural land or one-eighth of nonagricultural land, brush the boundaries, cause a survey acceptable to the director to be made. Sec. 40(a). Final proof needs to be submitted. Sec. 40(b).

SSHB 167 requires the applicant, within five years of the issuance of the entry permit, to occupy the land for not less than five months each year for the five years, erect a habitable, permanent, single family dwelling, clear five percent of the land, brush the boundaries within one year of the issuance of the permit. Sec. 40(a).

SB 43 establishes very few conditions that need to be complied with prior to patent; it requires the applicant to

mark the exterior boundaries of the land to be entered. Sec. 420(a)(4). An applicant is wise to submit a title search to the commissioner with the application. Sec. 420(b) and sec. 440. Upon the completion of these acts and the filing of the application containing certain promises (see sec. 420(a)), "the applicant shall receive a homestead grant. . . ." Sec. 420(a). A "homestead grant" is not unlike a "homestead entry permit" under SSHB 167 and SB 102.

SB 102 requires the applicant to erect a habitable, permanent, single family dwelling that meets all applicable state and local regulations within three years after the date of the issuance of the entry permit, clear and either put into production or prepare for cultivation twenty-five percent of the land within five years of the issuance of the entry permit, and complete an approved survey of the land.

F. Conditions disabling an applicant from patent.

HB 130 provides [sec. 30] that an application for homestead entry and the interest of the applicant under the entry is void if the applicant fails to comply with a requirement of sec. 40(a); that section requires occupancy of the land for 35 months, erection of a habitable dwelling, the clearing and preparing for cultivation, brushing of boundaries, a survey acceptable to the director, and final proof.

SSHB 157 permits revocation of an entry permit for "substantial breach of the permit conditions or the requirements of this chapter". The requirements of the chapter [sec. 40] prohibit transfer of the permit, failure to submit a plat of survey within 18 months of the issuance of the permit, failure to erect a dwelling within three years of the issuance of the permit, failure to clear five percent of the land within five years of the issuance of the permit, and failure to brush the boundaries within one year of the issuance of the permit.

SB 43 is different from the other homestead bills in that the usual disabling conditions before patent are rather imposed on the patentee after patent; these conditions are described in the paragraphs discussing "restrictions on the land or patentee after patent".

SB 102 permits revocation of an entry permit for "substantial breach of the permit conditions or the

requirements of this chapter". The requirements of the chapter include an attempt to transfer the permit, failure to submit a plat of survey within 18 months of the issuance of the permit, erection of a dwelling before the timely submittal of the plat of survey (which must be done within 18 months of the issuance of the entry permit), and failure to erect a habitable, permanent, single-family dwelling within three years of the issuance of the entry permit, and failure to clear and put into production or prepare for cultivation twenty-five percent of the land within five years of the issuance of the permit.

G. Restrictions on the land or the patentee after patent.

HB 130 contains no substantial restrictions on the land or the entryman after patent; to the extent that agricultural rights have been granted, the usual disqualification on the use of agricultural land continues.

SSHB 167 permits the director to reserve from the patent easements for roads, trails, or other purposes determined to be in the best interests of the state.

SB 43, as noted above, establishes certain disqualification on the applicants after patent. Sec. 420(a)(3)(f) requires the applicant to agree to comply with the requirements of the law necessary to acquire a patent. A "homestead grant" is issued a short time after the application is filed; the only requirements between the issuance of the "homestead grant" and the patent that are outside the application and its accompanying affidavit are the requirements of recording the application, a \$100 or \$75 application fee, the title search, and brushing the boundaries of the application, and survey. The survey is required within the five years after the homestead grant; failure to supply the survey will cause a forfeiture of the homestead grant and the entitlement to a patent. Sec. 440. Conditions are established in the patent which, if violated, cause the forfeiture of the patent: failure to occupy the land covered by the patent for 15 months within the five years after patent; failure to erect a permanent, habitable dwelling within five years after patent; disposal of timber or materials on a commercial basis within five years after patent; transfer of title within five years after patent. Sec. 440(b) and sec. 450. No clearing requirement exists.

SB 102 permits the director to reserve from the patent easements for roads, trails, or other purposes determined to be in the best interests of the state.

H. Definition of the required dwelling.

HB 130 defines a habitable dwelling as a permanent dwelling of not less than 200 square feet and its fixtures and facilities but includes a mobile home only when it is permanently attached to a permanent foundation.

SSHB 167 requires that the applicant erect a habitable, permanent, single-family dwelling on the homestead and it provides that a mobile home is not such a dwelling unless it is placed on and attached to a permanent foundation. It defines habitable dwelling to mean 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 . . ."

SB 43 requires the grantee of the patent to erect a permanent habitable dwelling that meets all applicable state and local regulations.

SB 102 requires that the applicant erect a habitable, permanent, single-family dwelling on the homestead that meets all applicable state and local regulations and it provides that a mobile home is not such a dwelling unless it is placed on and attached to a permanent foundation. It defines habitable dwelling as 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 . . ."

## II. A Sectional Analysis of the Four Bills

### HB 130.

It should be noted that the structure of HB 130 is somewhat different from the other homestead bills in that the basic land disposals are done under two existing sections of AS 38.05: secs. 57 and 77. These sections are modified to achieve the special purposes of the sponsor and the specific departures from the formulae of those sections are contained in AS 38.09, the new chapter added by the bill.

Section 1 of the bill establishes a new chapter, AS 38.09, Homestead Entry.

Within that section, sec. 10 permits the director of the division of land and water management to permit homestead entry under two existing state land programs: under AS 38.05.057 (disposals of land by lottery) and under AS 38.05.077 (remote parcel disposals). The section permits different acreages to be disposed of than are otherwise possible under those two sections: under sec. 57 up to 320 acres may be transferred and under sec. 77 160 acres may be transferred. The disposal of 320 acres (of agricultural rights) is the most generous disposal of land under any of the four bills.

Sec. 20(a) requires that qualification occur under the provisions of sec. 57 and sec. 77. Sec. 20(b) provides that a person who has leased a remote parcel or applied for homestead entry within eight years preceding date of application may not apply for land under this chapter.

Sec. 30 provides that a person who has staked the exterior boundaries of the entry and qualified for land under sec. 77 and a person selected to purchase land by lottery shall apply for the homestead entry under forms prepared by the Department of Natural Resources. The department may charge an unstated fee for the application.

Sec. 40(a) establishes the requirements for patent. The requirements which are to be established in a final proof submittal include:

occupancy of the land for 35 months;

erection of a habitable dwelling;

clearing and preparing for cultivation one-fourth of the agricultural land or one-eighth of the nonagricultural land;

brushing the boundaries;

causing a survey acceptable to the director to be undertaken.

Sec. 40(c) defines "habitable dwelling". Sec. 40(d) provides that a person who has received state land under

this chapter is not eligible for an agricultural development loan under AS 03.10 to comply with the requirements of this chapter.

Sec. 50 states the reciprocal of sec. 40(a): that failure to comply with sec. 40's requirements will make the application void. If appropriate, the attorney general may be requested to eject the applicant.

Section 2 established language in AS 03.10 duplicating the requirements contained in sec. 40(d).

Section 3 conforms existing law at AS 38.04.020(g)(3) to the new uses being made of sec. 57 and sec. 77. The change on line 24 is to correct a poor usage in the language of the section and does not change the law.

In section 4, the only substantive change is contained in the last sentence added to the subsection. The remaining changes conform the law to the requirements of Chapter 58, SLA 1982: the nonuse of pronouns.

Sections 5, 6, and 7 also conform AS 38.05.077 to the changes made in AS 38.09.

Section 8 establishes a July 1, 1983, effective date.

#### SSHB 167

Section 1 establishes a new chapter AS 38.09, a Homestead Act.

Within the chapter, sec. 10(a) directs the director to classify and make land available for homestead entry. Sec. 10(b) requires the director to complete a cadastral survey with the establishment of rectangular survey section corners before making the land available for entry. The land will be described by aliquot parts, sections, or survey. Notice of the availability of the land will be given under the general notice section, AS 38.05.345.

Under sec. 10(d), the disposals of the land are not subject to AS 38.05 preferences, e.g., resident discounts and veteran preferences.

Sec. 20 describes the entry permits. Under sec. 20(a), a homestead entry permit entitles a person to do those acts

which qualify the person for a homestead patent. Sec. 20(b) requires a staking of the corners of the land entered.

Sec. 20(c) requires the director to issue permits in the order of application. Sec. 20(d) requires an applicant to indicate age and residence in the state as suggested above. It requires the payment of a \$500 application fee (refundable under sec. 40(b) after patent). An applicant agrees to comply with the requirements of sec. 40, conditions for the issuance of patent. The applicant certifies that the corners have been staked.

Sec. 20(e) limits an applicant to one permit at a time and a lifetime limit of 160 acres.

Sec. 20(f) provides that the permit may not be transferred except by testate or intestate succession.

Sec. 30 permits revocation of a permit for the violation of a permit condition or for a requirement of the chapter, including a transfer of the permit, for the failure of the permittee to submit a survey within 18 months, failure of the permittee to brush the boundaries of the parcel within one year, failure of the permittee to erect a dwelling within three years or clear five percent of the land within five years. No cultivation is required. The director may extend the time of the latter two requirements if substantial completion has occurred.

Sec. 30(b) directs that the provisions of AS 38.05.090 be used to dispose of improvements or personal property left on the land after revocation of a permit.

Sec. 40(a) permits the issuance of patent. While no outside limitation on the life of a permit is stated, if the permittee complies with the stated requirements, a patent shall be issued:

residence on the homestead entry for not less than five months a year for five years;

completion of an approved survey within 18 months after issuance of the permit;

erection of a dwelling within three years after issuance of the permit;

clearing of five percent of the land within five years after issuance of the permit (the five percent includes land occupied by the improvement);

brushing the boundaries within one year after issuance of the permit.

Sec. 40(b) directs the refund of \$400 of the \$500 paid on application if a patent is issued.

Sec. 40(c) permits use of temporary housing.

Sec. 40(d) permits the director to reserve easements, et cetera found to be in the best interests of the state.

Sec. 50 permits the director to use land "otherwise . . . available for borough or city selection" for the homestead entry program. And the disposal of homestead entry land is not subject to "local platting, recording, or subdivision requirements established under AS 29.33 and AS 40.15". Subdivision after patent is subject to those requirements.

Sec. 60 permits the commissioner to adopt regulations.

Sec. 900 adopts definitions of commissioner, director, habitable dwelling, and resident.

Section 2 provides an immediate effective date.

#### SB 43

As suggested earlier, the structure of SB 43 is unlike the structure of the other three bills. It should be reviewed to gain the precise implications of its language but an analysis of its section reflects the following contents.

Section 1 is uncodified law stating legislative findings.

Section 2 adds new sections to AS 38.05, homestead grants of state land.

Sec. 410 provides that the public land of the state "suitable for agricultural use" is classified (by the law) and made available for homestead entry. The term "suitable for agricultural use" is defined [at sec. 530(5)] as land containing "soils equivalent to classes I - V as defined by the U.S. Soil Conservation Service" if unclassified or land

"classified for agricultural, grazing, utility, or open-to-entry purposes under AS 38.05.300". [Sec. 300 is the general classification authority of the department.] The section also provides that "The commissioner may reclassify for public purposes up to 500,000 acres of land classified as homestead entry land under this section"; I confess I do not understand the implications of this last sentence.

Sec. 410(b) provides that within 30 days after the effective date of the act, the commissioner shall advertise the availability of land for homestead entry.

Sec. 420(a) provides that a person who is a resident of the state, 18 years of age, a registered voter, who indicates an intention to remain in the state "may receive a homestead grant". To receive a "homestead grant" [a right to enter onto the land: see sec. 530(3)] the applicant is required to record a written application in the recording district and to file with the commissioner a copy of the recorded application, proof of residence in the state, and the appropriate filing fee. An applicant shall also file an affidavit in which the applicant states that the application is made honestly, for the purposes of cultivation and actual settlement, and not for the benefit of any other person; that the applicant will comply with the requirements of the law necessary to acquire a patent; that the applicant is not acting as the agent of another person or in collusion with another to secure the benefits of the land or its timber; that the applicant is not entering the land for purposes of speculation but to obtain a homestead for the benefit of the applicant; and that the soils of the homestead entry land qualify over at least 50 percent of its surface area as classes I - V under U.S. Soil Conservation Service standards. Sec. 420(a). The exterior boundaries of the land need to be marked.

Under sec. 420(b), an applicant may submit a title search with the application.

Under sec. 430(a), a person who applies for a homestead grant is normally given the right to enter the land ["immediate possession"] within 90 days of the application. Under sec. 420(c), the commissioner establishes priority by the date of recording (if the same land is applied for by two or more applicants). Under sec. 420(d) the applicant is then required to publish notice of the application in a

newspaper or in public areas near the land and the notice is a condition precedent to the transfer of title to the homestead entry. Sec. 420(e).

Sec. 420(f) provides that AS 38.05.305 [notice and review by municipalities and regional corporations] and AS 38.05.345 [public notice] are not applicable to land disposals under this program. Note that AS 38.05.305 has been repealed; AS 38.05.345 now covers generally.

Sec. 420(g) requires advice to an applicant of ineligibility from the commissioner as appropriate.

Sec. 425 establishes limitations on homestead grants: they may not exceed 160 acres under sec. 425(a) and a person may receive only one grant during a lifetime under sec. 425(b).

Sec. 430(a) provides that except as provided in AS 38.05.420(h) [an error: it should read AS 38.05.420(g)], the commissioner shall notify applicants of the approval of their homestead allowance and of their right to immediate possession.

A person who submits a title search with the application is entitled to possession 30 days after the application if the title search indicates no prior claims to the land and if no conflicts requiring resolution exist under AS 38.05.420(d) [presumably should be sec. 420(c)]. Title searches on unsurveyed land may be difficult to obtain.

Sec. .(a) controls the survey of the land. The survey shall be accomplished within five years of the issuance of the "homestead grant" -- the right to possession; if the survey is not accomplished within the five year period, the homestead grant is forfeited.

Upon receipt of a survey under sec. 440(a), the commissioner shall grant patent subject to what amount to "conditions subsequent" (that is, while the patent has been issued, it is subject to cancellation and reentry by the state if the conditions are violated).

These conditions include a requirement that

the grantee of the patent occupy the land granted for a cumulative total of 15 months within the five year

period after patent (and three persons shall attest to the fact);

the grantee of the patent erect a permanent, habitable dwelling that meets all applicable state and local regulations within five years after patent.

Sec. 440(c) provides for ejectment and reentry if the conditions are not complied with.

Sec. 450 provides that a grantee of the land may not remove timber or materials on a commercial basis or otherwise dispose of title for five years. Its location apart from sec. 440(b) makes it unclear whether the forfeiture for failure to comply with conditions applies to this requirement; it may not.

Sec. 460(a) exempts "land" acquired under the program from municipal property tax for one year from the date of the grant of patent. Arguably the improvements are not exempted.

Sec. 460(b) establishes a program of exemption from municipal taxation; it provides that the municipality shall exempt "not less than 10 percent of the increase in assessed value of improvements to homestead entry land if the increase in assessed value is directly attributable to an increase in the agricultural productivity of the land". The exemption continues for five years from the date of the grant "or from the date of approval for the exemption by the local assessor, whichever is later". The clarity of the section could be improved; I confess I do not understand the implications of the section.

Sec. 470 provides that land classified as homestead entry land under sec. 420 is available for borough and city selection as well.

Sec. 480 dedicates a section line right-of-way "for public access to public and navigable water". The section is unclear in its coverage.

The next section, sec. 500, provides for exemption of the land from execution for satisfaction of debts. The exemption continues "until a patent is issued". Two things about the section should be recognized. First, when the state owns the land, the interest of the state is protected

from execution and the interest of the applicant may be difficult to sell separately. Second, exemptions from execution sale are also provided under AS 09.35, arguably more effectively there.

The next section, sec. 520, classifies as a class C felony the intentional filing of false information to secure a homestead grant. The interest in the land is also forfeited on conviction according to sec. 520(a).

But sec. 520(b) provides that the forfeiture is discretionary with the commissioner (though no standards for the exercise of the discretion are provided) and the interest of a bona fide purchaser is protected [though it seems difficult to see how a person may qualify as a bona fide purchaser for the five year period immediately after patent and after that, no protection is needed].

Sec. 530 establishes definitions of "general grant land", "habitable dwelling", "homestead grant", "resident", "suitable for agricultural use", and "trust land".

Section 3 conforms AS 29.53.020 [required exemptions from municipal taxation] to the provisions to sec. 450.

Section 4 establishes a form for the homestead application. While forms are not usually put into the statutes, particularly where the requirement is that it be "substantially in the following form", because sec. 420(a)(1) requires an applicant to file the application with the recording office before it is filed with the department there may be some logic to the establishment of the form. Even under those premises, ~~an applicant could more easily obtain a form from the department than from a copy of the bill and the form should be deleted from the bill. In addition, its location in the statutes is awkward; it would be better to have it in AS 38.05.~~

Section 5 establishes an amendment to AS 34.15.340 [other real instruments which may be recorded]. I suspect that the section is obsolete since I expect these topics to be covered by court rule. If it is not obsolete, it does no harm.

Section 6 amends AS 38.05.125, a section establishing a policy of reserving minerals from grants; the provisions of this program are affirmatively added.

Section 7 establishes an immediate effective date.

SB 102

Section 1 establishes a new chapter AS 38.09, a Homestead Act.

Within the chapter, sec. 10(a) directs the director to classify and make land available for homestead entry in amount and at times as the director may determine.

Sec. 10(b) requires the director to complete a cadastral survey with the establishment of section corners before making the land available for entry. The land will be described by aliquot parts (sections) or survey and the parcels may not be larger than a quarter section. Notice of the availability of the land will be given under the general notice section, AS 38.05.345. Sec. 10(c).

Under sec. 10(d), the disposals of the land are not subject to AS 38.05 preferences, e.g., resident discounts and veteran preferences.

Sec. 20 describes the entry permits. Under sec. 20(a) a homestead entry permit entitles a person to do those acts which qualify the person for a homestead patent.

Sec. 20(b) requires the director to issue permits in the order of application or by lottery.

Sec. 20(c) requires an applicant to indicate age and residence in the state as suggested above. It requires the payment of a \$500 application fee and permits the refund of \$400 after patent. An applicant agrees to comply with the requirements of sec. 40, conditions for the issuance of an agricultural rights patent.

**A second sec. 20(c)** limits an applicant to one permit at a time and provides that if patent was issued under this chapter, another application is not in order.

Sec. 20(d) provides that the permit may not be transferred except by testate or intestate succession.

Sec. 30 permits revocation of a permit for the violation of a permit condition or for an attempted transfer of the permit, for the failure of the permittee to submit a survey

within 18 months, for the erection by the permittee of permanent improvements before submitting a plat of survey, for a failure of the permittee to erect a dwelling within three years or clear and put into cultivation or prepare for cultivation twenty-five percent of the land within five years or use the parcel for commercial purposes unless a substantial portion of the parcel is also used for agricultural purposes. The director may extend the time of the requirements for a dwelling or clearing one year if substantial completion has occurred.

Sec. 30(b) directs that the provisions of AS 38.05.090 be used to dispose of improvements or personal property left on the land after revocation of a permit.

Sec. 40(a) permits the issuance of patent. While no outside limitation on the life of a permit is stated, if the permittee complies with the stated requirements, a patent shall be issued:

completes a survey of the land [within eighteen months of the issuance of the permit -- see sec. 30(a)(2)];

erection of a dwelling within three years after issuance of the permit;

clearing and puts into production or prepares for cultivation twenty-five percent of the land within five years after issuance of the permit;

Sec. 40(b) permits use of temporary housing before permanent housing is established.

Sec. 40(c) permits the director to reserve easements, et cetera found to be in the best interests of the state.

Sec. 50(a) provides that land within the boundaries of an organized borough or city may not be designated for homestead entry until the proposal has been approved by the local planning authority though if no disapproval is received within 90 days after the director delivered the proposal to the local planning authority, the director may designate land for entry without approval.

Sec. 50(b) permits the director to use land "otherwise . . . available for borough or city selection" for the homestead entry program. And the disposal of homestead entry land is

not subject to "local platting, recording, or subdivision requirements established under AS 29.33 and AS 40.15". Subdivision after patent is subject to those requirements.

Sec. 60 permits the commissioner to adopt regulations.

Sec. 900 adopts definitions of commissioner, director, habitable dwelling, and resident.

Section 2 amends <sup>AS</sup> AS 18.56 by adding a provision to permit the Alaska Housing Finance Corporation to make a loan for the construction of a dwelling on a homestead entry even if a previous loan has been made to the individual applicant.

And Section 3 provides an immediate effective date.

RAB:ljb

HOMESTEAD BILL SUMMARY

	SB 102 Governor	SB 43 Moss	HB 130 Uehling, Barnes, Cowdrey, Flood, and Ward	HB 167 Tischer, Bettisworth, Bussell, Fritz, Liska, Schultz Ward and Syzmanski
Method	Lottery, <del>application</del> , over-the-counter- designated parcels	Application	Lottery or staking	Staking
Parcel Size	160 acre max.	160 acre max.	320 acres max. ag. land 160 acres max. non-ag.	160 acres max.
Fee	500/400	100 or 75 with title search	Discretionary	500/400
Survey required	Within 18 months	Within 5 years	Within 7 years	Within 18 months
Build Habitable Dwelling	Within 3 years	Within 5 years	Within 7 years	Within 3 years
Occupy the land	None	15 mos. in 5 years	35 mos. in 7 years	5 mos. for 5 years
Clearing required	25% in 5 years	None	1/4 ag land in 7 yrs. 1/8 non-ag land in 7 years	5% within 5 years
Comments:				

# Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN  
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## Senate

### Committee on Resources

March 7, 1983

#### Memo

To: Bettye  
From: Pat  
Subject: Hearing on Homestead legislation, SB 102, SB 43, HB 130, HB 167

#### GENERAL

SB 102 is the Governor's bill which tries to meet in the simplest way the perceived public desire for homestead lands. SB 43 is Moss's bill which by all accounts "needs lots of work". HB 130 is Uehling et. al.'s bill which is virtually the same as the bill reported out of our Committee last year. HB 167 is by Tischer, Bettisworth et. al. and contains somewhat different occupancy, dwelling and clearing requirements.

More than the particular differences in the various bills relating to the mechanics of the program, the most important question to bear in mind on this legislation is: From a public policy standpoint what are the objectives we are trying to accomplish?

The following possible objectives have been mentioned:

- 1) Get more agricultural land into production for personal as well as commercial use.
- 2) Provide for cheaper land to individuals through "sweat equity".
- 3) Provide for larger parcels of land for individuals.
- 4) To encourage settlement through dwelling construction.
- 5) To simply establish a homestead program for traditional, nostalgic or psychological reasons.

WE CURRENTLY HAVE DISPOSAL PROGRAMS WHICH DO OR COULD READILY MEET ALL THE ABOVE OBJECTIVES EXCEPT FOR THE LAST ONE.

#### SPECIFIC QUESTIONS

---If our objective is to put out more ag land, particularly in smaller tracts, can't this need be met through DNR's current small Ag parcel program? (this year estimated to be 15,000 acres in average tracts of 250 acres.)

- If our objective is to make land more economical for the average citizen, can't this need be met through the existing homesite program which provides lands at no charge except for survey costs if a dwelling is constructed and occupancy requirements are met?
- If our objective is larger parcel sizes, couldn't the small ag tracts or the remote parcel program meet this? Or, if the 40 acre size limitation on remote parcels is too small, couldn't this acreage limitation be amended upwards?
- If we want to encourage settlement through occupancy and dwelling construction requirements, doesn't the current homesite program meet these objectives?

#### ALTERNATIVES TO PENDING LEGISLATION

In light of the above, it seems that an obvious alternative approach to this legislation is to use or amend our current disposal programs to achieve the objectives which we want. Some possible amendments would include the following:

- 1) Amend the homesite program to provide for larger tracts (currently limited to 5 acres) with emphasis on disposals in ag soil areas.
- 2) Amend the remote parcel program to include larger acreages in ag soil areas (current limit 40 acres).
- 3) Amend remote parcel program to provide for "sweat equity" through construction and occupancy requirements (currently none).
- 4) When and if we amend the discount program which is currently based on years of residency, we will have to look at other methods of reducing the costs of land for some of our programs. This approach could be built into "sweat equity" or other less-than-market-value ways of providing lower cost land.
- 5) We could amend small ag program to enable folks to get more than ag rights in title as currently provided in law if we want to encourage settlement, subdivision, other uses of land.
- 6) We could built "sweat equity" into small ag disposal program to reduce costs and provide for settlement.
- 7) Amend one or more programs to provide for AHFC financing of dwellings similar to Gov's bill, SB 102, but I would recommend for all people, not just veterans.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Rules Committee by request	Bill Number SB 102
Department Position This bill was authored by the Department in response to requests by the Legislature and the public for a homestead program. If the State is to have a homestead program, we favor this approach.		
Division Director Tom Hawkins	Date 2-19-83	Commissioner's Signature <i>William D. Stewart, Jr.</i> Date 2-21-83

GOVERNOR'S OFFICE USE

Comments:

Position Noted      By \_\_\_\_\_      Date \_\_\_\_\_

SUMMARY

1. a) Related Bills (Similar or Conflicting) HB 167, HB 130 and SB 43	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

As an option to land disposals offered under subdivision, remote parcel, homesite or agriculture, the Department would offer land disposals under the homestead provisions of this bill.

4. Fiscal Impact:       None       Fiscal Note Attached

5. Amendments Proposed:

To discourage speculation, require payment of 10% of appraised fair market value to the State on any subsequent conveyance within 99 years.

6. Comments:

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 102 Date on Bill: 2-1-83  
 Title: An act relating to homesteads and providing an effective date  
 Sponsor: Rules Committee  
 Author: Governor

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
CAPITAL				
OPERATING				
TOTAL	-0-	-0-	-0-	-0-

b. Revenues:

REVENUE	FY 83	FY 84	FY 85	FY 86

Source of funds to offset fiscal impact of bill:

Assumptions:

A homestead program would be considered by DNR as an alternative to existing land disposal programs for which we are budgeted annually. Therefore, no additional funding is requested beyond the budget appropriation.

Disclaimer:

This statement has not been reviewed by the OMS in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Sharon Barton Phone: 465-2400  
 Division: Commissioner's Office DATE: 2-19-83  
 Approved by Commissioner: <sup>HH</sup> WMS D Arnold, Deputy Date: 2-20-83  
 Department: Natural Resources

B. Distribution:

Original to Legislative Finance  
 Copy to OVB



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 1, 1983

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill creating a program for agricultural homesteads on state land.

Under this bill, the Department of Natural Resources would make available to the public parcels of agricultural land, up to 160 acres in size, for the purpose of traditional homesteading. A person would be allowed to clear and cultivate the land and build a home on it. If the person builds his home within three years and puts 25 percent of the land into production within five years, the state would issue him a permanent patent to the agricultural rights for that parcel.

As an added feature, municipalities would have the right to review and either approve or disapprove proposed homestead offerings within their boundaries.

Finally, the bill provides a mechanism by which the Alaska Housing Finance Corporation could purchase mortgage loans for homes in the homestead program for qualified veterans, even when the veteran has already obtained AHFC financing for another residence.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield  
Governor

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:  
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.  
TITLE PAGE ONLY HAS BEEN FILMED.

# **TOXIC AND HAZARDOUS SUBSTANCES**



# **OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**ALASKA DEPARTMENT OF LABOR**  
Division of Occupational Safety and Health

EDMUND N. ORBECK, COMMISSIONER  
DEPARTMENT OF LABOR

JAY S. HAMMOND, GOVERNOR