

SB

304

STATE OF ALASKA
THE LEGISLATURE

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May, 1988

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Mary Van Nimwegen

House Judiciary:

1988 - April 29

May 4

5-1077N✓
Bannister
4/30/88

Adopted

Original sponsor: Rules/Legislative Council

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 304 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to filing and recording, recordable
7 documents, conveyances, plats, and platting author-
8 ities; and providing for an effective date."

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

10 * Section 1. AS 40 is amended by adding a new chapter to read:

11 CHAPTER 17. RECORDING IN PUBLIC RECORDS.

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

13 The Department of Natural Resources shall provide at each public
14 office designated by the department

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

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

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

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

1 (5) instructions that explain to the public the formal
2 requirements that a document must satisfy to be recorded.

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

5 (c) When rapid recording and retrieval and secure storage of
6 documents can be provided for all recording districts with a single
7 place of recording in the state, the recorder shall record the docu-
8 ments at a single place in the state designated by the department.

9 (d) The recorder shall provide reasonable public access during
10 business hours to recorded documents, indices, and facilities provided
11 for in this section.

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

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

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

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

5 (2) capable of being copied by the method used in the
6 recording office;

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

11 (4) accompanied by or include the information needed to
12 index the document under regulations of the department;

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

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

19 (b) A signature, acknowledgment, seal, or witness is required
20 for a document to be eligible for recording only when required for the
21 specific document by this chapter or by other law.

22 (c) A name, address, or other information required by this
23 section shall be contained in the document that is to be recorded, or
24 shall be recorded with the document.

25 (d) The recorder shall prescribe the style, size, form, and
26 quality that a plat, plan, or survey map must satisfy for filing and
27 recording under this chapter.

28 Sec. 40.17.040. INDEXING. (a) The recorder shall maintain an
29 index system for recorded documents in the manner prescribed by

1 regulations adopted by the department. The system shall be designed
2 so the public may find documents by names of grantors and grantees,
3 and the system may include other means for locating the documents.

4 (b) The declaration for a common interest community under
5 AS 34.08 shall be indexed in the grantee's index in the name of the
6 common interest community and the association and in the grantor's
7 index in the name of each person executing the declaration.

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

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

20 Sec. 40.17.070. DUTIES OF RECORDER. (a) The recorder shall
21 promptly record all documents presented that are recordable under
22 AS 40.17.020, 40.17.030, and 40.17.110.

23 (b) The recorder shall maintain in the central recording office
24 a daily log and index for recorded documents.

25 (c) As a document is recorded, the recorder shall indicate on or
26 attach to each document the date, hour, and minute of recording, enter
27 that information and a consecutive serial number in a daily log of
28 documents without delay in the order in which the documents are re-
29 ceived, and note the serial number on the document.

1 (d) If a document presented for recording is reviewed and re-
2 jected for recording, the recorder shall indicate on or attach to the
3 document the date, hour, and minute of rejection and a citation of the
4 statute requiring rejection. If the document is later determined to
5 be recordable in the form in which it was earlier presented to the
6 recorder, later recording does not relate back to the time and date of
7 rejection. Recording is effective when the document is accepted for
8 recording, regardless of the cause of the rejection.

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

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

15 (g) After recording, the recorder shall return the document to
16 the person who presented it or a person designated by the person who
17 presented it.

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

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

24 Sec. 40.17.080. EFFECT OF RECORDING ON TITLE AND RIGHTS; CON-
25 STRUCTIVE NOTICE. (a) Subject to (c) and (d) of this section, from
26 the time a document is recorded in the records of the recording dis-
27 trict in which land affected by it is located, the recorded document
28 is constructive notice of the contents of the document to subsequent
29 purchasers and holders of a security interest in the same property or

1 a part of the property.

2 (b) A conveyance of real property in the state, other than a
3 lease for a term of less than one year, is void as against a subse-
4 quent innocent purchaser in good faith for valuable consideration of
5 the property or a part of the property whose conveyance is first
6 recorded. An unrecorded conveyance is valid as between the parties to
7 it and as against one who has actual notice of it. In this subsec-
8 tion, "purchaser" includes a holder of a consensual interest in real
9 property that secures payment or performance of an obligation.

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

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

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

18 (2) when 30 days have elapsed after the expiration date of
19 the option or agreement, if the recorded option or agreement contains
20 an expiration date.

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

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

25 (b) An acknowledged and recorded signed document relating to
26 title to real property creates presumptions with respect to title that

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

29 (2) the person executing the document and the person on

1 whose behalf it is executed are the persons they are purported to be
2 and the person executing it was neither incompetent nor a minor at any
3 relevant time;

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

6 (4) any necessary consideration was given;

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

10 (6) a person purporting to act as an agent, attorney in
11 fact under a recorded power of attorney or authority, officer of an
12 organization, or in a fiduciary or official capacity, held the posi-
13 tion the person purported to hold, acted within the scope of the
14 person's authority, and in the case of an organization, the authoriza-
15 tion satisfied all requirements of law; and in the case of an agent,
16 acted for a principal who was neither incompetent nor a minor at any
17 relevant time and who had not revoked the agency;

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

23 (8) the recitals and other statements of fact in a convey-
24 ance are true if the matter stated is relevant to the purpose of the
25 document,

26 (9) the persons named in, signing, or acknowledging the
27 document and persons named in, signing, or acknowledging another
28 related document in a chain of title are identical, if the persons
29 appear in those documents under identical names, or under variants of

1 the names, including inclusion, exclusion, or use of

2 (A) commonly recognized abbreviations, contractions,
3 initials, or colloquial or other equivalents;

4 (B) first or middle names or initials;

5 (C) simple transpositions that produce substantially
6 similar pronunciations;

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

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

10 (F) name suffixes, such as "Senior" or "Junior",
11 unless other information appears of record indicating that they
12 are different persons; and

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

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

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

23 (e) If presumptions created by this section are inconsistent,
24 the presumption applies that is founded upon weightier consideration
25 of policy and logic. If these considerations are of equal weight,
26 neither presumption applies.

27 Sec. 40.17.100. RECORDING A RECONVEYANCE. When the parties to a
28 recorded conveyance absolute in its terms intend it to serve only as
29 security for repayment of a debt, the conveyance is absolute as to all

1 persons who rely upon it in good faith and for value before a recon-
2 veyance is recorded.

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

4 (a) A signed document listed in (b) of this section or included under
5 (c) of this section that meets the requisites for recording under
6 AS 40.17.030 may be recorded.

7 (b) The recorder may record

8 (1) a conveyance acknowledged or proven under AS 34.15.-
9 150 - 34.15.250 or a certified copy of the conveyance if recording the
10 copy is permitted by AS 40.17.020;

11 (2) an acknowledged or proven power of attorney or other
12 instrument granting or revoking a power to act as agent or attorney
13 for another person;

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

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

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

29 (6) an instrument by which a real property security

1 agreement is subordinated or waived as to priority;

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

4 (8) an assignment of all or part of a security interest in
5 real property;

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

8 (10) an exact or fully conformed copy of a document that is
9 otherwise recordable under this section, when the person offering the
10 document attaches to it an affidavit that

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

13 (B) the original is not in the person's possession;
14 and

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

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

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

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

25 (14) notice of an action for divorce, separate maintenance,
26 annulment, or dissolution of marriage previously filed and pending in
27 a court of any state or the United States affecting title to real
28 property in this state, if the notice contains the case number as-
29 signed by the court;

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

4 (16) a certified copy of a judgment decree or order of a
5 court of a state in an action for divorce, separate maintenance,
6 annulment, or dissolution of marriage requiring the execution of a
7 conveyance of real property in this state;

8 (17) a list of real property granted by a governmental
9 entity to the state, a municipality, or a corporation;

10 (18) a conveyance executed by an officer of the state by
11 authority of law in the state;

12 (19) a notice limiting future advances under a recorded
13 security agreement;

14 (20) a certified copy of a judgment or decree of a court of
15 the state or of a court of record of the United States or a certified
16 copy of a satisfaction of judgment or decree;

17 (21) a certificate of attachment or an order or proceeding
18 of record discharging attachment;

19 (22) a condemnation order;

20 (23) a declaration of taking;

21 (24) a copy of the record of the meeting of a cemetery
22 association;

23 (25) a cooperative contract;

24 (26) a list of persons whose cooperative contracts have been
25 terminated;

26 (27) a letter of conservatorship;

27 (28) an employee's lien for failure to make payments to a
28 benefit fund;

29 (29) an employment security contributions lien;

- 1 (30) a verified workers' compensation lien;
- 2 (31) a mining claim, location, or lease;
- 3 (32) a grubstake contract;
- 4 (33) a mining assessment work affidavit;
- 5 (34) a notice to contribute or forfeit an interest in a
6 mining claim;
- 7 (35) a subdivision plat;
- 8 (36) a signed and sworn-to certificate of limited partner-
9 ship and a signed and sworn-to amendment to a certificate of limited
10 partnership;
- 11 (37) a declaration or amendments to a declaration under
12 AS 34.07 or AS 34.08, an instrument by which property may be removed
13 from the provisions of AS 34.07 or AS 34.08, and an instrument affect-
14 ing property controlled by AS 34.07 or AS 34.08; a declaration under
15 AS 34.08 may not be recorded unless it satisfies the requirements of
16 AS 34.08.090(b);
- 17 (38) a survey map and floor plan for a building under
18 AS 34.07, or a plat or plan for a common interest community under
19 AS 34.08;
- 20 (39) a substitution of trustee under a deed of trust, or
21 other person having a power of sale under a real property security
22 agreement, when executed and acknowledged by all the beneficiaries;
- 23 (40) notice and affidavits required in default and sale
24 under a deed of trust;
- 25 (41) a notice of right to mechanics' or materialmen's lien;
- 26 (42) an attested or notarized copy of a notice of nonrespon-
27 sibility for construction, alteration, or repair;
- 28 (43) an acknowledgment of right to mechanics' or material-
29 men's lien;

- 1 (44) a verified claim of lien under AS 34.35;
- 2 (45) a verified notice of completion of a building or im-
- 3 provement;
- 4 (46) a bond guaranteeing payment of the sum recovered on a
- 5 mechanics' or materialmen's lien;
- 6 (47) a notice extending a mechanics' or materialmen's lien;
- 7 (48) a state tax lien;
- 8 (49) a federal tax lien;
- 9 (50) an instrument transferring a water appropriation or a
- 10 certified copy of it;
- 11 (51) a financing statement covering goods that are or are to
- 12 become fixtures to real property described in the financing statement;
- 13 if the debtor does not have an interest of record in the real prop-
- 14 erty, the financing statement must show the name of the record owner
- 15 of the real property;
- 16 (52) an assignment of rent;
- 17 (53) a memorandum of lease as described in AS 40.17.120(b);
- 18 (54) a state highway right-of-way map;
- 19 (55) an armed forces report of separation;
- 20 (56) a document amending or correcting a recorded document
- 21 listed in this section if the amending or correcting document is exe-
- 22 cuted by the same parties who executed the original document;
- 23 (57) a master form that can be incorporated by reference in
- 24 documents later recorded;
- 25 (58) a unitization agreement under AS 31.05.110; and
- 26 (59) any other document that creates or affects an interest
- 27 in real property.

28 (c) A document specifically permitted or required to be recorded

29 by another law of the state or made recordable by regulation of the

1 department may be recorded.

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

5 (b) A memorandum of lease is a document signed by the lessor and
6 lessee and containing a reference to an unrecorded lease, sublease, or
7 agreement to lease or sublease, and supplying at least the following
8 information:

9 (1) the names of the parties;
10 (2) addresses of the parties set out in the lease;
11 (3) the date of the lease;
12 (4) a description of the real property leased or subleased;
13 (5) the commencement and termination dates of the lease if
14 fixed and, if not fixed, the method by which the dates are to be
15 fixed; and

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

19 Sec. 40.17.130. ACTION AGAINST RECORDER AND STATE. If the
20 recorder fails to record and index a document properly, the recorder
21 may be compelled to record and index the document properly by an
22 action filed in the superior court.

23 Sec. 40.17.900. DEFINITIONS. In this chapter

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

28 (2) "certified copy" means a copy of a document certified
29 as correct by the custodian or other person authorized to make the

1 certification;

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

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

5 (5) "document" means a writing, plat, plan, or map, and
6 includes information in a form, such as electronic, mechanical, or
7 magnetic storage; microfilm; or electronic data transmission signals,
8 that can be converted into legible writing, plat, plan, or map form by
9 a machine or device;

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

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

19 (8) "recorder" means the commissioner of the department or
20 the commissioner's designee;

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

23 (10) "recording information" means information needed to
24 find a document in the public records such as book and page, document
25 number, electronic retrieval code, or other specific information.

26 * Sec. 2. AS 19.10.260 is amended to read:

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

29 (1) replace all permanent markers on private or municipal

1 property that were destroyed or lost during highway construction to
2 permit persons to determine accurately new boundary lines resulting
3 from the construction;

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

9 * Sec. 3. AS 29.40.090(b) is amended to read:

10 (b) The platting authority shall waive the preparation, sub-
11 mission for approval, filing, and recording of a plat on satisfactory
12 evidence that the subdivision meets the requirements of (a) of this
13 section and each lot created by the subdivision is five acres or
14 larger.

15 * Sec. 4. AS 29.40.110(b) is amended to read:

16 (b) The platting authority shall state in writing its reasons
17 for disapproval of a plat. If the platting authority approves a plat,
18 the plat shall be acknowledged, [AND] filed, and recorded in accor-
19 dance with AS 40.15.010 - 40.15.020.

20 * Sec. 5. AS 29.40.150 is amended to read:

21 Sec. 29.40.150. RECORDING. If the alteration or replat is
22 approved, the revised plat shall be acknowledged, [AND] filed, and
23 recorded in accordance with AS 40.15.010 - 40.15.020.

24 * Sec. 6. AS 29.40.180 is amended to read:

25 Sec. 29.40.180. VIOLATIONS. The [IT IS UNLAWFUL FOR THE] owner
26 of land located in a subdivision may not [TO] transfer, sell, offer to
27 sell, or enter into a contract to sell land in a subdivision before a
28 plat of the subdivision has been prepared, approved, [AND] filed, and
29 recorded in accordance with this chapter. A [IT IS UNLAWFUL FOR A]

1 person may not [TO] file or record a plat or other document depicting
2 subdivided land in a public recorder's office unless the plat or
3 document has been approved by the platting authority. For the viola-
4 tion of a provision of this chapter, a subdivision regulation adopted
5 under this chapter, or a term, condition, or limitation imposed by a
6 platting authority in the exercise of its powers under this chapter, a
7 municipality may by ordinance prescribe a penalty not to exceed a fine
8 of \$1,000 and imprisonment for 90 days.

9 * Sec. 7. AS 30.13.080 is amended to read:

10 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the
11 legislature that a pledge made in respect of bonds is [SHALL BE]
12 perfected and [SHALL BE] valid and binding from the time the pledge is
13 made; that the money or property so pledged and thereafter received by
14 an authority is [SHALL] immediately [BE] subject to the lien of the
15 pledge without physical delivery or further act; and that the lien of
16 the pledge is [SHALL BE] valid and binding against all parties having
17 claims of any kind in tort, contract, or otherwise against the author-
18 ity [IRRESPECTIVE OF] whether or not the parties have notice. Neither
19 the resolution, trust agreement, or any other instrument by which a
20 pledge is created need be recorded or filed under the provisions of
21 the Uniform Commercial Code to be perfected or to be valid, binding,
22 or effective against the parties. This section does not affect title
23 to or conveyances of real property, and does not limit the applicabil-
24 ity of AS 40.17.080 [AS 34.15.290].

25 * Sec. 8. AS 34.07.020(14) is amended to read:

26 (14) a reference to the file number and recording informa-
27 tion for [OF] the floor plans of the building affected that [WHICH]
28 are required to be filed and recorded simultaneously with the declara-
29 tion under AS 34.07.030.

1 * Sec. 9. AS 34.07.030 is amended to read:

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

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

9 (2) a set of the floor plans of the building showing the
10 layout, apartment numbers and dimensions of the apartments in suffi-
11 cient detail to identify and locate each apartment with certainty,
12 stating the name of the building or that it has no name, and bearing
13 the verified statement of a registered architect or registered profes-
14 sional engineer certifying that it is an accurate copy of portions of
15 the plans of the building as filed with and approved by the govern-
16 mental entity having jurisdiction over the approval or issuance of
17 permits for the construction of the building, or a statement that no
18 approval or permit is required.

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

20 (a) If the floor plans do not include a verified statement by a
21 registered architect or registered professional engineer that the
22 plans fully and accurately depict the layout, apartment numbers, and
23 dimensions of the apartments as built, there shall be recorded before
24 the first conveyance of an apartment an amendment to the declaration
25 to which shall be attached a verified statement of a registered archi-
26 tect certifying that the plans previously filed and recorded or being
27 filed and recorded simultaneously with the amendment fully and
28 accurately depict the layout, apartment number and dimensions of the
29 apartments as built.

1 * Sec. 11. AS 34.07.050 is amended to read:

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

5 * Sec. 12. AS 34.08.090 is amended to read:

6 Sec. 34.08.090. CREATION OF COMMON INTEREST COMMUNITIES. (a) A
7 common interest community may be created under this chapter only by
8 recording a declaration executed in the same manner as a deed and, in
9 a cooperative, by conveying the real estate subject to the declaration
10 to the association. The declaration must be recorded, and a plat or
11 plan that is part of the declaration filed and recorded, in each
12 recording district in which a portion of the common interest community
13 is located and must be indexed in the grantee's index in the name of
14 the common interest community and the association and in the grantor's
15 index in the name of each person executing the declaration.

16 (b) In a condominium, a declaration or an amendment to a decla-
17 ration that adds a unit may not be recorded, and a plat or plan that
18 is part of the declaration may not be filed or recorded, unless the
19 structural components and mechanical systems of each building contain-
20 ing or comprising a unit of the condominium are completed substantial-
21 ly in accordance with the plans, as evidenced by a certificate of
22 completion recorded with the declaration or amendment to the declara-
23 tion and executed by

24 (1) an independent registered engineer, architect, or land
25 surveyor;

26 (2) an appraiser with the designation of Senior Residen-
27 tial Appraiser, Senior Real Property Appraiser, or Senior Real Estate
28 Analyst of the Society of Real Estate Appraisers;

29 (3) a Residential Member, or Member of the [,] Appraisal

1 Institute, of the American Institute of Real Estate Appraisers; or

2 (4) an individual with a designation established by regu-
3 lation of the Alaska Housing Finance Corporation for fee appraisers
4 who certify the completion of construction.

5 * Sec. 13. AS 34.08.140(b) is amended to read:

6 (b) After the declaration for a leasehold condominium or lease-
7 hold planned community is recorded, and a plat or plan that is part of
8 the declaration is filed and recorded. neither the lessor nor the
9 successor in interest of the lessor may terminate the leasehold inter-
10 est of a unit owner who makes timely payment of a unit owner's share
11 of the rent and otherwise complies with the covenants that, if violat-
12 ed, would entitle the lessor to terminate the lease. The leasehold
13 interest of a unit owner in a condominium or planned community is not
14 affected by the failure of any other person to pay rent or fulfill a
15 covenant.

16 * Sec. 14. AS 34.08.140(d) is amended to read:

17 (d) If the expiration or termination of a lease decreases the
18 number of units in a common interest community, the allocated inter-
19 ests must be reallocated under AS 34.08.740(a) as if the units had
20 been taken by eminent domain. The reallocation must be confirmed by
21 an amendment to the declaration prepared, executed, and recorded by
22 the association of unit owners; a plat or plan that accompanies the
23 amendment must be filed and recorded with the amendment.

24 * Sec. 15. AS 34.08.160(b) is amended to read:

25 (b) Except as the declaration otherwise provides, a limited
26 common element may be reallocated by an amendment to the declaration
27 executed by the unit owners between or among whose units the
28 reallocation is made. The persons executing the amendment shall
29 provide a copy of the amendment to the association, which shall record

1 the amendment and file and record a plat or plan that accompanies the
2 amendment [IT]. The amendment must be recorded, and an accompanying
3 plat or plan filed and recorded, in the names of the parties and the
4 common interest community.

5 * Sec. 16. AS 34.08.170(b) is amended to read:

6 (b) Each plat must show:

7 (1) the name and a survey or general schematic map of the
8 entire common interest community;

9 (2) the location and dimensions of the real estate not
10 subject to development rights or subject only to the development right
11 to withdraw, and the location and dimensions of each existing improve-
12 ment within the real estate;

13 (3) a legally sufficient description of the real estate
14 subject to development rights, labeled to identify the rights applic-
15 able to each parcel;

16 (4) the extent of each encroachment by or upon a portion
17 of the common interest community;

18 (5) to the extent feasible, a legally sufficient descrip-
19 tion of each easement serving or burdening a portion of the common
20 interest community;

21 (6) the location and dimensions of any vertical unit
22 boundaries not shown or projected on plans filed and recorded under
23 (d) of this section and the identifying number of the unit;

24 (7) the location with reference to an established datum of
25 any horizontal unit boundaries not shown or projected on plans filed
26 and recorded under (d) of this section and the identifying number of
27 the unit;

28 (8) a legally sufficient description of any real estate in
29 which the unit owners will own only an estate for years, labeled as

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1 "leasehold real estate";

2 (9) the distance between noncontiguous parcels of real
3 estate comprising the common interest community;

4 (10) the location and dimensions of limited common ele-
5 ments, including porches, decks, balconies and patios, other than
6 parking spaces and the other limited common elements described in
7 AS 34.08.100(2) and (4);

8 (11) in the case of real estate not subject to development
9 rights, all other matters customarily shown on land surveys.

10 * Sec. 17. AS 34.08.170(f) is amended to read:

11 (f) Upon the exercise of a [ANY] development right, the declar-
12 ant shall either file and record new plats and plans necessary to
13 conform to the requirements of (a), (b), and (d) of this section, or
14 file and record new certifications of plats and plans previously filed
15 and recorded if the plats and plans otherwise conform to the require-
16 ments of (a), (b), and (d) of this section.

17 * Sec. 18. AS 34.08.170(h) is amended to read:

18 (h) The state recorder shall prescribe the style, size, form,
19 and quality of plats and plans filed and recorded under this chapter.

20 * Sec. 19. AS 34.08.180(a) is amended to read:

21 (a) To exercise a development right reserved under AS 34.08.-
22 130(a)(8), a declarant shall prepare, execute, and record an amendment
23 to the declaration, file and record a plat or plan that accompanies
24 the amendment, and, in a condominium or planned community, comply with
25 AS 34.08.170. The declarant is the unit owner of the units created
26 under the amendment. The amendment to the declaration must assign an
27 identifying number to each new unit created, and, except in the case
28 of subdivision or conversion of units described in (b) of this sec-
29 tion, reallocate the allocated interests among all units. The amend-

1 ment must describe any common elements and any limited common elements
2 created under the amendment and, in the case of limited common ele-
3 ments, designate the unit to which each is allocated to the extent
4 required by AS 34.08.160.

5 * Sec. 20. AS 34.08.200(b) is amended to read:

6 (b) The association

7 (1) in a condominium or planned community shall prepare,
8 file, and record plats or plans necessary to show the altered bound-
9 aries between adjoining units, and their dimensions and identifying
10 numbers; and

11 (2) in a cooperative shall prepare and record amendments
12 to the declaration, and file and record a plat or plan [INCLUDING ANY
13 PLANS,] necessary to show or describe the altered boundaries between
14 adjoining units [,] and their dimensions and identifying numbers.

15 * Sec. 21. AS 34.08.210(a) is amended to read:

16 (a) If the declaration expressly permits it, a unit may be
17 subdivided into two or more units. Upon application of a unit owner
18 to subdivide a unit, the association shall, subject to the provisions
19 of the declaration and other provisions of law, prepare, execute, and
20 record an amendment to the declaration subdividing the unit, including
21 in a condominium or planned community filing and recording a plat or
22 plat that accompanies the amendment [THE PLATS AND PLANS, SUBDIVIDING
23 THE UNIT].

24 * Sec. 22. AS 34.08.250(c) is amended to read:

25 (c) Each amendment to the declaration must be recorded, and a
26 plat or plan that accompanies the amendment filed and recorded, in
27 each recording district in which a portion of the common interest
28 community is located and the amendment is effective only upon record-
29 ing. An amendment, except an amendment under AS 34.08.200(a), must be

1 indexed in the name of the common interest community and the associa-
2 tion and in the name of the parties executing the amendment.

3 * Sec. 23. AS 34.08.320(a) is amended to read:

4 (a) Except as provided in (b) of this section and subject to the
5 provisions of the declaration, the association may:

6 (1) adopt and amend bylaws and rules and regulations;

7 (2) adopt and amend budgets for revenues, expenditures,
8 and reserves and collect assessments for common expenses from unit
9 owners;

10 (3) hire and discharge managing agents and other employ-
11 ees, agents, and independent contractors;

12 (4) institute, defend, or intervene in litigation or
13 administrative proceedings or seek injunctive relief for violations of
14 its declaration, bylaws or rules in its own name on behalf of itself
15 or two or more unit owners on matters affecting the common interest
16 community;

17 (5) make contracts and incur liabilities;

18 (6) regulate the use, maintenance, repair, replacement,
19 and modification of common elements;

20 (7) cause additional improvements to be made as a part of
21 the common elements;

22 (8) acquire, hold, encumber, and convey in its own name
23 any right, title, or interest to real estate or personal property,
24 except that

25 (A) common elements in a condominium or planned
26 community may be conveyed or subjected to a security interest
27 only under AS 34.08.430; and

28 (B) part of a cooperative may be conveyed or all or
29 part of a cooperative may be subjected to a security interest

only under AS 34.08.430;

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2 (9) grant easements, leases, licenses, and concessions
3 through or over the common elements;

4 (10) impose and receive a payment, fee, or charge for the
5 use, rental, or operation of the common elements, other than limited
6 common elements described in AS 34.08.100(2) and (4), and for services
7 provided to unit owners;

8 (11) impose a reasonable charge for late payment of assess-
9 ments and, after notice and an opportunity to be heard, levy a reason-
10 able fine for a violation of the declaration, bylaws, rules, and
11 regulations of the association;

12 (12) impose a reasonable charge for the preparation and
13 recording of an amendment to the declaration, the filing and recording
14 of a plat or plan that accompanies an amendment, resale certificate
15 required by AS 34.08.590, or a statement of unpaid assessments;

16 (13) provide for the indemnification of its officers and
17 executive board and maintain directors' and officers' liability insur-
18 ance;

19 (14) assign its right to future income, including the right
20 to receive common expense assessments, but only to the extent the
21 declaration expressly permits the assignment;

22 (15) exercise any other powers conferred by the declaration
23 or bylaws;

24 (16) exercise any other power that may be exercised in the
25 state by a legal entity of the same type as the association; and

26 (17) exercise any other power necessary and proper for the
27 governance and operation of the association.

28 * Sec. 24. AS 34.08.440(h) is amended to read:

29 (h) A portion of the common interest community for which insur-

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ance is required under this section that is damaged or destroyed must be repaired or replaced promptly by the association unless (1) the common interest community is terminated and AS 34.08.260 applies, (2) repairs or replacement would be illegal under a state statute or municipal ordinance governing health or safety, or (3) 80 percent of the unit owners, including each owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire common interest community is not repaired or replaced, (1) the insurance proceeds attributable to the damaged common elements must be used to restore the damaged area to a condition compatible with the remainder of the common interest community, and (2) except to the extent that other persons will be distributees, (A) the insurance proceeds attributable to a unit and limited common elements that is not rebuilt must be distributed to the owner of the unit and the owner of the unit to which the limited common elements were allocated, or to lien holders, as their interests may appear, and (B) the remainder of the proceeds must be distributed to each unit owner or lien holder, as their interests may appear, as follows: (i) in a condominium, in proportion to the common element interest of all the units and (ii) in a cooperative or planned community, in proportion to the common expense liabilities of all the units. If the unit owners vote not to rebuild a unit, the allocated interests of the unit are reallocated upon the vote as if the unit had been condemned under AS 34.08.740(a), and the association promptly shall prepare, execute [EXECUTED], and record an amendment to the declaration reflecting the reallocations, and file and record a plat or plan that accompanies the amendment.

* Sec. 25. AS 34.08.700 is amended to read:

1 Sec. 34.08.700. SUBSTANTIAL COMPLETION OF UNITS. In the sale of
2 a unit for which delivery of a public offering statement is required,
3 a contract of sale may be executed, but an interest in the unit may
4 not be conveyed until the declaration is recorded, a plat or plan that
5 accompanies the declaration is filed and recorded, and the unit is
6 substantially completed as evidenced by issuance of a certificate of
7 occupancy authorized by law or by a recorded certificate of substan-
8 tial completion executed by

9 (1) an independent registered engineer, architect, or land
10 surveyor;

11 (2) an appraiser with the designation of senior residen-
12 tial appraiser, senior real property appraiser, or senior real estate
13 analyst of the Society of Real Estate Appraisers;

14 (3) a residential member, or member of the [,] appraisal
15 institute, of the American Institute of Real Estate Appraisers; or

16 (4) an individual with a designation established by regu-
17 lation of the Alaska Housing Finance Corporation for fee appraisers
18 who certify the completion of construction.

19 * Sec. 26. AS 34.08.740(a) is amended to read:

20 (a) If a unit is acquired by eminent domain or part of a unit is
21 acquired by eminent domain leaving the unit owner with a remnant that
22 may not practically or lawfully be used for any purpose permitted by
23 the declaration, the award must include compensation to the unit owner
24 for that unit and its allocated interests, whether or not any common
25 elements are acquired. Upon acquisition, unless the decree otherwise
26 provides, the allocated interests of the unit are automatically real-
27 located to the remaining units in proportion to the respective
28 allocated interests of those units before the taking, and the associa-
29 tion shall promptly prepare, execute, and record an amendment to the

1 declaration reflecting the reallocations, and file and record a plat
2 or plan that accompanies the amendment. A remnant of a unit remaining
3 after part of a unit is taken under this subsection is a common ele-
4 ment from that time.

5 * Sec. 27. AS 34.08.990(30) is amended to read:

6 (30) "special declarant rights" means the right reserved
7 for the benefit of a declarant to

8 (A) complete improvements indicated on plats and
9 plans filed and recorded with the declaration or, in a coopera-
10 tive, to complete improvements described in the public offering
11 statement under [PURSUANT TO] AS 34.08.530(a)(2);

12 (B) exercise a development right;

13 (C) maintain sales offices, management offices, signs
14 advertising the common interest community, and models;

15 (D) use easements through the common elements for the
16 purpose of making improvements within the common interest commu-
17 nity or within real estate that may be added to the common inter-
18 est community;

19 (E) make the common interest community subject to a
20 master association;

21 (F) merge or consolidate a common interest community
22 with another common interest community of the same form of owner-
23 ship; or

24 (G) appoint or remove an officer of the association
25 or a master association or an executive board member during a
26 period of declarant control;

27 * Sec. 28. AS 34.15 is amended by adding a new section to read:

28 Sec. 34.15.015. USE OF RECORDED MASTER FORM. If reference is
29 made in a document to a recorded master form, a copy of the form, or

1 so much of it as is incorporated by reference, must be provided to
2 each party to the transaction by the party that furnished the docu-
3 ment.

4 * Sec. 29. AS 38.04.045(b) is amended to read:

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

municipality under procedures specified by ordinance.

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2 * Sec. 30. AS 40.15.010 is amended to read:

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

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

14 * Sec. 31. AS 40.15.020 is amended to read:

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

26 * Sec. 32. AS 40.15.030 is amended to read:

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

28 When an area is subdivided and a plat of the subdivision is approved,
29 filed, and recorded, all streets, alleys, thoroughfares, parks and

1 other public areas shown on the plat are considered to be [DEEMED TO
2 HAVE BEEN] dedicated to public use.

3 * Sec. 33. AS 40.15.040 is amended to read:

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

10 * Sec. 34. AS 40.15.050 is amended to read:

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

26 * Sec. 35. AS 40.15.060 is amended to read:

27 Sec. 40.15.060. MISSING PLATS. When [WHERE] a filed or recorded
28 plat is missing and no present record is available except by reference
29 to the missing plat, a counterpart copy, approved by the platting

1 authority, may be filed and recorded as of the original date of the
2 missing plat and after filing and recording [RECORDATION] has the same
3 legal effect and notice as the original missing plat.

4 * Sec. 36. AS 40.15.070 is amended to read:

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

23 * Sec. 37. AS 40.15.075 is amended to read:

24 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD
25 CLASS BOROUGHES. The Department of Natural Resources [DIVISION OF
26 LANDS] is the platting authority in the area outside organized bor-
27 oughs and outside cities in the unorganized borough and in the third
28 class borough for only the purposes of hearing and acting on petitions
29 for the change or vacation of plats and shall execute this function

1 substantially in conformity with the provisions of AS 29.40.130 -
 2 29.40.160. Costs of publication and mailing authorized in AS 29.40.-
 3 130 shall be paid to the Department of Natural Resources [DIVISION] by
 4 the petitioner. The Department of Natural Resources shall adopt
 5 reasonable regulations governing the exercise of the authority confer-
 6 red by this section [UPON THE DIVISION OF LANDS].

7 * Sec. 38. AS 40 is amended by adding a new chapter to read:

8 CHAPTER 19. RECORDING FEDERAL LIENS.

9 Sec. 40.19.010. APPLICABILITY. The provisions of this chapter
 10 apply to federal tax liens and to other federal liens notice of which
 11 under an Act of Congress or a regulation adopted under the authority
 12 of an Act of Congress is required or permitted to be filed or recorded
 13 in the same manner as a notice of federal tax lien.

14 Sec. 40.19.020. PLACE OF RECORDING. (a) Notices of lien,
 15 certificates, and other notices affecting a federal tax lien or other
 16 federal lien shall be recorded under this chapter.

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

21 (c) Notices of federal lien upon personal property, whether tan-
 22 gible or intangible, for obligations payable to the United States and
 23 certificates and notices affecting the lien shall be recorded in the
 24 records of the recording district where the person against whose
 25 interest the lien applies resides at the time of recording of the
 26 notice of lien.

27 (d) For purposes of (c) of this section the residence of a
 28 corporation or partnership is the place in which the principal execu-
 29 tive office of the business is located.

1 Sec. 40.19.030. EXECUTION OF NOTICES AND CERTIFICATES. Certi-
2 fication of notices of lien, certificates, or other notices affecting
3 federal liens by the United States Secretary of the Treasury or by the
4 designee of the United States Secretary of the Treasury, or by an
5 official or entity of the United States responsible for filing, re-
6 cording, or certifying, of notice of any other lien, entitles the
7 notices or certificates to be recorded and further attestation, certi-
8 fication, or acknowledgement is not necessary.

9 Sec. 40.19.040. DUTIES OF RECORDER. (a) If a notice of federal
10 lien, a rerecording of notice of federal lien, or a notice of revoca-
11 tion of a certificate described in (b) of this section is presented to
12 the recorder under AS 40.17, the recorder shall endorse on the notice
13 an identification and the date and time of recording and enter it
14 first in the daily log of documents and then in an alphabetical index
15 showing the name of the person named in the notice, the date and time
16 of recording, the title of the official or entity certifying the lien,
17 and the total amount appearing on the notice of lien.

18 (b) If a rerecorded notice of federal lien referred to in (a) of
19 this section or a certificate of release, nonattachment, discharge, or
20 subordination of lien or a revocation of any of these certificates is
21 presented to the recorder for recording, the recorder shall record it
22 in the way a document listed in (a) of this section would be recorded
23 and shall enter the rerecorded notice or the certificate or revocation
24 with the date of recording in the alphabetical index together with a
25 reference to the recording information for the original notice or
26 certificate to which it relates.

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

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

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

8 * Sec. 39. AS 43.10.042 is repealed and reenacted to read:

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

10 (a) A lien imposed under this title is not valid against a mort-
11 gagee or other lien holder, pledgee, purchaser, or judgment creditor
12 until notice of it is recorded in the records of the recording dis-
13 trict where the property subject to the lien is situated. However,
14 regardless of the date the liens are recorded, a lien arising out of a
15 tax due under AS 43.56 and AS 43.75, including the penalties and
16 interest on the tax, is a lien prior, paramount, and superior to all
17 other liens, mortgages, hypothecations, conveyances, and assignments,
18 upon all the real and personal property of the person liable for the
19 tax, and upon all the real and personal property used with the permis-
20 sion of the owner to carry on the business that is subject to the tax.

21 (b) AS 40.19.040 applies to a notice of state tax lien and
22 documents relating to a state tax lien as well as to a notice of
23 federal lien and documents relating to a federal lien.

24 * Sec. 40. AS 44.37.025 is amended to read:

25 Sec. 44.37.025. RECORDING. (a) The Department of Natural Re-
26 sources shall adopt regulations [,] establishing, modifying, or dis-
27 continuing recording districts or precincts and prescribing the
28 records to be maintained and the instruments to be recorded, consis-
29 tent with AS 40.17.

1 (b) The department shall [ENGAGE AND COMPENSATE RECORDERS AND
2 DEPUTY RECORDERS,] prescribe and account for recording fees [,] and do
3 all other things necessary to maintain the recording systems [SYSTEM]
4 established under the laws of this state. The commissioner of
5 administration shall separately account for fees collected under this
6 section that the Department of Natural Resources deposits in the
7 general fund. The annual estimated balance in the account may be used
8 by the legislature to make appropriations to the department to carry
9 out the purposes of this section.

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

15 (d) The department shall file with the commissioner of commerce
16 and economic development a copy of each conveyance recorded that
17 contains a statement that property is conveyed to a nonresident alien
18 or for the benefit of a nonresident alien.

19 * Sec. 41. AS 44.37.025 is amended by adding a new subsection to read:

20 (e) In addition to the recording system established under AS
21 40.17, the commissioner of natural resources may by regulation establish a
22 system for recording and filing documents to enable members of the public
23 to safeguard documents. Recording or filing a document in the system
24 established under this subsection does not provide constructive notice for
25 any purpose.

26 * Sec. 42. In the following statutes the revisor of statutes is di-
27 rected to delete the requirement or permission that a document be filed or
28 filed for record and to substitute a corresponding requirement or permis-
29 sion that the document be recorded: AS 09.40.050; AS 09.55.370; AS 10.15.-

1 230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.047;
2 AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050, 27.10.-
3 060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.10.230;
4 AS 32.10.010, 32.10.240; AS 34.07.070; AS 34.20.090; AS 34.35.065, 34.35.-
5 160, 34.35.185, 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.405,
6 34.35.440; AS 38.05.195, 38.05.200, 38.05.205, 38.05.210, 38.05.220,
7 38.05.230, 38.05.245, 38.05.250, 38.05.265, 38.05.275; AS 38.20.100;
8 AS 45.09.402(f); and AS 46.15.160.

9 * Sec. 43. AS 34.15.260, 34.15.270, 34.15.280, 34.15.290, 34.15.300,
10 34.15.310, 34.15.320, 34.15.330, 34.15.340, 34.15.345, 34.15.350; AS 34.-
11 20.020; AS 43.10.090, 43.10.100, 43.10.110, 43.10.120, 43.10.130, 43.10.-
12 140, and 43.10.150 are repealed.

13 * Sec. 44. This Act takes effect January 1, 1989.
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Original sponsor: Rules/Legislative Council

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 304 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

5 For an Act entitled: "An Act relating to filing and recording, recordable
6 documents, conveyances, plats, and platting author-
7 ities; and providing for an effective date."
8

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

10 * Section 1. AS 40 is amended by adding a new chapter to read:

11 CHAPTER 17. RECORDING IN PUBLIC RECORDS.

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

13 The Department of Natural Resources shall provide at each public
14 office designated by the department

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

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

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

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

*Clarifies & updates recording statute
Now done by Regulation
Provides for computer recording
Saves money by allowing for FAX, etc.
DNR will put out a manual on how to record
All presumptions same as existing law
DNR supports*

1 (5) instructions that explain to the public the formal
2 requirements that a document must satisfy to be recorded.

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

5 (c) When rapid recording and retrieval and secure storage of
6 documents can be provided for all recording districts with a single
7 place of recording in the state, the recorder shall record the docu-
8 ments at a single place in the state designated by the department.

9 (d) The recorder shall provide reasonable public access during
10 business hours to recorded documents, indices, and facilities provided
11 for in this section.

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

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

1 Sec. 40.17.030. FORMAL REQUISITES FOR RECORDING. (a) To be
2 eligible for recording, a document must be
3 (1) legible or capable of being converted into legible form
4 by a machine or device used in the recording office;
5 (2) capable of being copied by the method used in the
6 recording office;
7 (3) accompanied by the proper fee for recording and include
8 or be accompanied by information, stamps, certificates, taxes, or fees
9 that under other laws are necessary to qualify the document for re-
10 cording;
11 (4) accompanied by or include the information needed to
12 index the document under regulations of the department;
13 (5) accompanied by or include the name and address of the
14 person to whom the document is to be returned after recording; and
15 (6) accompanied by or include the mailing addresses of all
16 persons named in the document who grant or acquire an interest under
17 the document if it is a conveyance; this paragraph does not apply to a
18 release of a security interest.
19 (b) A signature, acknowledgment, seal, or witness is required
20 for a document to be eligible for recording only when required for the
21 specific document by this chapter or by other law.
22 (c) A name, address, or other information required by this
23 section shall be contained in the document that is to be recorded, or
24 shall be recorded with the document.
25 (d) The recorder shall prescribe the style, size, form, and
26 quality that a plat, plan, or survey map must satisfy for filing and
27 recording under this chapter.
28 Sec. 40.17.040. INDEXING. (a) The recorder shall maintain an
29 index system for recorded documents in the manner prescribed by

1 regulations adopted by the department. The system shall be designed
2 so the public may find documents by names of grantors and grantees,
3 and the system may include other means for locating the documents.

4 (b) The declaration for a common interest community under
5 AS 34.08 shall be indexed in the grantee's index in the name of the
6 common interest community and the association and in the grantor's
7 index in the name of each person executing the declaration.

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

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

20 Sec. 40.17.070. DUTIES OF RECORDER. (a) The recorder shall
21 promptly record all documents presented that are recordable under
22 AS 40.17.020, 40.17.030, and 40.17.110.

23 (b) The recorder shall maintain in the central recording office
24 a daily log and index for recorded documents.

25 (c) As a document is recorded, the recorder shall indicate on or
26 attach to each document the date, hour, and minute of recording, enter
27 that information and a consecutive serial number in a daily log of
28 documents without delay in the order in which the documents are re-
29 ceived, and note the serial number on the document.

1 (d) If a document presented for recording is reviewed and re-
2 jected for recording, the recorder shall indicate on or attach to the
3 document the date, hour, and minute of rejection and a citation of the
4 statute requiring rejection. If the document is later determined to
5 be recordable in the form in which it was earlier presented to the
6 recorder, later recording does not relate back to the time and date of
7 rejection. Recording is effective when the document is accepted for
8 recording, regardless of the cause of the rejection.

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

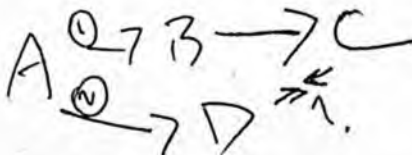
12 (f) Promptly after recording a document, the recorder shall make
13 the index entries required in this chapter and in the regulations of
14 the department.

15 (g) After recording, the recorder shall return the document to
16 the person who presented it or a person designated by the person who
17 presented it.

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

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

24 Sec. 40.17.080. EFFECT OF RECORDING ON TITLE AND RIGHTS; CON-
25 STRUCTIVE NOTICE. (a) Subject to (c) and (d) of this section, from
26 the time a document is recorded in the records of the recording dis-
27 trict in which land affected by it is located, the recorded document
28 is constructive notice of the contents of the document to subsequent
29 purchasers and holders of a security interest in the same property or



1 a part of the property.

2 (b) A conveyance of real property in the state, other than a
3 lease for a term of less than one year, is void as against a subse-
4 quent innocent purchaser in good faith for valuable consideration of
5 the property or a part of the property whose conveyance is first
6 recorded. An unrecorded conveyance is valid as between the parties to
7 it and as against one who has actual notice of it. In this subsec-
8 tion, "purchaser" includes a holder of a consensual interest in real
9 property that secures payment or performance of an obligation.

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

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

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

18 (2) when 30 days have elapsed after the expiration date of
19 the option or agreement, if the recorded option or agreement contains
20 an expiration date.

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

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

25 (b) An acknowledged and recorded signed document relating to
26 title to real property creates presumptions with respect to title that

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

29 (2) the person executing the document and the person on

Good
Fair to
debtor

Real
Property
Code

Presumptions :

1 whose behalf it is executed are the persons they are purported to be
2 and the person executing it was neither incompetent nor a minor at any
3 relevant time;

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

6 (4) any necessary consideration was given;

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

10 (6) a person purporting to act as an agent, attorney in
11 fact under a recorded power of attorney or authority, officer of an
12 organization, or in a fiduciary or official capacity, held the posi-
13 tion the person purported to hold, acted within the scope of the
14 person's authority, and in the case of an organization, the authoriza-
15 tion satisfied all requirements of law; and in the case of an agent,
16 acted for a principal who was neither incompetent nor a minor at any
17 relevant time and who had not revoked the agency;

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

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

26 (9) the persons named in, signing, or acknowledging the
27 document and persons named in, signing, or acknowledging another
28 related document in a chain of title are identical, if the persons
29 appear in those documents under identical names, or under variants of

Clarifies

1 the names, including inclusion, exclusion, or use of

2 (A) commonly recognized abbreviations, contractions,

3 initials, or colloquial or other equivalents;

4 (B) first or middle names or initials;

5 (C) simple transpositions that produce substantially

6 similar pronunciations;

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

8 (E) descriptions of entities as corporations, com-

9 panies, or abbreviations or contractions of either; or

10 (F) name suffixes, such as "Senior" or "Junior",

11 unless other information appears of record indicating that they

12 are different persons; and

13 (10) all other requirements for the execution, delivery and

14 validity of the document have been satisfied.

15 (c) The presumptions stated in (b) of this section arise even if

16 the document purports only to release a claim or convey an interest of

17 the person executing it or of the person on whose behalf it is exe-

18 cuted.

19 (d) Facts stated in a recorded certificate of a public official

20 in affidavit form or under the seal of the official's office and

21 derived from information or documents obtained or kept by the official

22 as part of official duties are presumed to be true.

23 (e) If presumptions created by this section are inconsistent,

24 the presumption applies that is founded upon weightier consideration

25 of policy and logic. If these considerations are of equal weight,

26 neither presumption applies.

27 Sec. 40.17.100. RECORDING A RECONVEYANCE. When the parties to a

28 recorded conveyance absolute in its terms intend it to serve only as

29 security for repayment of a debt, the conveyance is absolute as to all

*SUPPLY
CLASS*

1 persons who rely upon it in good faith and for value before a recon-
2 veyance is recorded.

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

4 (a) A signed document listed in (b) of this section or included under
5 (c) of this section that meets the requisites for recording under
6 AS 40.17.030 may be recorded.

7 (b) The recorder may record

8 (1) a conveyance acknowledged or proven under AS 34.15.-
9 150 - 34.15.250 or a certified copy of the conveyance if recording the
10 copy is permitted by AS 40.17.020;

11 (2) an acknowledged or proven power of attorney or other
12 instrument granting or revoking a power to act as agent or attorney
13 for another person;

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

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

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

29 (6) an instrument by which a real property security

- 1 agreement is subordinated or waived as to priority;
- 2 (7) a document creating a condition, covenant, restriction,
3 or reservation relating to rights in real property;
- 4 (8) an assignment of all or part of a security interest in
5 real property;
- 6 (9) a release of lien or security interest in real prop-
7 erty;
- 8 (10) an exact or fully conformed copy of a document that is
9 otherwise recordable under this section, when the person offering the
10 document attaches to it an affidavit that
- 11 (A) the exact or fully conformed copy was received by
12 the person in the course of the transaction;
- 13 (B) the original is not in the person's possession;
14 and
- 15 (C) the instrument offered for recordation is an exact
16 or fully conformed copy;
- 17 (11) a conveyance from the United States of an interest in
18 real property in the state;
- 19 (12) a certified copy of a petition in bankruptcy;
- 20 (13) a notice of an action previously filed and pending in a
21 court of the state or the United States affecting title to real prop-
22 erty in the state, if the notice contains the case number assigned by
23 the court and a description of the property affected in the recording
24 district;
- 25 (14) notice of an action for divorce, separate maintenance,
26 annulment, or dissolution of marriage previously filed and pending in
27 a court of any state or the United States affecting title to real
28 property in this state, if the notice contains the case number as-
29 signed by the court;

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

- 1 (30) a verified workers' compensation lien;
- 2 (31) a mining claim, location, or lease;
- 3 (32) a grubstake contract;
- 4 (33) a mining assessment work affidavit;
- 5 (34) a notice to contribute or forfeit an interest in a
- 6 mining claim;
- 7 (35) a subdivision plat;
- 8 (36) a signed and sworn-to certificate of limited partner-
- 9 ship and a signed and sworn-to amendment to a certificate of limited
- 10 partnership;
- 11 (37) a declaration or amendments to a declaration under
- 12 AS 34.07 or AS 34.08, an instrument by which property may be removed
- 13 from the provisions of AS 34.07 or AS 34.08, and an instrument affect-
- 14 ing property controlled by AS 34.07 or AS 34.08; a declaration under
- 15 AS 34.08 may not be recorded unless it satisfies the requirements of
- 16 AS 34.08.090(b);
- 17 (38) a survey map and floor plan for a building under
- 18 AS 34.07, or a plat or plan for a common interest community under
- 19 AS 34.08;
- 20 (39) a substitution of trustee under a deed of trust, or
- 21 other person having a power of sale under a real property security
- 22 agreement, when executed and acknowledged by all the beneficiaries;
- 23 (40) notice and affidavits required in default and sale
- 24 under a deed of trust;
- 25 (41) a notice of right to mechanics' or materialmen's lien;
- 26 (42) an attested or notarized copy of a notice of nonrespon-
- 27 sibility for construction, alteration, or repair;
- 28 (43) an acknowledgment of right to mechanics' or material-
- 29 men's lien;

- 1 (44) a verified claim of lien under AS 34.35;
- 2 (45) a verified notice of completion of a building or im-
- 3 provement;
- 4 (46) a bond guaranteeing payment of the sum recovered on a
- 5 mechanics' or materialmen's lien;
- 6 (47) a notice extending a mechanics' or materialmen's lien;
- 7 (48) a state tax lien;
- 8 (49) a federal tax lien;
- 9 (50) an instrument transferring a water appropriation or a
- 10 certified copy of it;
- 11 (51) a financing statement covering goods that are or are to
- 12 become fixtures to real property described in the financing statement;
- 13 if the debtor does not have an interest of record in the real prop-
- 14 erty, the financing statement must show the name of the record owner
- 15 of the real property;
- 16 (52) an assignment of rent;
- 17 (53) a memorandum of lease as described in AS 40.17.120(b);
- 18 (54) a state highway right-of-way map;
- 19 (55) an armed forces report of separation;
- 20 (56) a document amending or correcting a recorded document
- 21 listed in this section if the amending or correcting document is exe-
- 22 cuted by the same parties who executed the original document; and
- 23 (57) a master form that can be incorporated by reference in
- 24 documents later recorded.

*Letter from
ASB
(58) + (59)*

25 (c) A document specifically permitted or required to be recorded
26 by another law of the state or made recordable by regulation of the
27 department may be recorded.

28 Sec. 40.17.120. RECORDING MEMORANDUM OF LEASE. (a) Recording a
29 memorandum of lease substantially complying with (b) of this section

Example: "Master lease"

1 has the same effect as recording the lease.

2 (b) A memorandum of lease is a document signed by the lessor and
3 lessee and containing a reference to an unrecorded lease, sublease, or
4 agreement to lease or sublease, and supplying at least the following
5 information:

6 (1) the names of the parties;

7 (2) addresses of the parties set out in the lease;

8 (3) the date of the lease;

9 (4) a description of the real property leased or subleased;

10 (5) the commencement and termination dates of the lease if
11 fixed and, if not fixed, the method by which the dates are to be
12 fixed; and

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

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

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

25 Sec. 40.17.900. DEFINITIONS. In this chapter

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

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

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

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

7 (5) "document" means a writing, plat, plan, or map, and
8 includes information in a form, such as electronic, mechanical, or
9 magnetic storage; microfilm; or electronic data transmission signals,
10 that can be converted into legible writing, plat, plan, or map form by
11 a machine or device;

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

14 (7) "record" means the acceptance of a document by the re-
15 corder that the recorder has determined is recordable under this
16 chapter and that is presented for recording in the place of recording
17 designated for the recording district where affected property is
18 located whether or not the place of recording is in that district, and
19 whether or not under applicable law the recorder is directed to record
20 the document;

21 (8) "recorder" means the commissioner of the department or
22 the commissioner's designee;

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

25 (10) "recording information" means information needed to
26 find a document in the public records such as book and page, document
27 number, electronic retrieval code, or other specific information.

28 * Sec. 2. AS 19.10.260 is amended to read:

29 Sec. 19.10.260. REPLACEMENT OF PERMANENT MARKERS AND FILING OF

1 RIGHT-OF-WAY MAP AFTER CONSTRUCTION. The department shall:

2 (1) replace all permanent markers on private or municipal
3 property that were destroyed or lost during highway construction to
4 permit persons to determine accurately new boundary lines resulting
5 from the construction;

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

11 * Sec. 3. AS 29.40.090(b) is amended to read:

12 (b) The platting authority shall waive the preparation, sub-
13 mission for approval, filing, and recording of a plat on satisfactory
14 evidence that the subdivision meets the requirements of (a) of this
15 section and each lot created by the subdivision is five acres or
16 larger.

17 * Sec. 4. AS 29.40.110(b) is amended to read:

18 (b) The platting authority shall state in writing its reasons
19 for disapproval of a plat. If the platting authority approves a plat,
20 the plat shall be acknowledged, [AND] filed, and recorded in accor-
21 dance with AS 40.15.010 - 40.15.020.

22 * Sec. 5. AS 29.40.150 is amended to read:

23 Sec. 29.40.150. RECORDING. If the alteration or replat is
24 approved, the revised plat shall be acknowledged, [AND] filed, and
25 recorded in accordance with AS 40.15.010 - 40.15.020.

26 * Sec. 6. AS 29.40.180 is amended to read:

27 Sec. 29.40.180. VIOLATIONS. The [IT IS UNLAWFUL FOR THE] owner
28 of land located in a subdivision may not [TO] transfer, sell, offer to
29 sell, or enter into a contract to sell land in a subdivision before a

1 plat of the subdivision has been prepared, approved, [AND] filed, and
2 recorded in accordance with this chapter. A [IT IS UNLAWFUL FOR A]
3 person may not [TO] file or record a plat or other document depicting
4 subdivided land in a public recorder's office unless the plat or
5 document has been approved by the platting authority. For the viola-
6 tion of a provision of this chapter, a subdivision regulation adopted
7 under this chapter, or a term, condition, or limitation imposed by a
8 platting authority in the exercise of its powers under this chapter, a
9 municipality may by ordinance prescribe a penalty not to exceed a fine
10 of \$1,000 and imprisonment for 90 days.

11 * Sec. 7. AS 30.13.080 is amended to read:

12 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intension of the
13 legislature that a pledge made in respect of bonds is [SHALL BE]
14 perfected and [SHALL BE] valid and binding from the time the pledge is
15 made; that the money or property so pledged and thereafter received by
16 an authority is [SHALL] immediately [BE] subject to the lien of the
17 pledge without physical delivery or further act; and that the lien of
18 the pledge is [SHALL BE] valid and binding against all parties having
19 claims of any kind in tort, contract, or otherwise against the author-
20 ity [IRRESPECTIVE OF] whether or not the parties have notice. Neither
21 the resolution, trust agreement, or any other instrument by which a
22 pledge is created need be recorded or filed under the provisions of
23 the Uniform Commercial Code to be perfected or to be valid, binding,
24 or effective against the parties. This section does not affect title
25 to or conveyances of real property, and does not limit the applicabil-
26 ity of AS 40.17.080 [AS 34.15.290].

27 * Sec. 8. AS 34.07.020(14) is amended to read:

28 (14) a reference to the file number and recording informa-
29 tion for [OF] the floor plans of the building affected that [WHICH]

1 are required to be filed and recorded simultaneously with the declara-
2 tion under AS 34.07.030.

3 * Sec. 9. AS 34.07.030 is amended to read:

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

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

11 (2) a set of the floor plans of the building showing the
12 layout, apartment numbers and dimensions of the apartments in suffi-
13 cient detail to identify and locate each apartment with certainty,
14 stating the name of the building or that it has no name, and bearing
15 the verified statement of a registered architect or registered profes-
16 sional engineer certifying that it is an accurate copy of portions of
17 the plans of the building as filed with and approved by the govern-
18 mental entity having jurisdiction over the approval or issuance of
19 permits for the construction of the building, or a statement that no
20 approval or permit is required.

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

22 (a) If the floor plans do not include a verified statement by a
23 registered architect or registered professional engineer that the
24 plans fully and accurately depict the layout, apartment numbers, and
25 dimensions of the apartments as built, there shall be recorded before
26 the first conveyance of an apartment an amendment to the declaration
27 to which shall be attached a verified statement of a registered archi-
28 tect certifying that the plans previously filed and recorded or being
29 filed and recorded simultaneously with the amendment: fully and

1 accurately depict the layout, apartment number and dimensions of the
2 apartments as built.

3 * Sec. 11. AS 34.07.050 is amended to read:

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

7 * Sec. 12. AS 34.08.090 is amended to read:

8 Sec. 34.08.090. CREATION OF COMMON INTEREST COMMUNITIES. (a) A
9 common interest community may be created under this chapter only by
10 recording a declaration executed in the same manner as a deed and, in
11 a cooperative, by conveying the real estate subject to the declaration
12 to the association. The declaration must be recorded, and a plat or
13 plan that is part of the declaration filed and recorded, in each
14 recording district in which a portion of the common interest community
15 is located and must be indexed in the grantee's index in the name of
16 the common interest community and the association and in the grantor's
17 index in the name of each person executing the declaration.

18 (b) In a condominium, a declaration or an amendment to a decla-
19 ration that adds a unit may not be recorded, and a plat or plan that
20 is part of the declaration may not be filed or recorded, unless the
21 structural components and mechanical systems of each building contain-
22 ing or comprising a unit of the condominium are completed substantial-
23 ly in accordance with the plans, as evidenced by a certificate of
24 completion recorded with the declaration or amendment to the declara-
25 tion and executed by

26 (1) an independent registered engineer, architect, or land
27 surveyor;

28 (2) an appraiser with the designation of Senior Residen-
29 tial Appraiser, Senior Real Property Appraiser, or Senior Real Estate

1 Analyst of the Society of Real Estate Appraisers;

2 (3) a Residential Member, or Member of the [,] Appraisal
3 Institute, of the American Institute of Real Estate Appraisers; or

4 (4) an individual with a designation established by regu-
5 lation of the Alaska Housing Finance Corporation for fee appraisers
6 who certify the completion of construction.

7 * Sec. 13. AS 34.08.140(b) is amended to read:

8 (b) After the declaration for a leasehold condominium or lease-
9 hold planned community is recorded, and a plat or plan that is part of
10 the declaration is filed and recorded, neither the lessor nor the
11 successor in interest of the lessor may terminate the leasehold inter-
12 est of a unit owner who makes timely payment of a unit owner's share
13 of the rent and otherwise complies with the covenants that, if violat-
14 ed, would entitle the lessor to terminate the lease. The leasehold
15 interest of a unit owner in a condominium or planned community is not
16 affected by the failure of any other person to pay rent or fulfill a
17 covenant.

18 * Sec. 14. AS 34.08.140(d) is amended to read:

19 (d) If the expiration or termination of a lease decreases the
20 number of units in a common interest community, the allocated inter-
21 ests must be reallocated under AS 34.08.740(a) as if the units had
22 been taken by eminent domain. The reallocation must be confirmed by
23 an amendment to the declaration prepared, executed, and recorded by
24 the association of unit owners; a plat or plan that accompanies the
25 amendment must be filed and recorded with the amendment.

26 * Sec. 15. AS 34.08.160(b) is amended to read:

27 (b) Except as the declaration otherwise provides, a limited
28 common element may be reallocated by an amendment to the declaration
29 executed by the unit owners between or among whose units the

1 reallocation is made. The persons executing the amendment shall
2 provide a copy of the amendment to the association, which shall record
3 the amendment and file and record a plat or plan that accompanies the
4 amendment [IT]. The amendment must be recorded, and an accompanying
5 plat or plan filed and recorded, in the names of the parties and the
6 common interest community.

7 * Sec. 16. AS 34.08.170(b) is amended to read:

8 (b) Each plat must show:

9 (1) the name and a survey or general schematic map of the
10 entire common interest community;

11 (2) the location and dimensions of the real estate not
12 subject to development rights or subject only to the development right
13 to withdraw, and the location and dimensions of each existing improve-
14 ment within the real estate;

15 (3) a legally sufficient description of the real estate
16 subject to development rights, labeled to identify the rights applic-
17 able to each parcel;

18 (4) the extent of each encroachment by or upon a portion
19 of the common interest community;

20 (5) to the extent feasible, a legally sufficient descrip-
21 tion of each easement serving or burdening a portion of the common
22 interest community;

23 (6) the location and dimensions of any vertical unit
24 boundaries not shown or projected on plans filed and recorded under
25 (d) of this section and the identifying number of the unit;

26 (7) the location with reference to an established datum of
27 any horizontal unit boundaries not shown or projected on plans filed
28 and recorded under (d) of this section and the identifying number of
29 the unit;

1 (8) a legally sufficient description of any real estate in
2 which the unit owners will own only an estate for years, labeled as
3 "leasehold real estate";

4 (9) the distance between noncontiguous parcels of real
5 estate comprising the common interest community;

6 (10) the location and dimensions of limited common ele-
7 ments, including porches, decks, balconies and patios, other than
8 parking spaces and the other limited common elements described in
9 AS 34.08.100(2) and (4);

10 (11) in the case of real estate not subject to development
11 rights, all other matters customarily shown on land surveys.

12 * Sec. 17. AS 34.08.170(f) is amended to read:

13 (f) Upon the exercise of a [ANY] development right, the declar-
14 ant shall either file and record new plats and plans necessary to
15 conform to the requirements of (a), (b), and (d) of this section, or
16 file and record new certifications of plats and plans previously filed
17 and recorded if the plats and plans otherwise conform to the require-
18 ments of (a), (b), and (d) of this section.

19 * Sec. 18. AS 34.08.170(h) is amended to read:

20 (h) The state recorder shall prescribe the style, size, form,
21 and quality of plats and plans filed and recorded under this chapter.

22 * Sec. 19. AS 34.08.180(a) is amended to read:

23 (a) To exercise a development right reserved under AS 34.08.-
24 130(a)(8), a declarant shall prepare, execute, and record an amendment
25 to the declaration, file and record a plat or plan that accompanies
26 the amendment, and, in a condominium or planned community, comply with
27 AS 34.08.170. The declarant is the unit owner of the units created
28 under the amendment. The amendment to the declaration must assign an
29 identifying number to each new unit created, and, except in the case

1 of subdivision or conversion of units described in (b) of this sec-
2 tion, reallocate the allocated interests among all units. The amend-
3 ment must describe any common elements and any limited common elements
4 created under the amendment and, in the case of limited common ele-
5 ments, designate the unit to which each is allocated to the extent
6 required by AS 34.08.160.

7 * Sec. 20. AS 34.08.200(b) is amended to read:

8 (b) The association

9 (1) in a condominium or planned community shall prepare,
10 file, and record plats or plans necessary to show the altered bound-
11 aries between adjoining units, and their dimensions and identifying
12 numbers; and

13 (2) in a cooperative shall prepare and record amendments
14 to the declaration, and file and record a plat or plan [INCLUDING ANY
15 PLANS,] necessary to show or describe the altered boundaries between
16 adjoining units [,] and their dimensions and identifying numbers.

17 * Sec. 21. AS 34.08.210(a) is amended to read:

18 (a) If the declaration expressly permits it, a unit may be
19 subdivided into two or more units. Upon application of a unit owner
20 to subdivide a unit, the association shall, subject to the provisions
21 of the declaration and other provisions of law, prepare, execute, and
22 record an amendment to the declaration subdividing the unit, including
23 in a condominium or planned community filing and recording a plat or
24 plan that accompanies the amendment [THE PLATS AND PLANS, SUBDIVIDING
25 THE UNIT].

26 * Sec. 22. AS 34.08.250(c) is amended to read:

27 (c) Each amendment to the declaration must be recorded, and a
28 plat or plan that accompanies the amendment filed and recorded, in
29 each recording district in which a portion of the common interest

1 community is located and the amendment is effective only upon record-
2 ing. An amendment, except an amendment under AS 34.08.200(a), must be
3 indexed in the name of the common interest community and the associa-
4 tion and in the name of the parties executing the amendment.

5 * Sec. 23. AS 34.08.320(a) is amended to read:

6 (a) Except as provided in (b) of this section and subject to the
7 provisions of the declaration, the association may:

8 (1) adopt and amend bylaws and rules and regulations;

9 (2) adopt and amend budgets for revenues, expenditures,
10 and reserves and collect assessments for common expenses from unit
11 owners;

12 (3) hire and discharge managing agents and other employ-
13 ees, agents, and independent contractors;

14 (4) institute, defend, or intervene in litigation or
15 administrative proceedings or seek injunctive relief for violations of
16 its declaration, bylaws or rules in its own name on behalf of itself
17 or two or more unit owners on matters affecting the common interest
18 community;

19 (5) make contracts and incur liabilities;

20 (6) regulate the use, maintenance, repair, replacement,
21 and modification of common elements;

22 (7) cause additional improvements to be made as a part of
23 the common elements;

24 (8) acquire, hold, encumber, and convey in its own name
25 any right, title, or interest to real estate or personal property,
26 except that

27 (A) common elements in a condominium or planned
28 community may be conveyed or subjected to a security interest
29 only under AS 34.08.430; and

- 1 (B) part of a cooperative may be conveyed or all or
2 part of a cooperative may be subjected to a security interest
3 only under AS 34.08.430;
- 4 (9) grant easements, leases, licenses, and concessions
5 through or over the common elements;
- 6 (10) impose and receive a payment, fee, or charge for the
7 use, rental, or operation of the common elements, other than limited
8 common elements described in AS 34.08.100(2) and (4), and for services
9 provided to unit owners;
- 10 (11) impose a reasonable charge for late payment of assess-
11 ments and, after notice and an opportunity to be heard, levy a reason-
12 able fine for a violation of the declaration, bylaws, rules, and
13 regulations of the association;
- 14 (12) impose a reasonable charge for the preparation and
15 recording of an amendment to the declaration, the filing and recording
16 of a plat or plan that accompanies an amen .ment, resale certificate
17 required by AS 34.08.590, or a statement of unpaid assessments;
- 18 (13) provide for the indemnification of its officers and
19 executive board and maintain directors' and officers' liability insur-
20 ance;
- 21 (14) assign its right to future income, including the right
22 to receive common expense assessments, but only to the extent the
23 declaration expressly permits the assignment;
- 24 (15) exercise any other powers conferred by the declaration
25 or bylaws;
- 26 (16) exercise any other power that may be exercised in the
27 state by a legal entity of the same type as the association; and
- 28 (17) exercise any other power necessary and proper for the
29 governance and operation of the association.

1 * Sec. 24. AS 34.08.440(h) is amended to read:

2 (h) A portion of the common interest community for which insur-
3 ance is required under this section that is damaged or destroyed must
4 be repaired or replaced promptly by the association unless (1) the
5 common interest community is terminated and AS 34.08.260 applies, (2)
6 repairs or replacement would be illegal under a state statute or
7 municipal ordinance governing health or safety, or (3) 80 percent of
8 the unit owners, including each owner of a unit or assigned limited
9 common element that will not be rebuilt, vote not to rebuild. The
10 cost of repair or replacement in excess of insurance proceeds and
11 reserves is a common expense. If the entire common interest community
12 is not repaired or replaced, (1) the insurance proceeds attributable
13 to the damaged common elements must be used to restore the damaged
14 area to a condition compatible with the remainder of the common inter-
15 est community, and (2) except to the extent that other persons will be
16 distributees, (A) the insurance proceeds attributable to a unit and
17 limited common elements that is not rebuilt must be distributed to the
18 owner of the unit and the owner of the unit to which the limited
19 common elements were allocated, or to lien holders, as their interests
20 may appear, and (B) the remainder of the proceeds must be distributed
21 to each unit owner or lien holder, as their interests may appear, as
22 follows: (i) in a condominium, in proportion to the common element
23 interest of all the units and (ii) in a cooperative or planned commun-
24 ity, in proportion to the common expense liabilities of all the units.
25 If the unit owners vote not to rebuild a unit, the allocated interests
26 of the unit are reallocated upon the vote as if the unit had been
27 condemned under AS 34.08.740(a), and the association promptly shall
28 prepare, execute [EXECUTED], and record an amendment to the declara-
29 tion reflecting the reallocations, and file and record a plat or plan

1 that accompanies the amendment.

2 * Sec. 25. AS 34.08.700 is amended to read:

3 Sec. 34.08.700. SUBSTANTIAL COMPLETION OF UNITS. In the sale of
4 a unit for which delivery of a public offering statement is required,
5 a contract of sale may be executed, but an interest in the unit may
6 not be conveyed until the declaration is recorded, a plat or plan that
7 accompanies the declaration is filed and recorded, and the unit is
8 substantially completed as evidenced by issuance of a certificate of
9 occupancy authorized by law or by a recorded certificate of substan-
10 tial completion executed by

11 (1) an independent registered engineer, architect, or land
12 surveyor;

13 (2) an appraiser with the designation of senior residen-
14 tial appraiser, senior real property appraiser, or senior real estate
15 analyst of the Society of Real Estate Appraisers;

16 (3) a residential member, or member of the [,] appraisal
17 institute, of the American Institute of Real Estate Appraisers; or

18 (4) an individual with a designation established by regu-
19 lation of the Alaska Housing Finance Corporation for fee appraisers
20 who certify the completion of construction.

21 * Sec. 26. AS 34.08.740(a) is amended to read:

22 (a) If a unit is acquired by eminent domain or part of a unit is
23 acquired by eminent domain leaving the unit owner with a remnant that
24 may not practically or lawfully be used for any purpose permitted by
25 the declaration, the award must include compensation to the unit owner
26 for that unit and its allocated interests, whether or not any common
27 elements are acquired. Upon acquisition, unless the decree otherwise
28 provides, the allocated interests of the unit are automatically real-
29 located to the remaining units in proportion to the respective

1 allocated interests of those units before the taking, and the associa-
2 tion shall promptly prepare, execute, and record an amendment to the
3 declaration reflecting the reallocations, and file and record a plat
4 or plan that accompanies the amendment. A remnant of a unit remaining
5 after part of a unit is taken under this subsection is a common ele-
6 ment from that time.

7 * Sec. 27. AS 34.08.990(30) is amended to read:

8 (30) "special declarant rights" means the right reserved
9 for the benefit of a declarant to

10 (A) complete improvements indicated on plats and
11 plans filed and recorded with the declaration or, in a coopera-
12 tive, to complete improvements described in the public offering
13 statement under [PURSUANT TO] AS 34.08.530(a)(2);

14 (B) exercise a development right;

15 (C) maintain sales offices, management offices, signs
16 advertising the common interest community, and models;

17 (D) use easements through the common elements for the
18 purpose of making improvements within the common interest commu-
19 nity or within real estate that may be added to the common inter-
20 est community;

21 (E) make the common interest community subject to a
22 master association;

23 (F) merge or consolidate a common interest community
24 with another common interest community of the same form of owner-
25 ship; or

26 (G) appoint or remove an officer of the association
27 or a master association or an executive board member during a
28 period of declarant control;

29 * Sec. 28. AS 34.15 is amended by adding a new section to read:

1 Sec. 34.15.015. USE OF RECORDED MASTER FORM. If reference is
2 made in a document to a recorded master form, a copy of the form, or
3 so much of it as is incorporated by reference, must be provided to
4 each party to the transaction by the party that furnished the docu-
5 ment.

6 * Sec. 29. AS 38.04.045(b) is amended to read:

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

1 sales, or short-term leases; however, for short-term leases the lessee
2 must comply with local subdivision ordinances unless waived by the
3 municipality under procedures specified by ordinance.

4 * Sec. 30. AS 40.15.010 is amended to read:

5 Sec. 40.15.010. APPROVAL, FILING, AND RECORDING OF SUBDIVISIONS.
6 Before the lots or tracts of any subdivision or dedication may be sold
7 or offered for sale, the subdivision or dedication shall be submitted
8 for approval to the authority having jurisdiction, as prescribed in
9 this chapter. The regular approval of the authority shall be shown on
10 it or attached to it and the subdivision or dedication shall be filed
11 and recorded [FOR RECORD] in the office of the recorder. The recorder
12 may [SHALL] not accept a subdivision or dedication for filing and
13 recording unless it shows this approval. If no platting authority
14 exists as provided in AS 40.15.070 - 40.15.130, lands may be sold
15 without approval.

16 * Sec. 31. AS 40.15.020 is amended to read:

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

28 * Sec. 32. AS 40.15.030 is amended to read:

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

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

5 * Sec. 33. AS 40.15.040 is amended to read:

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

12 * Sec. 34. AS 40.15.050 is amended to read:

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

28 * Sec. 35. AS 40.15.060 is amended to read:

29 Sec. 40.15.060. MISSING PLATS. When [WHERE] a filed or recorded

1 plat is missing and no present record is available except by reference
2 to the missing plat, a counterpart copy, approved by the platting
3 authority, may be filed and recorded as of the original date of the
4 missing plat and after filing and recording [RECORDATION] has the same
5 legal effect and notice as the original missing plat.

6 * Sec. 36. AS 40.15.070 is amended to read:

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

25 * Sec. 37. AS 40.15.075 is amended to read:

26 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD
27 CLASS BOROUGHES. The Department of Natural Resources [DIVISION OF
28 LANDS] is the platting authority in the area outside organized bor-
29 oughs and outside cities in the unorganized borough and in the third

1 class borough for only the purposes of hearing and acting on petitions
2 for the change or vacation of plats and shall execute this function
3 substantially in conformity with the provisions of AS 29.40.130 -
4 29.40.160. Costs of publication and mailing authorized in AS 29.40.-
5 130 shall be paid to the Department of Natural Resources [DIVISION] by
6 the petitioner. The Department of Natural Resources shall adopt
7 reasonable regulations governing the exercise of the authority confer-
8 red by this section [UPON THE DIVISION OF LANDS].

9 * Sec. 38. AS 40 is amended by adding a new chapter to read:

10 CHAPTER 19. RECORDING FEDERAL LIENS.

11 Sec. 40.19.010. APPLICABILITY. The provisions of this chapter
12 apply to federal tax liens and to other federal liens notice of which
13 under an Act of Congress or a regulation adopted under the authority
14 of an Act of Congress is required or permitted to be filed or recorded
15 in the same manner as a notice of federal tax lien.

16 Sec. 40.19.020. PLACE OF RECORDING. (a) Notices of lien,
17 certificates, and other notices affecting a federal tax lien or other
18 federal lien shall be recorded under this chapter.

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

23 (c) Notices of federal lien upon personal property, whether tan-
24 gible or intangible, for obligations payable to the United States and
25 certificates and notices affecting the lien shall be recorded in the
26 records of the recording district where the person against whose
27 interest the lien applies resides at the time of recording of the
28 notice of lien.

29 (d) For purposes of (c) of this section the residence of a

Fed Lien Act

1 corporation or partnership is the place in which the principal execu-
2 tive office of the business is located.

3 Sec. 40.19.030. EXECUTION OF NOTICES AND CERTIFICATES. Certi-
4 fication of notices of lien, certificates, or other notices affecting
5 federal liens by the United States Secretary of the Treasury or by the
6 designee of the United States Secretary of the Treasury, or by an
7 official or entity of the United States responsible for filing, re-
8 cording, or certifying, of notice of any other lien, entitles the
9 notices or certificates to be recorded and further attestation, certi-
10 fication, or acknowledgement is not necessary.

11 Sec. 40.19.040. DUTIES OF RECORDER. (a) If a notice of federal
12 lien, a rerecording of notice of federal lien, or a notice of revoca-
13 tion of a certificate described in (b) of this section is presented to
14 the recorder under AS 40.17, the recorder shall endorse on the notice
15 an identification and the date and time of recording and enter it
16 first in the daily log of documents and then in an alphabetical index
17 showing the name of the person named in the notice, the date and time
18 of recording, the title of the official or entity certifying the lien,
19 and the total amount appearing on the notice of lien.

20 (b) If a rerecorded notice of federal lien referred to in (a) of
21 this section or a certificate of release, nonattachment, discharge, or
22 subordination of lien or a revocation of any of these certificates is
23 presented to the recorder for recording, the recorder shall record it
24 in the way a document listed in (a) of this section would be recorded
25 and shall enter the rerecorded notice or the certificate or revocation
26 with the date of recording in the alphabetical index together with a
27 reference to the recording information for the original notice or
28 certificate to which it relates.

29 (c) A lien on file with records of a recording district on the

1 effective date of this section is considered to have been recorded at
2 the date and time it was filed.

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

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

10 * Sec. 39. AS 43.10.042 is repealed and reenacted to read:

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

12 (a) A lien imposed under this title is not valid as against a mort-
13 gagee or other lien holder, pledgee, purchaser, or judgment creditor
14 until notice of it is recorded in the records of the recording dis-
15 trict where the property subject to the lien is situated. However,
16 regardless of the date the liens are recorded, a lien arising out of a
17 tax due under AS 43.56 and AS 43.75, including the penalties and
18 interest on the tax, is a lien prior, paramount, and superior to all
19 other liens, mortgages, hypothecations, conveyances, and assignments,
20 upon all the real and personal property of the person liable for the
21 tax, and upon all the real and personal property used with the permis-
22 sion of the owner to carry on the business that is subject to the tax.

23 (b) AS 40.19.040 applies to a notice of state tax lien and
24 documents relating to a state tax lien as well as to a notice of
25 federal lien and documents relating to a federal lien.

26 * Sec. 40. AS 44.37.025 is amended to read:

27 Sec. 44.37.025. RECORDING. (a) The Department of Natural Re-
28 sources shall adopt regulations [,] establishing, modifying, or dis-
29 continuing recording districts or precincts and prescribing the

1 records to be maintained and the instruments to be recorded, consis-
2 tent with AS 40.17.

3 (b) The department shall [ENGAGE AND COMPENSATE RECORDERS AND
4 DEPUTY RECORDERS,] prescribe and account for recording fees [,] and do
5 all other things necessary to maintain the recording systems [SYSTEM]
6 established under the laws of this state. The commissioner of
7 administration shall separately account for fees collected under this
8 section that the Department of Natural Resources deposits in the
9 general fund. The annual estimated balance in the account may be used
10 by the legislature to make appropriations to the department to carry
11 out the purposes of this section.

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

17 (d) The department shall file with the commissioner of commerce
18 and economic development a copy of each conveyance recorded that
19 contains a statement that property is conveyed to a nonresident alien
20 or for the benefit of a nonresident alien.

* Sec. 41. AS 44.37.025 is amended by adding a new subsection to read:

21 (e) In addition to the recording system established under AS
22 40.17, the commissioner of natural resources may by regulation establish a
23 system for recording and filing documents to enable members of the public
24 to safeguard documents. Recording or filing a document in the system
25 established under this subsection does not provide constructive notice for
26 any purpose.
27

28 * Sec. 42. In the following statutes the revisor of statutes is di-
29 rected to delete the requirement or permission that a document be filed or

S. Resources

class B documents

1 filed for record and to substitute a corresponding requirement or permis-
2 sion that the document be recorded: AS 09.40.050; AS 09.55.370; AS 10.15.-
3 230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.047;
4 AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050, 27.10.-
5 060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.10.230;
6 AS 32.10.010, 32.10.240; AS 34.07.070; AS 34.20.090; AS 34.35.065, 34.35.-
7 160, 34.35.185, 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.405,
8 34.35.440; AS 38.05.195, 38.05.200, 38.05.205, 38.05.210, 38.05.220,
9 38.05.230, 38.05.245, 38.05.250, 38.05.265, 38.05.275; AS 38.20.100;
10 AS 45.09.402(f); and AS 46.15.160.

11 * Sec. 43. AS 34.15.260, 34.15.270, 34.15.280, 34.15.290, 34.15.300,
12 34.15.310, 34.15.320, 34.15.330, 34.15.340, 34.15.345, 34.15.350; AS 34.-
13 20.020; AS 43.10.090, 43.10.100, 43.10.110, 43.10.120, 43.10.130, 43.10.-
14 140, and 43.10.150 are repealed.

15 * Sec. 44. This Act takes effect January 1, 1989.

ALASKA CODE REVISION COMMISSION
LEGISLATIVE AFFAIRS AGENCY
POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811

April 27, 1988

The Honorable John Sund
Chairman, House Judiciary Committee
Room C-122 State Capitol Building
Juneau, Alaska 99811

Re: CS for HB 266 and CS for SB 304; Acts relating to filing
and recording.

Dear Representative Sund:

This letter is in response to your recent request for information about CS for HB 266 and CS for SB 304, acts revising the recording act relating to the filing and recording of documents. The Alaska Code Revision has carefully reviewed both bills, has negotiated certain changes in both bills, and the bills are now compatible. In the event both bills pass this session, the Revisor of Statutes will have to make certain non substantive changes in order to coordinate the language in each bill. While CS for HB addresses only the procedures to be followed by the District Recorder in accepting documents, CS for SB 304 is a complete overhaul of the recording act. Since both of these bills are now compatible, the passage of both will not create any statutory inconsistencies or continuity problems.

The changes in both of the bills has been worked out with Judy Knight, legislative assistant to Representative Ulmer and I have been advised that all of the changes are satisfactory to Representative Ulmer and are acceptable to the Code Revision Commission.

In reviewing CS for SB 304 with Peter Froehlich, Assistant Attorney General and a Commissioner, it was felt that in order to avoid the possibility of a gubernatorial veto, it would be wise to delete one section from that bill. That section reads as follows:

Sec. 40.17.190. ACTIONS AGAINST RECORDER
AND STATE.

HON. JOHN SUND
CS for HB 266 and CS for SB 304
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(b) The state is liable to a person injured by the failure of the recorder to perform duties under this chapter. Neither the recorder nor a state employee performing duties of the recorder is individually liable for a good faith error or omission made in the course of employment.

The above section can be extracted from the bill without the necessity of any further changes to the bill. The language of the bill will remain internally consistent and no further changes need be made.

Also, in discussions with Judy Knight, it was felt to be desirable to add two new subsections to Sec. 40.17.110, classes of documents eligible for recording. These two new subsections would read as follows:

*Pg 13
After line 24*

- (58) a unitization agreement;
- (59) any other document which creates an interest in real property.

Add in AS

that

affects

With the addition of these two classes of documents, there should be no question but that the district recorder must accept unitization agreements and any other documents not specifically listed in subsections (1) through (57), so long as the document created an interest in real property.

I will be available to testify on CS for SB 304 when it is heard by House Judiciary on Thursday, April 28, 1988, and can further explain the above changes. Again, both bills have been amended so that they can stand alone without the necessity of passage of the other with any accommodations being made by the Revisor of Statutes.

Please call me if you have any questions concerning the above.

Very truly yours,

John W. Abbott
JOHN W. ABBOTT, Chairman

Creates or affects
"affects" may presume the existence of the interest