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304

Rec'd 4/17/88  
of Bill 304

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CS SB 304 (FIN)  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 4/5/88  
Title: An Act Relating to filing and recording, recordable documents, etc.  
Sponsor: Rules/Legislative Council  
Requestor: Senate Finance Committee

Agency Affected: Natural Resources  
BRU: Management & Administration  
Components: Recorder's Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Class B requirement removed from the bill.

Prepared by: <sup>18</sup> Sharon Barton *Barton*  
Division: Management

Phone: 465-2406  
Date: 4/5/88

Approved by Commissioner: Samuel Gorsuch  
Agency: Natural Resources

Date: 4-5-88

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

RECEIVED

APR 7 1988

SENATE COMMITTEE REPORT

FURTHER

2/8/88

DATE TURNED INTO OFFICE 4/6/88

Mr. President:

Finance

Committee considered SB 304

filing and recording, recordable documents, conveyances, plats, and platting authorities; efd and recommended

replace with CS SB 304 (Finance)  same title  
 or adopt CS  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous

zero  fiscal impact

MEMBERS SIGNING DO PASS

[Signature]  
[Signature]  
[Signature]  
[Signature]

OTHER RECOMMENDATIONS

[Signature]  
Do Pass - as long  
as there is no additional  
financial impact on  
Dept of Adm.

[Signature]  
Chairman signature and recommendation

Committee Backup attached

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 304 (Fin)  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Act relating to filing and recording, recordable documents  
Sponsor: Rules/Legislative Council  
Requestor: Senate Finance Committee

Agency Affected: Dept. of Natural Resources  
BRU: Management & Administration  
Components: Recorder's Offices

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: *Rick Halford* Phone: 465-3753  
Division: Senator Rick Halford, Co-chairman Date: 4/6/88  
Senate Finance Committee  
Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Original sponsor: Rules/Legislative Council

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 304 (Finance)

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  
8 documents 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 40.08 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 subs-  
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

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

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

16 (4) any necessary consideration was given;

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

20 (6) a person purporting to act as an agent, attorney in  
21 fact under a recorded power of attorney or authority, officer of an  
22 organization, or in a fiduciary or official capacity, held the posi-  
23 tion the person purported to hold, acted within the scope of the  
24 person's authority, and in the case of an organization, the authoriza-  
25 tion satisfied all requirements of law; and in the case of an agent,  
26 acted for a principal who was neither incompetent nor a minor at any  
27 relevant time and who had not revoked the agency;

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

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

36 (9) the persons named in, signing, or acknowledging the  
37 document and persons named in, signing, or acknowledging another  
38 related document in a chain of title are identical, if the persons  
39 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;

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

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

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

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

28 (19) a notice limiting future advances under a recorded  
29 security agreement;

30 (20) a certified copy of a judgment or decree of a court of  
31 the state or of a court of record of the United States or a certified  
32 copy of a satisfaction of judgment or decree;

33 (21) a certificate of attachment or an order or proceeding  
34 of record discharging attachment;

35 (22) a condemnation order;

36 (23) a declaration of taking;

37 (24) a copy of the record of the meeting of a cemetery  
38 association;

39 (25) a cooperative contract;

40 (26) a list of persons whose cooperative contracts have been  
41 terminated;

42 (27) a letter of conservatorship;

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

45 (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.

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

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 intention 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

Analyst of the Society of Real Estate Appraisers;

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

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

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

(b) After the declaration for a leasehold condominium or leasehold planned community is recorded, and a plat or plan that is part of the declaration is filed and recorded, neither the lessor nor the successor in interest of the lessor may terminate the leasehold interest of a unit owner who makes timely payment of a unit owner's share of the rent and otherwise complies with the covenants that, if violated, would entitle the lessor to terminate the lease. The leasehold interest of a unit owner in a condominium or planned community is not affected by the failure of any other person to pay rent or fulfill a covenant.

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

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

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

(b) Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration 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 ble 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

of subdivision or conversion of units described in (b) of this section, reallocate the allocated interests among all units. The amendment must describe any common elements and any limited common elements created under the amendment and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by AS 34.08.160.

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

(b) The association

(1) in a condominium or planned community shall prepare, file, and record plats or plans necessary to show the altered boundaries between adjoining units, and their dimensions and identifying numbers; and

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

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

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

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

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

community is located and the amendment is effective only upon recording. An amendment, except an amendment under AS 34.08.200(a), must be indexed in the name of the common interest community and the association and in the name of the parties executing the amendment.

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

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

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

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

(3) hire and discharge managing agents and other employees, agents, and independent contractors;

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

(5) make contracts and incur liabilities;

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

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

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

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

(B) part of a cooperative may be conveyed or all or part of a cooperative may be subjected to a security interest only under AS 34.08.430;

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

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

(11) impose a reasonable charge for late payment of assessments and, after notice and an opportunity to be heard, levy a reasonable fine for a violation of the declaration, bylaws, rules, and regulations of the association;

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

(13) provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

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

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

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

(17) exercise any other power necessary and proper for the 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

that accompanies the amendment.

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

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

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

(2) an appraiser with the designation of senior residential appraiser, senior real property appraiser, or senior real estate analyst of the Society of Real Estate Appraisers;

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

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

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

(a) If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award must include compensation to the unit owner for that unit and its allocated interests, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, the allocated interests of the unit are automatically reallocated 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~~ 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

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 system estab-  
6 lished under the laws of this state. The commissioner of adminis-  
7 tration shall separately account for fees collected under this section  
8 that the Department of Natural Resources deposits in the general fund.  
9 The annual estimated balance in the account may be used by the legis-  
10 lature to make appropriations to the department to carry out the  
11 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.

21 \* Sec. 41. In the following statutes the revisor of statutes is di-  
22 rected to delete the requirement or permission that a document be filed or  
23 filed for record and to substitute a corresponding requirement or permis-  
24 sion that the document be recorded: AS 09.40.050; AS 09.55.370; AS 10.15.-  
25 230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.047;  
26 AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050, 27.10.-  
27 060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.10.230;  
28 AS 32.10.010, 32.10.240; AS 34.07.070; AS 34.20.090; AS 34.35.065, 34.35.-  
29 160, 34.35.185, 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.405,  
CSSB 304(Fin)

1 34.35.440; AS 38.05.195, 38.05.200, 38.05.205, 38.05.210, 38.05.220,  
2 38.05.230, 38.05.245, 38.05.250, 38.05.265, 38.05.275; AS 38.20.100;  
3 AS 45.09.402(f); and AS 46.15.160.

4 \* Sec. 42. AS 34.15.260, 34.15.270, 34.15.280, 34.15.290, 34.15.300,  
5 34.15.310, 34.15.320, 34.15.330, 34.15.340, 34.15.345, 34.15.350; AS 34.-  
6 20.020; AS 43.10.090, 43.10.100, 43.10.110, 43.10.120, 43.10.130, 43.10.-  
7 140, and 43.10.150 are repealed.

8 \* Sec. 43. This Act takes effect January 1, 1989.

FISCAL NOTE

REQUEST:

Revision Date: 5/15/87  
Title: An act relating to filing and recording, recordable documents, etc.  
Sponsor: Judiciary  
Requestor: \_\_\_\_\_

Agency Affected: Natural Resources  
BRU: Management & Administration

Components: Recorder's Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		30.7	30.7	30.7	30.7	30.7
TRAVEL						
CONTRACTUAL		65.0				
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT		2.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		102.7	35.7	35.7	35.7	35.7

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		66.0	80.0	80.0	80.0	80.0
---------	--	------	------	------	------	------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER -Prog Rec		102.7	35.7	35.7	35.7	35.7
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Costs are entirely associated with the Class B requirement of the bill. The fiscal note funds one position to handle additional centralized workload and support costs: these are continuing costs. One-time funds are requested to automate the indexing of these documents. Contractual costs include (CONT.)

Prepared by: Sharon Barton Phone: 465-2406  
Division: Management Date: 1/18/88

Approved by Commissioner: [Signature] Date: 1-18-88  
Agency: Natural Resources

Distribution (by preparer):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

*0 by JFC 4/6/88*

SB 304 Analysis: Continued

feasibility study, design, and programming. Equipment costs include equipment to serialize, date stamp and time documents.

Revenues are based on an estimate of 5000 documents per year at current fees.

**FISCAL NOTE**

**REQUEST:**

Revision Date: 2/9/88  
Title: An act relating to filing and recording, recordable documents, etc.  
Sponsor: Rules/Legislative Council  
Requestor: Senate Finance Committee

Agency Affected: Natural Resources  
BRU: Management & Administration  
Components: Recorder's Office

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		30.7	30.7	30.7	30.7	30.7
TRAVEL						
CONTRACTUAL		65.0				
SUPPLIES		5.0	5.0	5.0	5.0	5.0
EQUIPMENT		2.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>102.7</b>	<b>35.7</b>	<b>35.7</b>	<b>35.7</b>	<b>35.7</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		66.0	80.0	80.0	80.0	80.0
---------	--	------	------	------	------	------

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER		102.7	35.7	35.7	35.7	35.7
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

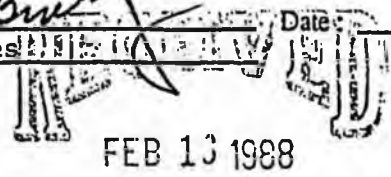
**ANALYSIS : (Attach a separate page if necessary)**

Costs are entirely associated with the Class B requirement of the bill. The fiscal note funds one position to handle additional centralized workload and support costs: these are continuing costs. One-time funds are requested to automate the indexing of these documents. Contractual costs include (CONT.)

Prepared by: Sharon Barton *Barton* Phone: 465-2406  
Division: Management Date: 2/9/88

Approved by Commissioner: Judith M. Brown *Judith M. Brown* Date: \_\_\_\_\_  
Agency: Natural Resources

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)



CS SB 304 (Res) Analysis: Continued

feasibility study, design, and programming. Equipment costs include equipment to serialize, date stamp and time documents.

Revenues are based on an estimate of 5000 documents per year at current fees.

SB 304

Relating to filing and recording, recordable documents, conveyances, plats, and platting authorities

Sponsor

Leg Council for the Code Revision Commission

Fiscal Impact

Senate Finance Fiscal Note: Zero

*2 more amendments  
need to be  
made - as noted*

(DNR had submitted a previous fiscal note for 102.7; this was for handling class B documents. Because this requirement has been deleted from the Finance CS, there is no fiscal impact (as noted in Brady's 1/18/88 letter to Coghill)).

Summary

The main purpose of SB 304 is to gather together and clarify Alaska law on recording and to provide a structure for future centralized recording. This will make it possible to use existing and future advanced technology for transmitting, indexing, storing, retrieving and searching title documents.

The bill lays the groundwork for recording in a central place that is connected electronically with recording offices around the state. Full statewide participation in this system would evolve over time.

The Resources CS adds new language which would require DNR to provide at each public office designated by the department "instructions that explain to the public the formal requirements that a document must satisfy to be

see next page re: Fin CS

recorded. It also deletes the repeal of several sections of the Horizontal Property Regimes Act which were repealed in the original bill.

The Finance CS deletes references to "class B" documents (ie. marriage licenses, military discharges). Currently this is a gray area of the law and as a result, the Recorder's office has handled them. By including this class of documents under the Recorder as a requirement, \$102,700 fiscal note was submitted by DNR so it could computerize its system to handle these types of documents.

A sectional analysis for the bill is in the bill file.



# Alaska State Legislature

*Adopted by SFC  
4/6/88*

## SENATE

### Committee on Finance

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

April 6, 1988

#### MEMORANDUM

TO: Senate Finance Committee Members

FROM: Senator Rick Halford *Rick* Chairman  
Senate Finance Committee

SUBJECT: Amendments to Proposed Senate Finance Committee  
Substitute for SB 304

For the committee's consideration, I offer two additional amendments to SB 304. With the deletion of class B documents from the bill, two more sections would need to be amended. These are:

Page 4, starting with line 23, amend as follows:

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

Page 5, line 3: Delete first sentence.

*DELETE  
lines 23-26  
and  
REPLACE  
with* →

5-1077L  
Bannister  
4/4/88

Original sponsor: Rules/Legislative Council

*Adopted by SFC  
4/6/88*

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 304 (Finance)

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  
8 documents 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 separate daily logs and indices~~  
24 ~~for documents with a separate system of serial numbers for each class.~~  
25 ~~The daily log and index for documents shall be maintained in the~~  
26 ~~central recording office.~~

27 (c) As a document is recorded, the recorder shall indicate on or  
28 attach to each document the date, hour, and minute of recording, enter  
29 that information and a consecutive serial number in a daily log of

1 documents without delay in the order in which the documents are  
2 received, and note the serial number on the document.

3 (d) ~~The recorder shall mark each document to show in which class~~  
4 ~~it is recorded.~~ If a document presented for recording is reviewed and  
5 rejected for recording, the recorder shall indicate on or attach to  
6 the document the date, hour, and minute of rejection and a citation of  
7 the statute requiring rejection. If the document is later determined  
8 to be recordable in the form in which it was earlier presented to the  
9 recorder, later recording does not relate back to the time and date of  
10 rejection. Recording is effective when the document is accepted for  
11 recording, regardless of the cause of the rejection.

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

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

18 (g) After recording, the recorder shall return the document to  
19 the person who presented it or a person designated by the person who  
20 presented it.

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

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

27 Sec. 40.17.080. EFFECT OF RECORDING ON TITLE AND RIGHTS; CON-  
28 STRUCTIVE NOTICE. (a) Subject to (c) and (d) of this section, from  
29 the time a document is recorded in the records of the recording

1 district in which land affected by it is located, the recorded  
2 document is constructive notice of the contents of the document to  
3 subsequent purchasers and holders of a security interest in the same  
4 property or a part of the property.

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

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

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

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

21 (2) when 30 days have elapsed after the expiration date of  
22 the option or agreement, if the recorded option or agreement contains  
23 an expiration date.

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

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

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

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

3 (2) the person executing the document and the person on  
4 whose behalf it is executed are the persons they are purported to be  
5 and the person executing it was neither incompetent nor a minor at any  
6 relevant time;

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

9 (4) any necessary consideration was given;

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

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

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

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

29 (9) the persons named in, signing, or acknowledging the

1 document and persons named in, signing, or acknowledging another  
2 related document in a chain of title are identical, if the persons  
3 appear in those documents under identical names, or under variants of  
4 the names, including inclusion, exclusion, or use of

5 (A) commonly recognized abbreviations, contractions,  
6 initials, or colloquial or other equivalents;

7 (B) first or middle names or initials;

8 (C) simple transpositions that produce substantially  
9 similar pronunciations;

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

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

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

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

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

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

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

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

6           Sec. 40.17.110. CLASSES OF DOCUMENTS ELIGIBLE FOR RECORDING.  
7 (a) A signed document listed in (b) of this section or included under  
8 (c) of this section that meets the requisites for recording under  
9 AS 40.17.030 may be recorded.

10           (b) The recorder may record

11           (1) a conveyance acknowledged or proven under AS 34.15.-  
12 150 - 34.15.250 or a certified copy of the conveyance if recording the  
13 copy is permitted by AS 40.17.020;

14           (2) an acknowledged or proven power of attorney or other  
15 instrument granting or revoking a power to act as agent or attorney  
16 for another person;

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

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

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

1 recorded under this section must contain the recording information of  
2 a recorded document referred to in it;

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

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

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

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

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

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

16 (B) the original is not in the person's possession;  
17 and

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

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

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

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

28 (14) notice of an action for divorce, separate maintenance,  
29 annulment, or dissolution of marriage previously filed and pending in

1 a court of any state or the United States affecting title to real  
2 property in this state, if the notice contains the case number as-  
3 signed by the court;

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

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

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

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

15 (19) a notice limiting future advances under a recorded  
16 security agreement;

17 (20) a certified copy of a judgment or decree of a court of  
18 the state or of a court of record of the United States or a certified  
19 copy of a satisfaction of judgment or decree;

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

22 (22) a condemnation order;

23 (23) a declaration of taking;

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

26 (25) a cooperative contract;

27 (26) a list of persons whose cooperative contracts have been  
28 terminated;

29 (27) a letter of conservatorship;

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

2 (29) an employment security contributions lien;

3 (30) a verified workers' compensation lien;

4 (31) a mining claim, location, or lease;

5 (32) a grubstake contract;

6 (33) a mining assessment work affidavit;

7 (34) a notice to contribute or forfeit an interest in a  
8 mining claim;

9 (35) a subdivision plat;

10 (36) a signed and sworn-to certificate of limited partner-  
11 ship and a signed and sworn-to amendment to a certificate of limited  
12 partnership;

13 (37) a declaration or amendments to a declaration under  
14 AS 34.07 or AS 34.08, an instrument by which property may be removed  
15 from the provisions of AS 34.07 or AS 34.08, and an instrument affect-  
16 ing property controlled by AS 34.07 or AS 34.08; a declaration under  
17 AS 34.08 may not be recorded unless it satisfies the requirements of  
18 AS 34.08.090(b);

19 (38) a survey map and floor plan for a building under  
20 AS 34.07, or a plat or plan for a common interest community under  
21 AS 34.08;

22 (39) a substitution of trustee under a deed of trust, or  
23 other person having a power of sale under a real property security  
24 agreement, when executed and acknowledged by all the beneficiaries;

25 (40) notice and affidavits required in default and sale  
26 under a deed of trust;

27 (41) a notice of right to mechanics' or materialmen's lien;

28 (42) an attested or notarized copy of a notice of  
29

1 nonresponsibility for construction, alteration, or repair;

2 (43) an acknowledgment of right to mechanics' or material-  
3 men's lien;

4 (44) a verified claim of lien under AS 34.35;

5 (45) a verified notice of completion of a building or im-  
6 provement;

7 (46) a bond guaranteeing payment of the sum recovered on a  
8 mechanics' or materialmen's lien;

9 (47) a notice extending a mechanics' or materialmen's lien;

10 (48) a state tax lien;

11 (49) a federal tax lien;

12 (50) an instrument transferring a water appropriation or a  
13 certified copy of it;

14 (51) a financing statement covering goods that are or are to  
15 become fixtures to real property described in the financing statement;  
16 if the debtor does not have an interest of record in the real prop-  
17 erty, the financing statement must show the name of the record owner  
18 of the real property;

19 (52) an assignment of rent;

20 (53) a memorandum of lease as described in AS 40.17.120(b);

21 (54) a state highway right-of-way map;

22 (55) an armed forces report of separation;

23 (56) a document amending or correcting a recorded document  
24 listed in this section if the amending or correcting document is exe-  
25 cuted by the same parties who executed the original document; and

26 (57) a master form that can be incorporated by reference in  
27 documents later recorded.

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. ACTIONS AGAINST RECORDER AND STATE. (a) 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 (b) The state is liable to a person injured by the failure of  
24 the recorder to perform duties under this chapter. Neither the re-  
25 corder nor a state employee performing duties of the recorder is  
26 individually liable for a good faith error or omission made in the  
27 course of employment.

28 Sec. 40.17.900. DEFINITIONS. In this chapter

- 29 (1) "acceptance" means the determination by the recorder

1 that a document is recordable under this chapter accompanied by mark-  
2 ing an identifying code on the document and entering the document in a  
3 daily log;

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

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

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

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

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

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

24 (8) "recorder" means the commissioner of the department or  
25 the commissioner's designee;

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

28 (10) "recording information" means information needed to  
29 find a document in the public records such as book and page, document

number, electronic retrieval code, or other specific information.

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

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

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

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

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

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

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

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

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

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

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

1           Sec. 29.40.180. VIOLATIONS. The [IT IS UNLAWFUL FOR THE] owner  
2 of land located in a subdivision may not [TO] transfer, sell, offer to  
3 sell, or enter into a contract to sell land in a subdivision before a  
4 plat of the subdivision has been prepared, approved, [AND] filed, and  
5 recorded in accordance with this chapter. A [IT IS UNLAWFUL FOR A]  
6 person may not [TO] file or record a plat or other document depicting  
7 subdivided land in a public recorder's office unless the plat or  
8 document has been approved by the platting authority. For the viola-  
9 tion of a provision of this chapter, a subdivision regulation adopted  
10 under this chapter, or a term, condition, or limitation imposed by a  
11 platting authority in the exercise of its powers under this chapter, a  
12 municipality may by ordinance prescribe a penalty not to exceed a fine  
13 of \$1,000 and imprisonment for 90 days.

14 \* Sec. 7. AS 30.13.080 is amended to read:

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

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

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

6 \* Sec. 9. AS 34.07.030 is amended to read:

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

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

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

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

25 (a) If the floor plans do not include a verified statement by a  
26 registered architect or registered professional engineer that the  
27 plans fully and accurately depict the layout, apartment numbers, and  
28 dimensions of the apartments as built, there shall be recorded before  
29 the first conveyance of an apartment an amendment to the declaration

1 to which shall be attached a verified statement of a registered archi-  
2 tect certifying that the plans previously filed and recorded or being  
3 filed and recorded simultaneously with the amendment fully and accu-  
4 rately depict the layout, apartment number and dimensions of the  
5 apartments as built.

6 \* Sec. 11. AS 34.07.050 is amended to read:

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

10 \* Sec. 12. AS 34.08.090 is amended to read:

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

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

29 (1) an independent registered engineer, architect, or land

1 surveyor;

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

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

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

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

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

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

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

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

1 (b) Except as the declaration otherwise provides, a limited  
2 common element may be reallocated by an amendment to the declaration  
3 executed by the unit owners between or among whose units the realloca-  
4 tion is made. The persons executing the amendment shall provide a  
5 copy of the amendment to the association, which shall record the  
6 amendment and file and record a plat or plan that accompanies the  
7 amendment [IT]. The amendment must be recorded, and an accompanying  
8 plat or plan filed and recorded, in the names of the parties and the  
9 common interest community.

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

11 (b) Each plat must show:

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

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

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

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

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

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

29 (7) the location with reference to an established datum of

1 any horizontal unit boundaries not shown or projected on plans filed  
2 and recorded under (d) of this section and the identifying number of  
3 the unit;

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

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

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

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

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

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

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

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

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

26 (a) To exercise a development right reserved under AS 34.08.-  
27 130(a)(8), a declarant shall prepare, execute, and record an amendment  
28 to the declaration, file and record a plat or plan that accompanies  
29 the amendment, and, in a condominium or planned community, comply with

1 AS 34.08.170. The declarant is the unit owner of the units created  
2 under the amendment. The amendment to the declaration must assign an  
3 identifying number to each new unit created, and, except in the case  
4 of subdivision or conversion of units described in (b) of this sec-  
5 tion, reallocate the allocated interests among all units. The amend-  
6 ment must describe any common elements and any limited common elements  
7 created under the amendment and, in the case of limited common ele-  
8 ments, designate the unit to which each is allocated to the extent  
9 required by AS 34.08.160.

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

11 (b) The association

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

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

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

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

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

1 (c) Each amendment to the declaration must be recorded, and a  
 2 plat or plan that accompanies the amendment filed and recorded, in  
 3 each recording district in which a portion of the common interest  
 4 community is located and the amendment is effective only upon record-  
 5 ing. An amendment, except an amendment under AS 34.08.200(a), must be  
 6 indexed in the name of the common interest community and the associa-  
 7 tion and in the name of the parties executing the amendment.

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

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

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

12 (2) adopt and amend budgets for revenues, expenditures,  
 13 and reserves and collect assessments for common expenses from unit  
 14 owners;

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

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

22 (5) make contracts and incur liabilities;

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

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

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

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

4 (B) part of a cooperative may be conveyed or all or  
5 part of a cooperative may be subjected to a security interest  
6 only under AS 34.08.430;

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

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

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

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

21 (13) provide for the indemnification of its officers and  
22 executive board and maintain directors' and officers' liability insur-  
23 ance;

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

27 (15) exercise any other powers conferred by the declaration  
28 or bylaws;

29 (16) exercise any other power that may be exercised in the

1 state by a legal entity of the same type as the association; and

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

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

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

1 condemned under AS 34.08.740(a), and the association promptly shall  
2 prepare, execute [EXECUTED], and record an amendment to the declara-  
3 tion reflecting the reallocations, and file and record a plat or plan  
4 that accompanies the amendment.

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

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

14 (1) an independent registered engineer, architect, or land  
15 surveyor;

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

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

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

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

25 (a) If a unit is acquired by eminent domain or part of a unit is  
26 acquired by eminent domain leaving the unit owner with a remnant that  
27 may not practically or lawfully be used for any purpose permitted by  
28 the declaration, the award must include compensation to the unit owner  
29 for that unit and its allocated interests, whether or not any common

1 elements are acquired. Upon acquisition, unless the decree otherwise  
2 provides, the allocated interests of the unit are automatically real-  
3 located to the remaining units in proportion to the respective allo-  
4 cated interests of those units before the taking, and the association  
5 shall promptly prepare, execute, and record an amendment to the decla-  
6 ration reflecting the reallocations, and file and record a plat or  
7 plan that accompanies the amendment. A remnant of a unit remaining  
8 after part of a unit is taken under this subsection is a common ele-  
9 ment from that time.

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

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

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

17 (B) exercise a development right;

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

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

24 (E) make the common interest community subject to a  
25 master association;

26 (F) merge or consolidate a common interest community  
27 with another common interest community of the same form of owner-  
28 ship; or

29 (G) appoint or remove an officer of the association

1 or a master association or an executive board member during a  
2 period of declarant control;

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

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

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

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

1 landowners. State subdivisions shall be filed and recorded in the  
2 district recorder's office. The requirements of this section do not  
3 apply to land made available through a cabin permit system, material  
4 sales, or short-term leases; however, for short-term leases the lessee  
5 must comply with local subdivision ordinances unless waived by the  
6 municipality under procedures specified by ordinance.

7 \* Sec. 30. AS 40.15.010 is amended to read:

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

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

19 \* Sec. 31. AS 40.15.020 is amended to read:

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

1 levied against the property at that date are paid.

2 \* Sec. 32. AS 40.15.030 is amended to read:

3 Sec. 40.15.030. DEDICATION OF STREETS, ALLEYS AND THOROUGHFARES.  
4 When an area is subdivided and a plat of the subdivision is approved,  
5 filed, and recorded, all streets, alleys, thoroughfares, parks and  
6 other public areas shown on the plat are considered to be [DEEMED TO  
7 HAVE BEEN] dedicated to public use.

8 \* Sec. 33. AS 40.15.040 is amended to read:

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

15 \* Sec. 34. AS 40.15.050 is amended to read:

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

and vacated.

1  
2 \* Sec. 35. AS 40.15.060 is amended to read:

3       Sec. 40.15.060. MISSING PLATS. When [WHERE] a filed or recorded  
4 plat is missing and no present record is available except by reference  
5 to the missing plat, a counterpart copy, approved by the platting  
6 authority, may be filed and recorded as of the original date of the  
7 missing plat and after filing and recording [RECORDATION] has the same  
8 legal effect and notice as the original missing plat.

9 \* Sec. 36. AS 40.15.070 is amended to read:

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

28 \* Sec. 37. AS 40.15.075 is amended to read:

29       Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD

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

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

13 CHAPTER 19. RECORDING FEDERAL LIENS.

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

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

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

26 (c) Notices of federal lien upon personal property, whether tan-  
27 gible or intangible, for obligations payable to the United States and  
28 certificates and notices affecting the lien shall be recorded in the  
29 records of the recording district where the person against whose

1 interest the lien applies resides at the time of recording of the  
2 notice of lien.

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

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

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

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

1 reference to the recording information for the original notice or  
2 certificate to which it relates.

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

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

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

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

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

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

26 (b) AS 40.19.040 applies to a notice of state tax lien and  
27 documents relating to a state tax lien as well as to a notice of  
28 federal lien and documents relating to a federal lien.

29 \* Sec. 40. AS 44.37.025 is amended to read:

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

6           (b) The department shall [ENGAGE AND COMPENSATE RECORDERS AND  
7 DEPUTY RECORDERS,] prescribe and account for recording fees [,] and do  
8 all other things necessary to maintain the recording system estab-  
9 lished under the laws of this state. The commissioner of adminis-  
10 tration shall separately account for fees collected under this section  
11 that the Department of Natural Resources deposits in the general fund.  
12 The annual estimated balance in the account may be used by the legis-  
13 lature to make appropriations to the department to carry out the  
14 purposes of this section.

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

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

24 \* Sec. 41. In the following statutes the revisor of statutes is di-  
25 rected to delete the requirement or permission that a document be filed or  
26 filed for record and to substitute a corresponding requirement or permis-  
27 sion that the document be recorded: AS 09.40.050; AS 09.55.370; AS 10.15.-  
28 230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.047;  
29 AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050,  
CSSB 304(Fin)

1 27.10.060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.-  
2 10.230; AS 32.10.010, 32.10.240; AS 34.07.070; AS 34.20.090; AS 34.35.065,  
3 34.35.160, 34.35.185, 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.-  
4 405, 34.35.440; AS 38.05.195, 38.05.200, 38.05.205, 38.05.210, 38.05.220,  
5 38.05.230, 38.05.245, 38.05.250, 38.05.265, 38.05.275; AS 38.20.100;  
6 AS 45.09.402(f); and AS 46.15.160.

7 \* Sec. 42. AS 34.15.260, 34.15.270, 34.15.280, 34.15.290, 34.15.300,  
8 34.15.310, 34.15.320, 34.15.330, 34.15.340, 34.15.345, 34.15.350; AS 34.-  
9 20.020; AS 43.10.090, 43.10.100, 43.10.110, 43.10.120, 43.10.130, 43.10.-  
10 140, and 43.10.150 are repealed.

11 \* Sec. 43. This Act takes effect January 1, 1989.  
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Original sponsor: Rules/Legislative Council

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 304 (Resources)

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) The recorder shall record class B documents at a single  
6 place in the state designated by the department. Other recording  
7 offices may not accept a class B document for recording.

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

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

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

26           (b) A certified copy of a conveyance that is eligible for re-  
27 cording as a class A document under AS 40.17.030 and 40.17.110 and  
28 that has been recorded or filed in a public recorder's office in  
29 another state or in the United States Bureau of Land Management may be

1 recorded only as a class A document, and only in the records of a  
2 recording district where land affected by the conveyance is located.  
3 When so recorded, it has the same effect from the time it is recorded  
4 as though it were the original conveyance.

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

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

9 (2) capable of being copied by the method used in the  
10 recording office;

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

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

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

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

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

28 (c) A signature, acknowledgment, seal, or witness is required  
29 for a document to be eligible for recording only when required for the

1 specific document by this chapter or by other law.

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

5 (e) The recorder shall prescribe the style, size, form, and  
6 quality that a plat, plan, or survey map must satisfy for filing and  
7 recording under this chapter.

8 Sec. 40.17.040. INDEXING. (a) A document shall be indexed  
9 based on its classification under AS 40.17.110.

10 (b) The recorder shall maintain an index system for class A  
11 recorded documents in the manner prescribed by regulations adopted by  
12 the department. The system shall be designed so the public may find  
13 class A documents by names of grantors and grantees, and the system  
14 may include other means for locating the documents. The recorder  
15 shall maintain the index to class B documents at the one place of  
16 recording for class B documents.

17 (c) For class B documents, the recorder may not make index en-  
18 tries other than the name or names chosen for indexing by the person  
19 who presents the document for recording, the date of recording, and  
20 the serial number or identifying code of the document.

21 (d) The declaration for a common interest community under  
22 AS 34.08 shall be indexed in the grantee's index in the name of the  
23 common interest community and the association and in the grantor's  
24 index in the name of each person executing the declaration.

25 Sec. 40.17.050. INCORPORATION OF MASTER FORM. A recorded master  
26 form, or a numbered paragraph of it, may be incorporated by reference  
27 in a recorded document by referring to the form by its recording  
28 information and the number of the paragraph to be incorporated. The  
29 reference has the same effect as if the master form or the numbered

1 paragraph were reproduced in full in the record at the place where the  
2 reference to the form or paragraph is made.

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

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

12 (b) The recorder shall maintain separate daily logs and indices  
13 for class A and class B documents with a separate system of serial  
14 numbers for each class. The daily log and index for class B documents  
15 shall be maintained in the central recording office.

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

17 (1) indicate on or attach to each class A document the  
18 date, hour, and minute of recording, enter that information and a  
19 consecutive serial number in a daily log of class A documents without  
20 delay in the order in which the documents are received, and note the  
21 serial number on the document;

22 (2) indicate on or attach to each class B document the date  
23 of recording, enter the date of recording and a consecutive serial  
24 number in a daily log of class B documents, and note the serial number  
25 on the document.

26 (d) The recorder shall mark each document to show in which class  
27 it is recorded. If a document presented for recording is reviewed and  
28 rejected for recording as a class A document, the recorder shall  
29 indicate on or attach to the document the date, hour, and minute of

1 rejection and a citation of the statute requiring rejection. If the  
2 document is later determined to be recordable as a class A document in  
3 the form in which it was earlier presented to the recorder, later  
4 recording does not relate back to the time and date of rejection.  
5 Recording is effective when the document is accepted for recording,  
6 regardless of the cause of the rejection.

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

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

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

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

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

22 Sec. 40.17.080. EFFECT OF RECORDING ON TITLE AND RIGHTS: CON-  
23 STRUCTIVE NOTICE. (a) Subject to (c) and (d) of this section, from  
24 the time a class A document is recorded in the records of the record-  
25 ing district in which land affected by it is located, the recorded  
26 document is constructive notice of the contents of the document to  
27 subsequent purchasers and holders of a security interest in the same  
28 property or a part of the property. Recording of a class B document  
29 does not provide constructive notice for any purpose.

1 (b) A conveyance of real property in the state, other than a  
2 lease for a term of less than one year, is void as against a  
3 subsequent innocent purchaser in good faith for valuable consideration  
4 of the property or a part of the property whose conveyance is first  
5 recorded as a class A document. An unrecorded conveyance is valid as  
6 between the parties to it and as against one who has actual notice of  
7 it. In this subsection, "purchaser" includes a holder of a consensual  
8 interest in real property that secures payment or performance of an  
9 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 as a class A document. The recorder may  
7 not record as a class B document a document that would be a class A  
8 document except for a technical defect in the document. A document  
9 that meets the requisites for recording under AS 40.17.030 and that is  
10 not a conveyance or a defective class A document is a class B document  
11 the recording of which is permitted for the safekeeping of a record  
12 copy of the document.

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

14 (1) a conveyance acknowledged or proven under AS 34.15.-  
15 150 - 34.15.250 or a certified copy of the conveyance if recording the  
16 copy is permitted by AS 40.17.020;

17 (2) an acknowledged or proven power of attorney or other  
18 instrument granting or revoking a power to act as agent or attorney  
19 for another person;

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

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

24 (5) a certificate of a public official or an affidavit of a  
25 person that may affect the title to or any interest in real property  
26 in the state that is described in the certificate or affidavit,  
27 stating facts relating to age, sex, birth, death, capacity, relation-  
28 ship, family history, heirship, names, identity of parties, marital  
29 status, possession or adverse possession, adverse use, residence,

1 service in the armed forces, conflicts and ambiguities in description  
2 of land in recorded instruments, and the happening of a condition or  
3 event that may terminate an estate or interest; a certificate or  
4 affidavit recorded under this section must contain the recording  
5 information of a recorded document referred to in it;

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

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

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

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

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

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

19 (B) the original is not in the person's possession;  
20 and

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

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

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

26 (13) a notice of an action previously filed and pending in a  
27 court of the state or the United States affecting title to real prop-  
28 erty in the state, if the notice contains the case number assigned by  
29 the court and a description of the property affected in the recording

1 district;

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

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

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

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

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

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

20 (20) a certified copy of a judgment or decree of a court of  
21 the state or of a court of record of the United States or a certified  
22 copy of a satisfaction of judgment or decree;

23 (21) a certificate of attachment or an order or proceeding  
24 of record discharging attachment;

25 (22) a condemnation order;

26 (23) a declaration of taking;

27 (24) a copy of the record of the meeting of a cemetery  
28 association;

29 (25) a cooperative contract;

- 1           (26) a list of persons whose cooperative contracts have been  
2 terminated;
- 3           (27) a letter of conservatorship;
- 4           (28) an employee's lien for failure to make payments to a  
5 benefit fund;
- 6           (29) an employment security contributions lien;
- 7           (30) a verified workers' compensation lien;
- 8           (31) a mining claim, location, or lease;
- 9           (32) a grubstake contract;
- 10          (33) a mining assessment work affidavit;
- 11          (34) a notice to contribute or forfeit an interest in a  
12 mining claim;
- 13          (35) a subdivision plat;
- 14          (36) a signed and sworn-to certificate of limited partner-  
15 ship and a signed and sworn-to amendment to a certificate of limited  
16 partnership;
- 17          (37) a declaration or amendments to a declaration under  
18 AS 34.07 or AS 34.08, an instrument by which property may be removed  
19 from the provisions of AS 34.07 or AS 34.08, and an instrument affect-  
20 ing property controlled by AS 34.07 or AS 34.08; a declaration under  
21 AS 34.08 may not be recorded unless it satisfies the requirements of  
22 AS 34.08.090(b);
- 23          (38) a survey map and floor plan for a building under  
24 AS 34.07, or a plat or plan for a common interest community under  
25 AS 34.08;
- 26          (39) a substitution of trustee under a deed of trust, or  
27 other person having a power of sale under a real property security  
28 agreement, when executed and acknowledged by all the beneficiaries;
- 29          (40) notice and affidavits required in default and sale

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

1 documents later recorded.

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

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

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

12 (1) the names of the parties;

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

14 (3) the date of the lease;

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

16 (5) the commencement and termination dates of the lease if  
17 fixed and, if not fixed, the method by which the dates are to be  
18 fixed; and

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

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

26 (b) The state is liable to a person injured by the failure of  
27 the recorder to perform duties under this chapter. Neither the re-  
28 corder nor a state employee performing duties of the recorder is  
29 individually liable for a good faith error or omission made in the

1 course of employment.

2 Sec. 40.17.900. DEFINITIONS. In this chapter

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

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

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

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

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

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

20 (7) "record" means the acceptance of a document by the re-  
21 corder that the recorder has determined is recordable under this  
22 chapter and that is presented for recording in the place of recording  
23 designated for the recording district where affected property is  
24 located whether or not the place of recording is in that district, and  
25 whether or not under applicable law the recorder is directed to record  
26 the document;

27 (8) "recorder" means the commissioner of the department or  
28 the commissioner's designee;

29 (9) "recording district" means a part of the state des-

1       ignated a recording district under AS 44.37.025; and

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

5       \* Sec. 2. AS 19.10.260 is amended to read:

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

8               (1) replace all permanent markers on private or municipal  
9       property that were destroyed or lost during highway construction to  
10       permit persons to determine accurately new boundary lines resulting  
11       from the construction;

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

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

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

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

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

28       \* Sec. 5. AS 29.40.150 is amended to read:

29               Sec. 29.40.150. RECORDING. If the alteration or replat is

1 approved, the revised plat shall be acknowledged, [AND] filed, and  
2 recorded in accordance with AS 40.15.010 - 40.15.020.

3 \* Sec. 6. AS 29.40.180 is amended to read:

4 Sec. 29.40.180. VIOLATIONS. The [IT IS UNLAWFUL FOR THE] owner  
5 of land located in a subdivision may not [TO] transfer, sell, offer to  
6 sell, or enter into a contract to sell land in a subdivision before a  
7 plat of the subdivision has been prepared, approved, [AND] filed, and  
8 recorded in accordance with this chapter. A [IT IS UNLAWFUL FOR A]  
9 person may not [TO] file or record a plat or other document depicting  
10 subdivided land in a public recorder's office unless the plat or  
11 document has been approved by the platting authority. For the viola-  
12 tion of a provision of this chapter, a subdivision regulation adopted  
13 under this chapter, or a term, condition, or limitation imposed by a  
14 platting authority in the exercise of its powers under this chapter, a  
15 municipality may by ordinance prescribe a penalty not to exceed a fine  
16 of \$1,000 and imprisonment for 90 days.

17 \* Sec. 7. AS 30.13.080 is amended to read:

18 Sec. 30.13.080. VALIDITY OF PLEDGE. It is the intention of the  
19 legislature that a pledge made in respect of bonds is [SHALL BE]  
20 perfected and [SHALL BE] valid and binding from the time the pledge is  
21 made; that the money or property so pledged and thereafter received by  
22 an authority is [SHALL] immediately [BE] subject to the lien of the  
23 pledge without physical delivery or further act; and that the lien of  
24 the pledge is [SHALL BE] valid and binding against all parties having  
25 claims of any kind in tort, contract, or otherwise against the author-  
26 ity [IRRESPECTIVE OF] whether or not the parties have notice. Neither  
27 the resolution, trust agreement, or any other instrument by which a  
28 pledge is created need be recorded or filed under the provisions of  
29 the Uniform Commercial Code to be perfected or to be valid, binding,

1 or effective against the parties. This section does not affect title  
2 to or conveyances of real property, and does not limit the  
3 applicability of AS 40.17.080 [AS 34.15.290].

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

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

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

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

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

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

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

28 (a) If the floor plans do not include a verified statement by a  
29 registered architect or registered professional engineer that the

1 plans fully and accurately depict the layout, apartment numbers, and  
2 dimensions of the apartments as built, there shall be recorded before  
3 the first conveyance of an apartment an amendment to the declaration  
4 to which shall be attached a verified statement of a registered archi-  
5 tect certifying that the plans previously filed and recorded or being  
6 filed and recorded simultaneously with the amendment fully and accu-  
7 rately depict the layout, apartment number and dimensions of the  
8 apartments as built.

9 \* Sec. 11. AS 34.07.050 is amended to read:

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

13 \* Sec. 12. AS 34.08.090 is amended to read:

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

24 (b) In a condominium, a declaration or an amendment to a decla-  
25 ration that adds a unit may not be recorded, and a plat or plan that  
26 is part of the declaration may not be filed or recorded, unless the  
27 structural components and mechanical systems of each building contain-  
28 ing or comprising a unit of the condominium are completed substantial-  
29 ly in accordance with the plans, as evidenced by a certificate of

1 completion recorded with the declaration or amendment to the declara-  
2 tion and executed by

3 (1) an independent registered engineer, architect, or land  
4 surveyor;

5 (2) an appraiser with the designation of Senior Residen-  
6 tial Appraiser, Senior Real Property Appraiser, or Senior Real Estate  
7 Analyst of the Society of Real Estate Appraisers;

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

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

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

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

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

25 (d) If the expiration or termination of a lease decreases the  
26 number of units in a common interest community, the allocated inter-  
27 ests must be reallocated under AS 34.08.740(a) as if the units had  
28 been taken by eminent domain. The reallocation must be confirmed by  
29 an amendment to the declaration prepared, executed, and recorded by

1       the association of unit owners; a plat or plan that accompanies the  
2       amendment must be filed and recorded with the amendment.

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

4           (b) Except as the declaration otherwise provides, a limited  
5       common element may be reallocated by an amendment to the declaration  
6       executed by the unit owners between or among whose units the realloca-  
7       tion is made. The persons executing the amendment shall provide a  
8       copy of the amendment to the association, which shall record the  
9       amendment and file and record a plat or plan that accompanies the  
10       amendment [IT]. The amendment must be recorded, and an accompanying  
11       plat or plan filed and recorded, in the names of the parties and the  
12       common interest community.

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

14           (b) Each plat must show:

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

17               (2) the location and dimensions of the real estate not  
18       subject to development rights or subject only to the development right  
19       to withdraw, and the location and dimensions of each existing improve-  
20       ment within the real estate;

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

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

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

29               (6) the location and dimensions of any vertical unit

1 boundaries not shown or projected on plans filed and recorded under  
2 (d) of this section and the identifying number of the unit;

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

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

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

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

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

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

19 (f) Upon the exercise of a [ANY] development right, the declar-  
20 ant shall either file and record new plats and plans necessary to  
21 conform to the requirements of (a), (b), and (d) of this section, or  
22 file and record new certifications of plats and plans previously filed  
23 and recorded if the plats and plans otherwise conform to the require-  
24 ments of (a), (b), and (d) of this section.

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

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

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

29 (a) To exercise a development right reserved under AS 34.08.-

1 130(a)(8), a declarant shall prepare, execute, and record an amendment  
2 to the declaration, file and record a plat or plan that accompanies  
3 the amendment, and, in a condominium or planned community, comply with  
4 AS 34.08.170. The declarant is the unit owner of the units created  
5 under the amendment. The amendment to the declaration must assign an  
6 identifying number to each new unit created, and, except in the case  
7 of subdivision or conversion of units described in (b) of this sec-  
8 tion, reallocate the allocated interests among all units. The amend-  
9 ment must describe any common elements and any limited common elements  
10 created under the amendment and, in the case of limited common ele-  
11 ments, designate the unit to which each is allocated to the extent  
12 required by AS 34.08.160.

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

14 (b) The association

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

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

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

24 (a) If the declaration expressly permits it, a unit may be  
25 subdivided into two or more units. Upon application of a unit owner  
26 to subdivide a unit, the association shall, subject to the provisions  
27 of the declaration and other provisions of law, prepare, execute, and  
28 record an amendment to the declaration subdividing the unit, including  
29 in a condominium or planned community filing and recording a plat or

1        plan that accompanies the amendment [THE PLATS AND PLANS, SUBDIVIDING  
2        THE UNIT].

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

4            (c) Each amendment to the declaration must be recorded, and a  
5        plat or plan that accompanies the amendment filed and recorded, in  
6        each recording district in which a portion of the common interest  
7        community is located and the amendment is effective only upon record-  
8        ing. An amendment, except an amendment under AS 34.08.200(a), must be  
9        indexed in the name of the common interest community and the associa-  
10        tion and in the name of the parties executing the amendment.

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

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

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

15            (2) adopt and amend budgets for revenues, expenditures,  
16        and reserves and collect assessments for common expenses from unit  
17        owners;

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

20            (4) institute, defend, or intervene in litigation or  
21        administrative proceedings or seek injunctive relief for violations of  
22        its declaration, bylaws or rules in its own name on behalf of itself  
23        or two or more unit owners on matters affecting the common interest  
24        community;

25            (5) make contracts and incur liabilities;

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

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

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

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

7           (B) part of a cooperative may be conveyed or all or  
8 part of a cooperative may be subjected to a security interest  
9 only under AS 34.08.430;

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

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

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

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

24          (13) provide for the indemnification of its officers and  
25 executive board and maintain directors' and officers' liability insur-  
26 ance;

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

1           (15) exercise any other powers conferred by the declaration  
2 or bylaws;

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

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

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

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

1           ity, in proportion to the common expense liabilities of all the units.  
2           If the unit owners vote not to rebuild a unit, the allocated interests  
3           of the unit are reallocated upon the vote as if the unit had been  
4           condemned under AS 34.08.740(a), and the association promptly shall  
5           prepare, ~~execute~~ [EXECUTED], and record an amendment to the declara-  
6           tion reflecting the reallocations, and file and record a plat or plan  
7           that accompanies the amendment.

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

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

17               (1) an independent registered engineer, architect, or land  
18          surveyor;

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

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

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

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

28               (a) If a unit is acquired by eminent domain or part of a unit is  
29          acquired by eminent domain leaving the unit owner with a remnant that

1 may not practically or lawfully be used for any purpose permitted by  
2 the declaration, the award must include compensation to the unit owner  
3 for that unit and its allocated interests, whether or not any common  
4 elements are acquired. Upon acquisition, unless the decree otherwise  
5 provides, the allocated interests of the unit are automatically real-  
6 located to the remaining units in proportion to the respective allo-  
7 cated interests of those units before the taking, and the association  
8 shall promptly prepare, execute, and record an amendment to the decla-  
9 ration reflecting the reallocations, and file and record a plat or  
10 plan that accompanies the amendment. A remnant of a unit remaining  
11 after part of a unit is taken under this subsection is a common ele-  
12 ment from that time.

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

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

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

20 (B) exercise a development right;

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

23 (D) use easements through the common elements for the  
24 purpose of making improvements within the common interest commu-  
25 nity or within real estate that may be added to the common inter-  
26 est community;

27 (E) make the common interest community subject to a  
28 master association;

29 (F) merge or consolidate a common interest community

1 with another common interest community of the same form of owner-  
2 ship; or

3 (G) appoint or remove an officer of the association  
4 or a master association or an executive board member during a  
5 period of declarant control;

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

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

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

13 (b) Before the conveyance of surface rights to state land, an  
14 official cadastral survey shall be accomplished, unless a comparable,  
15 acceptable survey exists that has been conducted by the federal Bureau  
16 of Land Management. The rectangular survey section corner positions  
17 shall be monumented and shown on a cadastral survey plat approved by  
18 the state. However, for those areas where the state may wish to  
19 convey surface estate outside of an official cadastral survey grid,  
20 the director may waive monumentation of all individual section corner  
21 positions and substitute an official control survey with control  
22 points being monumented and shown on control survey plats approved by  
23 the state. No portion of land to be conveyed may be located more than  
24 two miles from such a survey control monument except that the commis-  
25 sioner may waive this requirement on a determination that topographic  
26 features, diffuse settlement, or the public interest do not justify  
27 the requirement. The lots and tracts in state subdivisions shall be  
28 monumented and the cadastral survey and plats for the subdivision  
29 shall be approved by the state. Where land is located within a muni-

1           cipality with planning, platting, and zoning powers, plats for state  
2           subdivisions shall comply with local ordinances and regulations in the  
3           same manner and to the same extent as plats for subdivisions by other  
4           landowners. State subdivisions shall be filed and recorded in the  
5           district recorder's office. The requirements of this section do not  
6           apply to land made available through a cabin permit system, material  
7           sales, or short-term leases; however, for short-term leases the lessee  
8           must comply with local subdivision ordinances unless waived by the  
9           municipality under procedures specified by ordinance.

10       \* Sec. 30. AS 40.15.010 is amended to read:

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

22       \* Sec. 31. AS 40.15.020 is amended to read:

23           Sec. 40.15.020. PLATS TO BE ACKNOWLEDGED AND CONTAIN CERTIFICATE  
24           THAT TAXES AND ASSESSMENTS ARE PAID. Every plat shall be acknowledged  
25           before an officer authorized to take acknowledgment of deeds. A cer-  
26           tificate of acknowledgment shall be endorsed on or annexed to the plat  
27           and recorded with it. A person filing and recording a plat, map, sub-  
28           division, or replat of property, or vacating the whole or any portion  
29           of an existing plat, map, subdivision, or replat shall [, AT THE TIME

1 OF FILING IT FOR RECORD OR FILING THE PETITION TO VACATE,] file and  
2 record with it a certificate from the tax-collecting official or  
3 officials of the area in which the land is located that all taxes  
4 levied against the property at that date are paid.

5 \* Sec. 32. AS 40.15.030 is amended to read:

6 Sec. 40.15.030. DEDICATION OF STREETS, ALLEYS AND THOROUGHFARES.  
7 When an area is subdivided and a plat of the subdivision is approved,  
8 filed, and recorded, all streets, alleys, thoroughfares, parks and  
9 other public areas shown on the plat are considered to be [DEEMED TO  
10 HAVE BEEN] dedicated to public use.

11 \* Sec. 33. AS 40.15.040 is amended to read:

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

18 \* Sec. 34. AS 40.15.050 is amended to read:

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

1 streets, alleys or thoroughfares shown on an earlier plat of the same  
2 area or any part of it which is in conflict with those shown on the  
3 official plat are considered to be [IS DEEMED TO HAVE BEEN] abandoned  
4 and vacated.

5 \* Sec. 35. AS 40.15.060 is amended to read:

6 Sec. 40.15.060. MISSING PLATS. When [WHERE] a filed or recorded  
7 plat is missing and no present record is available except by reference  
8 to the missing plat, a counterpart copy, approved by the platting  
9 authority, may be filed and recorded as of the original date of the  
10 missing plat and after filing and recording [RECORDATION] has the same  
11 legal effect and notice as the original missing plat.

12 \* Sec. 36. AS 40.15.070 is amended to read:

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

1 approved by the platting authority.

2 \* Sec. 37. AS 40.15.075 is amended to read:

3 Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD  
4 CLASS BOROUGH. The Department of Natural Resources [DIVISION OF  
5 LANDS] is the platting authority in the area outside organized bor-  
6 oughs and outside cities in the unorganized borough and in the third  
7 class borough for only the purposes of hearing and acting on petitions  
8 for the change or vacation of plats and shall execute this function  
9 substantially in conformity with the provisions of AS 29.40.130 -  
10 29.40.160. Costs of publication and mailing authorized in AS 29.40.-  
11 130 shall be paid to the Department of Natural Resources [DIVISION] by  
12 the petitioner. The Department of Natural Resources shall adopt  
13 reasonable regulations governing the exercise of the authority confer-  
14 red by this section [UPON THE DIVISION OF LANDS].

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

16 CHAPTER 19. RECORDING FEDERAL LIENS.

17 Sec. 40.19.010. APPLICABILITY. The provisions of this chapter  
18 apply to federal tax liens and to other federal liens notice of which  
19 under an Act of Congress or a regulation adopted under the authority  
20 of an Act of Congress is required or permitted to be filed or recorded  
21 in the same manner as a notice of federal tax lien.

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

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

29 (c) Notices of federal lien upon personal property, whether tan-

1 gible or intangible, for obligations payable to the United States and  
2 certificates and notices affecting the lien shall be recorded in the  
3 records of the recording district where the person against whose  
4 interest the lien applies resides at the time of recording of the  
5 notice of lien.

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

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

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

26 (b) If a rerecorded notice of federal lien referred to in (a) of  
27 this section or a certificate of release, nonattachment, discharge, or  
28 subordination of lien or a revocation of any of these certificates is  
29 presented to the recorder for recording, the recorder shall record it

1 in the way a document listed in (a) of this section would be recorded  
2 and shall enter the rerecorded notice or the certificate or revocation  
3 with the date of recording in the alphabetical index together with a  
4 reference to the recording information for the original notice or  
5 certificate to which it relates.

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

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

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

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

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

18 (a) A lien imposed under this title is not valid as against a mort-  
19 gagee or other lien holder, pledgee, purchaser, or judgment creditor  
20 until notice of it is recorded as a class A document in the records of  
21 the recording district where the property subject to the lien is  
22 situated. However, regardless of the date the liens are recorded, a  
23 lien arising out of a tax due under AS 43.56 and AS 43.75, including  
24 the penalties and interest on the tax, is a lien prior, paramount, and  
25 superior to all other liens, mortgages, hypothecations, conveyances,  
26 and assignments, upon all the real and personal property of the person  
27 liable for the tax, and upon all the real and personal property used  
28 with the permission of the owner to carry on the business that is  
29 subject to the tax.

1 (b) AS 40.19.040 applies to a notice of state tax lien and  
2 documents relating to a state tax lien as well as to a notice of  
3 federal lien and documents relating to a federal lien.

4 \* Sec. 40. AS 44.37.025 is amended to read:

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

10 (b) The department shall [ENGAGE AND COMPENSATE RECORDERS AND  
11 DEPUTY RECORDERS,] prescribe and account for recording fees [,] and do  
12 all other things necessary to maintain the recording system estab-  
13 lished under the laws of this state. The commissioner of adminis-  
14 tration shall separately account for fees collected under this section  
15 that the Department of Natural Resources deposits in the general fund.  
16 The annual estimated balance in the account may be used by the legis-  
17 lature to make appropriations to the department to carry out the  
18 purposes of this section.

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

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

28 \* Sec. 41. In the following statutes the revisor of statutes is di-  
29 rected to delete the requirement or permission that a document be filed or

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;  
3 AS 10.15.230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.-  
4 047; AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050,  
5 27.10.060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.-  
6 10.230; AS 32.10.010, 32.10.240; AS 34.07.070; AS 34.20.090; AS 34.35.065,  
7 34.35.160, 34.35.185, 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.-  
8 405, 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. 42. 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. 43. This Act takes effect January 1, 1989.

HOUSE BILL NO. 320  
Introduced: 5/15/87  
Referred: Judiciary

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

and

SENATE BILL NO. 304  
Introduced: 5/15/87  
Referred: Resources and Finance

\*\*\*\*\*

Identical text in both bills. Please file both versions. . . .  
Due to the length, only this version will be printed.

Introduced: 5/15/87  
Referred: Resources & Finance  
HOUSE BILL NO. 320, identical  
Referred: Judiciary

5-1077A

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

1 IN THE SENATE

2

SENATE BILL NO. 304

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST 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 (b) The department shall provide the staff and equipment to re-  
2 ceive and record documents and to store them permanently.

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

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

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

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

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

1           When so recorded, it has the same effect from the time it is recorded  
2           as though it were the original conveyance.

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

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

7                   (2) capable of being copied by the method used in the  
8           recording office;

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

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

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

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

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

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

29           (d) A name, address, or other information required by this

1 section shall be contained in the document that is to be recorded, or  
2 shall be recorded with the document.

3 (e) The recorder shall prescribe the style, size, form, and  
4 quality that a plat, plan, or survey map must satisfy for filing and  
5 recording under this chapter.

6 Sec. 40.17.040. INDEXING. (a) A document shall be indexed  
7 based on its classification under AS 40.17.110.

8 (b) The recorder shall maintain an index system for class A  
9 recorded documents in the manner prescribed by regulations adopted by  
10 the department. The system shall be designed so the public may find  
11 class A documents by names of grantors and grantees, and the system  
12 may include other means for locating the documents. The recorder  
13 shall maintain the index to class B documents at the one place of  
14 recording for class B documents.

15 (c) For class B documents, the recorder may not make index en-  
16 tries other than the name or names chosen for indexing by the person  
17 who presents the document for recording, the date of recording, and  
18 the serial number or identifying code of the document.

19 (d) The declaration for a common interest community under  
20 AS 34.08 shall be indexed in the grantee's index in the name of the  
21 common interest community and the association and in the grantor's  
22 index in the name of each person executing the declaration.

23 Sec. 40.17.050. INCORPORATION OF MASTER FORM. A recorded master  
24 form, or a numbered paragraph of it, may be incorporated by reference  
25 in a recorded document by referring to the form by its recording  
26 information and the number of the paragraph to be incorporated. The  
27 reference has the same effect as if the master form or the numbered  
28 paragraph were reproduced in full in the record at the place where the  
29 reference to the form or paragraph is made.

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

7           Sec. 40.17.070. DUTIES OF RECORDER. (a) The recorder shall  
8           promptly record all documents presented which are recordable under  
9           AS 40.17.020, 40.17.030, and 40.17.110.

10           (b) The recorder shall maintain separate daily logs and indices  
11           for class A and class B documents with a separate system of serial  
12           numbers for each class. The daily log and index for class B documents  
13           shall be maintained in the central recording office.

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

15           (1) indicate on or attach to each class A document the  
16           date, hour, and minute of recording, enter that information and a  
17           consecutive serial number in a daily log of class A documents without  
18           delay in the order in which the documents are received, and note the  
19           serial number on the document;

20           (2) indicate on or attach to each class B document the date  
21           of recording, enter the date of recording and a consecutive serial  
22           number in a daily log of class B documents, and note the serial number  
23           on the document.

24           (d) The recorder shall mark each document to show in which class  
25           it is recorded. If a document presented for recording is reviewed and  
26           rejected for recording as a class A document, the recorder shall  
27           indicate on or attach to the document the date, hour, and minute of  
28           rejection and a citation of the statute requiring rejection. If the  
29           document is later determined to be recordable as a class A document in

1 the form in which it was earlier presented to the recorder, later  
2 recording does not relate back to the time and date of rejection.  
3 Recording is effective when the document is accepted for recording,  
4 regardless of the cause of the rejection.

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

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

11 (g) After recording, the recorder shall return the document to  
12 the person who presented it or a person designated by the person who  
13 presented it.

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

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

20 Sec. 40.17.080. EFFECT OF RECORDING ON TITLE AND RIGHTS: CON-  
21 STRUCTIVE NOTICE. (a) Subject to (c) and (d) of this section, from  
22 the time a class A document is recorded in the records of the record-  
23 ing district in which land affected by it is located, the recorded  
24 document is constructive notice of the contents of the document to  
25 subsequent purchasers and holders of a security interest in the same  
26 property or a part of the property. Recording of a class B document  
27 does not provide constructive notice for any purpose.

28 (b) A conveyance of real property in the state, other than a  
29 lease for a term of less than one year, is void as against a

1 subsequent innocent purchaser in good faith for valuable consideration  
2 of the property or a part of the property whose conveyance is first  
3 recorded as a class A document. An unrecorded conveyance is valid as  
4 between the parties to it and as against one who has actual notice of  
5 it. In this subsection, "purchaser" includes a holder of a consensual  
6 interest in real property that secures payment or performance of an  
7 obligation.

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

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

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

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

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

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

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

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

27 (2) the person executing the document and the person on  
28 whose behalf it is executed are the persons they are purported to be  
29 and the person executing it was neither incompetent nor a minor at any

1 relevant time;

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

4 (4) any necessary consideration was given;

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

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

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

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

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

29 (A) commonly recognized abbreviations, contractions,

1 initials, or colloquial or other equivalents;  
2 (B) first or middle names or initials;  
3 (C) simple transpositions that produce substantially  
4 similar pronunciations;  
5 (D) articles or prepositions in names or titles;  
6 (E) descriptions of entities as corporations, com-  
7 panies, or abbreviations or contractions of either; or  
8 (F) name suffixes, such as "Senior" or "Junior",  
9 unless other information appears of record indicating that they  
10 are different persons; and  
11 (10) all other requirements for the execution, delivery and  
12 validity of the document have been satisfied.

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

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

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

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

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

2           (a) A signed document listed in (b) of this section or included under  
3           (c) of this section that meets the requisites for recording under  
4           AS 40.17.030 may be recorded as a class A document. The recorder may  
5           not record as a class B document a document that would be a class A  
6           document except for a technical defect in the document. A document  
7           that meets the requisites for recording under AS 40.17.030 and that is  
8           not a conveyance or a defective class A document is a class B document  
9           the recording of which is permitted for the safekeeping of a record  
10          copy of the document.

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

12                 (1) a conveyance acknowledged or proven under AS 34.15.-  
13                 150 - 34.15.250 or a certified copy of the conveyance if recording the  
14                 copy is permitted by AS 40.17.020;

15                 (2) an acknowledged or proven power of attorney or other  
16                 instrument granting or revoking a power to act as agent or attorney  
17                 for another person;

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

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

22                 (5) a certificate of a public official or an affidavit of a  
23                 person that may affect the title to or any interest in real property  
24                 in the state that is described in the certificate or affidavit,  
25                 stating facts relating to age, sex, birth, death, capacity, relation-  
26                 ship, family history, heirship, names, identity of parties, marital  
27                 status, possession or adverse possession, adverse use, residence,  
28                 service in the armed forces, conflicts and ambiguities in description  
29                 of land in recorded instruments, and the happening of a condition or

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

1 annulment, or dissolution of marriage previously filed and pending in  
2 a court of any state or the United States affecting title to real  
3 property in this state, if the notice contains the case number as-  
4 signed by the court;

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

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

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

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

16 (19) a notice limiting future advances under a recorded  
17 security agreement;

18 (20) a certified copy of a judgment or decree of a court of  
19 the state or of a court of record of the United States or a certified  
20 copy of a satisfaction of judgment or decree;

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

23 (22) a condemnation order;

24 (23) a declaration of taking;

25 (24) a copy of the record of the meeting of a cemetery  
26 association;

27 (25) a cooperative contract;

28 (26) a list of persons whose cooperative contracts have been  
29 terminated;

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

1           (42) an attested or notarized copy of a notice of nonrespon-  
2           sibility for construction, alteration, or repair;

3           (43) an acknowledgment of right to mechanics' or material-  
4           men's lien;

5           (44) a verified claim of lien under AS 34.35;

6           (45) a verified notice of completion of a building or im-  
7           provement;

8           (46) a bond guaranteeing payment of the sum recovered on a  
9           mechanics' or materialmen's lien;

10          (47) a notice extending a mechanics' or materialmen's lien;

11          (48) a state tax lien;

12          (49) a federal tax lien;

13          (50) an instrument transferring a water appropriation or a  
14          certified copy of it;

15          (51) a financing statement covering goods that are or are to  
16          become fixtures to real property described in the financing statement;  
17          if the debtor does not have an interest of record in the real prop-  
18          erty, the financing statement must show the name of the record owner  
19          of the real property;

20          (52) an assignment of rent;

21          (53) a memorandum of lease as described in AS 40.17.120(b);

22          (54) a state highway right-of-way map;

23          (55) an armed forces report of separation;

24          (56) a document amending or correcting a recorded document  
25          listed in this section if the amending or correcting document is exe-  
26          cuted by the same parties who executed the original document; and

27          (57) a master form that can be incorporated by reference in  
28          documents later recorded.

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

1 by another law of the state or made recordable by regulation of the  
2 department may be recorded.

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

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

10 (1) the names of the parties;

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

12 (3) the date of the lease;

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

14 (5) the commencement and termination dates of the lease if  
15 fixed and, if not fixed, the method by which the dates are to be  
16 fixed; and

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

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

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

29 Sec. 40.17.900. DEFINITIONS. In this chapter

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

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

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

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

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

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

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

25          (8) "recorder" means the commissioner of the department or  
26 the commissioner's designee;

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

29          (10) "recording information" means information needed to

1 find a document in the public records such as book and page, document  
2 number, electronic retrieval code, or other specific information.

3 \* Sec. 2. AS 19.10.260 is amended to read:

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

6 (1) replace all permanent markers on private or municipal  
7 property that were destroyed or lost during highway construction to  
8 permit persons to determine accurately new boundary lines resulting  
9 from the construction;

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

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

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

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

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

26 \* Sec. 5. AS 29.40.150 is amended to read:

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

1 \* Sec. 6. AS 29.40.180 is amended to read:

2           Sec. 29.40.180. VIOLATIONS. The [IT IS UNLAWFUL FOR THE] owner  
3 of land located in a subdivision may not [TO] transfer, sell, offer to  
4 sell, or enter into a contract to sell land in a subdivision before a  
5 plat of the subdivision has been prepared, approved, [AND] filed, and  
6 recorded in accordance with this chapter. A [IT IS UNLAWFUL FOR A]  
7 person may not [TO] file or record a plat or other document depicting  
8 subdivided land in a public recorder's office unless the plat or  
9 document has been approved by the platting authority. For the viola-  
10 tion of a provision of this chapter, a subdivision regulation adopted  
11 under this chapter, or a term, condition, or limitation imposed by a  
12 platting authority in the exercise of its powers under this chapter, a  
13 municipality may by ordinance prescribe a penalty not to exceed a fine  
14 of \$1,000 and imprisonment for 90 days.

15 \* Sec. 7. AS 30.13.080 is amended to read:

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

1 applicability of AS 40.17.080 [AS 34.15.290].

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

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

7 \* Sec. 9. AS 34.07.030 is amended to read:

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

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

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

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

26 (a) If the floor plans do not include a verified statement by a  
27 registered architect or registered professional engineer that the  
28 plans fully and accurately depict the layout, apartment numbers, and  
29 dimensions of the apartments as built, there shall be recorded before

1 the first conveyance of an apartment an amendment to the declaration  
2 to which shall be attached a verified statement of a registered archi-  
3 tect certifying that the plans previously filed and recorded or being  
4 filed and recorded simultaneously with the amendment fully and accu-  
5 rately depict the layout, apartment number and dimensions of the  
6 apartments as built.

7 \* Sec. 11. AS 34.07.050 is amended to read:

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

11 \* Sec. 12. AS 34.08.090 is amended to read:

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

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

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

3 (2) an appraiser with the designation of Senior Residen-  
4 tial Appraiser, Senior Real Property Appraiser, or Senior Real Estate  
5 Analyst of the Society of Real Estate Appraisers;

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

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

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

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

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

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

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

2 (b) Except as the declaration otherwise provides, a limited  
3 common element may be reallocated by an amendment to the declaration  
4 executed by the unit owners between or among whose units the realloca-  
5 tion is made. The persons executing the amendment shall provide a  
6 copy of the amendment to the association, which shall record the  
7 amendment and file and record a plat or plan that accompanies the  
8 amendment [IT]. The amendment must be recorded, and an accompanying  
9 plat or plan filed and recorded, in the names of the parties and the  
10 common interest community.

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

12 (b) Each plat must show:

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

15 (2) the location and dimensions of the real estate not  
16 subject to development rights or subject only to the development right  
17 to withdraw, and the location and dimensions of each existing improve-  
18 ment within the real estate;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (a) To exercise a development right reserved under AS 34.08.-  
28 130(a)(8), a declarant shall prepare, execute, and record an amendment  
29 to the declaration, file and record a plat or plan that accompanies

1     the amendment, and, in a condominium or planned community, comply with  
2     AS 34.08.170. The declarant is the unit owner of the units created  
3     under the amendment. The amendment to the declaration must assign an  
4     identifying number to each new unit created, and, except in the case  
5     of subdivision or conversion of units described in (b) of this sec-  
6     tion, reallocate the allocated interests among all units. The amend-  
7     ment must describe any common elements and any limited common elements  
8     created under the amendment and, in the case of limited common ele-  
9     ments, designate the unit to which each is allocated to the extent  
10    required by AS 34.08.160.

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

12         (b) The association

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

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

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

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

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

2 (c) Each amendment to the declaration must be recorded, and a  
3 plat or plan that accompanies the amendment filed and recorded, in  
4 each recording district in which a portion of the common interest  
5 community is located and the amendment is effective only upon record-  
6 ing. An amendment, except an amendment under AS 34.08.200(a), must be  
7 indexed in the name of the common interest community and the associa-  
8 tion and in the name of the parties executing the amendment.

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

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

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

13 (2) adopt and amend budgets for revenues, expenditures,  
14 and reserves and collect assessments for common expenses from unit  
15 owners;

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

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

23 (5) make contracts and incur liabilities;

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

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

28 (8) acquire, hold, encumber, and convey in its own name  
29 any right, title, or interest to real estate or personal property,

1       except that

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

5                   (B) part of a cooperative may be conveyed or all or  
6 part of a cooperative may be subjected to a security interest  
7 only under AS 34.08.430;

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

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

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

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

22                   (13) provide for the indemnification of its officers and  
23 executive board and maintain directors' and officers' liability insur-  
24 ance;

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

28                   (15) exercise any other powers conferred by the declaration  
29 or bylaws;

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

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

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

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

1 of the unit are reallocated upon the vote as if the unit had been  
2 condemned under AS 34.08.740(a), and the association promptly shall  
3 prepare, execute [EXECUTED], and record an amendment to the declara-  
4 tion reflecting the reallocations, and file and record a plat or plan  
5 that accompanies the amendment.

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

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

15 (1) an independent registered engineer, architect, or land  
16 surveyor;

17 (2) an appraiser with the designation of senior residen-  
18 tial appraiser, senior real property appraiser<sub>1</sub> or senior real estate  
19 analyst of the Society of Real Estate Appraisers;

20 (3) a residential member<sub>1</sub> or member of the [,] appraisal  
21 institute, of the American Institute of Real Estate Appraisers; or

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

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

26 (a) If a unit is acquired by eminent domain or part of a unit is  
27 acquired by eminent domain leaving the unit owner with a remnant that  
28 may not practically or lawfully be used for any purpose permitted by  
29 the declaration, the award must include compensation to the unit owner

1 for that unit and its allocated interests, whether or not any common  
2 elements are acquired. Upon acquisition, unless the decree otherwise  
3 provides, the allocated interests of the unit are automatically real-  
4 located to the remaining units in proportion to the respective allo-  
5 cated interests of those units before the taking, and the association  
6 shall promptly prepare, execute, and record an amendment to the decla-  
7 ration reflecting the reallocations, and file and record a plat or  
8 plan that accompanies the amendment. A remnant of a unit remaining  
9 after part of a unit is taken under this subsection is a common ele-  
10 ment from that time.

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

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

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

18 (B) exercise a development right;

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

21 (D) use easements through the common elements for the  
22 purpose of making improvements within the common interest commu-  
23 nity or within real estate that may be added to the common inter-  
24 est community;

25 (E) make the common interest community subject to a  
26 master association;

27 (F) merge or consolidate a common interest community  
28 with another common interest community of the same form of owner-  
29 ship; or

1 (G) appoint or remove an officer of the association  
2 or a master association or an executive board member during a  
3 period of declarant control;

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

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

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

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

1 same manner and to the same extent as plats for subdivisions by other  
2 landowners. State subdivisions shall be filed and recorded in the  
3 district recorder's office. The requirements of this section do not  
4 apply to land made available through a cabin permit system, material  
5 sales, or short-term leases; however, for short-term leases the lessee  
6 must comply with local subdivision ordinances unless waived by the  
7 municipality under procedures specified by ordinance.

8 \* Sec. 30. AS 40.15.010 is amended to read:

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

20 \* Sec. 31. AS 40.15.020 is amended to read:

21 Sec. 40.15.020. PLATS TO BE ACKNOWLEDGED AND CONTAIN CERTIFICATE  
22 THAT TAXES AND ASSESSMENTS ARE PAID. Every plat shall be acknowledged  
23 before an officer authorized to take acknowledgment of deeds. A cer-  
24 tificate of acknowledgment shall be endorsed on or annexed to the plat  
25 and recorded with it. A person filing and recording a plat, map, sub-  
26 division, or replat of property, or vacating the whole or any portion  
27 of an existing plat, map, subdivision, or replat shall [, AT THE TIME  
28 OF FILING IT FOR RECORD OR FILING THE PETITION TO VACATE,] file and  
29 record with it a certificate from the tax-collecting official or

1 officials of the area in which the land is located that all taxes  
2 levied against the property at that date are paid.

3 \* Sec. 32. AS 40.15.030 is amended to read:

4 Sec. 40.15.030. DEDICATION OF STREETS, ALLEYS AND THOROUGHFARES.  
5 When an area is subdivided and a plat of the subdivision is approved,  
6 filed, and recorded, all streets, alleys, thoroughfares, parks and  
7 other public areas shown on the plat are considered to be [DEEMED TO  
8 HAVE BEEN] dedicated to public use.

9 \* Sec. 33. AS 40.15.040 is amended to read:

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

16 \* Sec. 34. AS 40.15.050 is amended to read:

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

1 official plat are considered to be [IS DEEMED TO HAVE BEEN] abandoned  
2 and vacated.

3 \* Sec. 35. AS 40.15.060 is amended to read:

4 Sec. 40.15.060. MISSING PLATS. When [WHERE] a filed or recorded  
5 plat is missing and no present record is available except by reference  
6 to the missing plat, a counterpart copy, approved by the platting  
7 authority, may be filed and recorded as of the original date of the  
8 missing plat and after filing and recording [RECORDATION] has the same  
9 legal effect and notice as the original missing plat.

10 \* Sec. 36. AS 40.15.070 is amended to read:

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

29 \* Sec. 37. AS 40.15.075 is amended to read:

1           Sec. 40.15.075. AUTHORITY IN THE UNORGANIZED BOROUGH AND THIRD  
2 CLASS BOROUGHS. The Department of Natural Resources [DIVISION OF  
3 LANDS] is the platting authority in the area outside organized bor-  
4 oughs and outside cities in the unorganized borough and in the third  
5 class borough for only the purposes of hearing and acting on petitions  
6 for the change or vacation of plats and shall execute this function  
7 substantially in conformity with the provisions of AS 29.40.130 -  
8 29.40.160. Costs of publication and mailing authorized in AS 29.40.-  
9 130 shall be paid to the Department of Natural Resources [DIVISION] by  
10 the petitioner. The Department of Natural Resources shall adopt  
11 reasonable regulations governing the exercise of the authority confer-  
12 red by this section [UPON THE DIVISION OF LANDS].

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

14                           CHAPTER 19. RECORDING FEDERAL LIENS.

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

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

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

27                   (c) Notices of federal lien upon personal property, whether tan-  
28 gible or intangible, for obligations payable to the United States and  
29 certificates and notices affecting the lien shall be recorded in the

1 records of the recording district where the person against whose  
2 interest the lien applies resides at the time of recording of the  
3 notice of lien.

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

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

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

24 (b) If a rerecorded notice of federal lien referred to in (a) of  
25 this section or a certificate of release, nonattachment, discharge, or  
26 subordination of lien or a revocation of any of these certificates is  
27 presented to the recorder for recording, the recorder shall record it  
28 in the way a document listed in (a) of this section would be recorded  
29 and shall enter the rerecorded notice or the certificate or revocation

1 with the date of recording in the alphabetical index together with a  
2 reference to the recording information for the original notice or  
3 certificate to which it relates.

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

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

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

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

15 Sec. 43.10.042. RECORDING LIEN AND CERTIFICATE OF DISCHARGE.  
16 (a) A lien imposed under this title is not valid as against a mort-  
17 gagee or other lien holder, pledgee, purchaser, or judgment creditor  
18 until notice of it is recorded as a class A document in the records of  
19 the recording district where the property subject to the lien is  
20 situated. However, regardless of the date the liens are recorded, a  
21 lien arising out of a tax due under AS 43.56 and AS 43.75, including  
22 the penalties and interest on the tax, is a lien prior, paramount, and  
23 superior to all other liens, mortgages, hypothecations, conveyances,  
24 and assignments, upon all the real and personal property of the person  
25 liable for the tax, and upon all the real and personal property used  
26 with the permission of the owner to carry on the business that is  
27 subject to the tax.

28 (b) AS 40.19.040 applies to a notice of state tax lien and  
29 documents relating to a state tax lien as well as to a notice of

1 federal lien and documents relating to a federal lien.

2 \* Sec. 40. AS 44.37.025 is amended to read:

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

8 (b) The department shall [ENGAGE AND COMPENSATE RECORDERS AND  
9 DEPUTY RECORDERS,] prescribe and account for recording fees [,] and do  
10 all other things necessary to maintain the recording system estab-  
11 lished under the laws of this state. The commissioner of adminis-  
12 tration shall separately account for fees collected under this section  
13 that the Department of Natural Resources deposits in the general fund.  
14 The annual estimated balance in the account may be used by the legis-  
15 lature to make appropriations to the department to carry out the  
16 purposes of this section.

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

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

26 \* Sec. 41. In the following statutes the revisor of statutes is di-  
27 rected to delete the requirement or permission that a document be filed or  
28 filed for record and to substitute a corresponding requirement or permis-  
29 sion that the document be recorded: AS 09.40.050; AS 09.55.370;

1 AS 10.15.230, 10.15.235, 10.15.260; AS 10.30.020; AS 13.26.265; AS 23.10.-  
2 047; AS 23.20.200, 23.20.250(a); AS 23.30.165; AS 27.10.020, 27.10.050,  
3 27.10.060, 27.10.070, 27.10.160, 27.10.170, 27.10.190, 27.10.210(b), 27.-  
4 10.230; AS 32.10.010, 32.10.240; AS 34.07.020, 34.07.040, 34.07.050, 34.-  
5 07.070; AS 34.20.090; AS 34.35.065, 34.35.160, 34.35.185, 34.35.240, 34.-  
6 35.250, 34.35.305, 34.35.330, 34.35.405, 34.35.440; AS 38.05.195, 38.05.-  
7 200, 38.05.205, 38.05.210, 38.05.220, 38.05.230, 38.05.245, 38.05.250,  
8 38.05.265, 38.05.275; AS 38.20.100; AS 45.09.402(f); and AS 46.15.160.

9 \* Sec. 42. 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. 43. This Act takes effect January 1, 1989.

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400

January 18, 1988

The Honorable Jack Coghill  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Dear Senator Coghill:

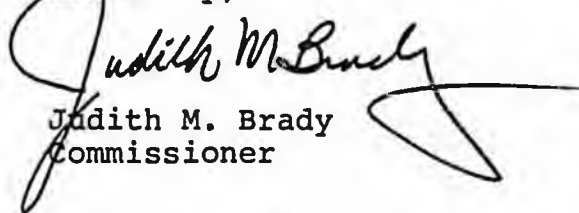
Your staff has requested a position statement on SB 304, An act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities.

A great deal of time and effort by the Code Revision Commission, the Fourteenth Alaska Legislature, the State Recorder's Office, the title industry, and others has been invested in this proposed legislation.

The Department supports this bill as written noting that a fiscal note will be required to handle the class B document provision of the bill. Should that section be deleted, no fiscal note will be required.

You may refer further questions to Sharon Barton, Director, Division of Management.

Sincerely,

  
Judith M. Brady  
Commissioner

cc: Sharon L. Barton, Director, Division of Management

JMB/SLB/rlc

SENATE-HOUSE JOINT SUPPLEMENT

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5/15/87

FRIDAY

No. 7

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Letter of April 20, 1987 and

Memorandum of April 20, 1987  
(sectional analysis of proposed Code  
Revision Commission bill on the  
Recording of Documents)

from Legislative Affairs Agency

concerning

SENATE BILL NO. 304 and

HOUSE BILL NO. 320

(An Act relating to filing and recording,  
recordable documents, conveyances, plats,  
and platting authorities; and providing  
for an effective date)

SB 304 &  
HB 320STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

April 10, 1987

The Honorable Bettye Fahrenkamp  
Chairman, Alaska Legislative Council  
P.O. Box V, State Capitol  
Juneau, Alaska 99811

RE: Bill on recording and recorded documents

Dear Senator Fahrenkamp:

The attached bill is submitted to the Alaska Legislative Council pursuant to AS 24.20.075 with the request that it be introduced in the Fifteenth Legislature.

The bill has been in the legislature before. In the Thirteenth Legislature it was HB 342/SB245 which in turn was a somewhat revised version of SB 78 of the Twelfth Legislature. In the Fourteenth Legislature it was HB 244/SB 197.

The commission continues to believe the legislation is needed and, in fact, overdue. It appears that the recording system is being left behind in the state's communication system. The bill would lay the groundwork for recording in a central place that is connected electronically with recording offices around the state. From those offices documents would be transmitted and in those offices the central records could be searched with equipment available in each office.

The bill provides that each existing recording office could participate in the interconnected system only when that office is ready and the central office is ready for it. Full statewide participation would evolve over whatever time period proved to be feasible.

As a necessary part of providing the framework for an electronically interconnected system, the bill gathers together and clarifies provisions on recording that are scattered through Alaska Statutes. Other features of the bill include provision for recording a subordinate class of document for

safekeeping only and provision for recording federal liens consistent with the Uniform Federal Lien Registration Act.

Respectfully submitted,

*Tamara Brandt Cook*

Tamara Brandt Cook  
Executive Secretary  
Alaska Code Revision Commission

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HB 320

This is the revised sectional analysis that you requested for the proposed Code Revision Commission bill on the recording of documents and it accompanies the latest version of the bill. The bulk of the analysis and language is taken directly from House and Senate Joint Journal Supplement No. 6 of February 27, 1985; I have merely brought it up to date with the proposed bill. The main differences between this bill and prior CRC bill on the recording of documents (HB 244/SB 197) are the amendments necessitated by the relatively new municipal code (AS 29) and Uniform Common Interest Ownership Act (AS 34.08).

#### INDEX TO RECORDING BILL

#### Sec. 1 Creating a Chapter 17 in Title 40 on RECORDING IN PUBLIC RECORDS.

AS 40.17.010--PLACE OF RECORDING AND ACCESS TO RECORDS  
 AS 40.17.020--RECORDING CONVEYANCES  
 AS 40.17.030--FORMAL REQUISITES FOR RECORDING  
 AS 40.17.040--INDEXING  
 AS 40.17.050--INCORPORATION OF MASTER FORM  
 AS 40.17.060--DOCUMENTS EXECUTED UNDER FORMER LAW  
 AS 40.17.070--DUTIES OF RECORDER  
 AS 40.17.080--EFFECT OF RECORDING ON TITLE AND RIGHTS:  
     CONSTRUCTIVE NOTICE  
 AS 40.17.090--CONVEYANCES AND RECORDED DOCUMENTS AS EVIDENCE  
 AS 40.17.100--RECORDING A RECONVEYANCE  
 AS 40.17.110--CLASSES OF DOCUMENTS ELIGIBLE FOR RECORDING  
 AS 40.17.120--RECORDING MEMORANDUM OF LEASE  
 AS 40.17.130--ACTIONS AGAINST RECORDER AND STATE  
 AS 40.17.900--DEFINITIONS

Secs. 2-37 Amending and adding miscellaneous AS sections to carry out the purpose of the bill.

#### Sec. 38 Creating a Chapter 19 in Title 40 on RECORDING FEDERAL LIENS.

AS 40.19.010--APPLICABILITY  
 AS 40.19.020--PLACE OF RECORDING  
 AS 40.19.030--EXECUTION OF NOTICE AND CERTIFICATES  
 AS 40.19.040--DUTIES OF RECORDER  
 AS 40.19.050--UNIFORMITY OF APPLICATION AND CONSTRUCTION

Secs. 39-40 Amending two statutory sections.

Sec. 41 Listing section in which Revisor of Statutes is to change terminology.

Sec. 42 Repealer.

Sec. 43 Effective date.

#### GENERAL FEATURES OF THE BILL

The main purposes of the bill are (1) to gather together and clarify the jumble of Alaska law on recording, and (2) to provide a structure for future centralized recording. That

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structure, with other provisions in the bill, would make it possible to use existing and future advanced technology for transmitting, indexing, storing, retrieving and searching title documents. There is continually improving technology available for computer assisted search of documents in which the image of the document is called up from central storage and viewed at a remote terminal and copied at the remote terminal if a copy is needed. With safeguards in the bill, and with flexibility for either rapid or gradual extension of the high technology system into recording districts, there need be no lessening of access to recording and retrieval in any recording district during development of the improved system.

An earlier version of the bill would have removed a requirement of existing law that a conveyance be acknowledged before a person authorized to take an oath. This provision in the bill proved to be extremely controversial, as did its corollary that permitted recording of an unacknowledged conveyance. Although title company representatives who testified in the past about the provision agreed that there are shortcomings in the practices of some notaries public, they argued that the acknowledgment requirement not be dropped. The commission has accepted their position in the attached bill.

The attached bill requires subdivision plats and certain other maps and plats maps to be recorded. However, it also requires that the original be retained in the recording office, which is the practice under existing law. What results is a system in which access to the original plat is retained, but the document also is photocopied as a record that may be called up for viewing at a remote terminal where copies can be made.

The bill provides for recording two general classes of documents. Section 40.17.110 defines the two classes. Class A includes documents relating to title to real property and includes all other documents required or permitted to be recorded by other statute or by regulation of the Department of Natural Resources. Recording of a class A document would provide constructive notice of the document to all persons, and therefore would protect the rights of the person whose document is recorded. The second class of document, class B, would be recordable for safekeeping but with no constructive notice afforded by the recording. Any document that is not included in class A and that can be processed by the recording equipment falls into class B.

In order to meet past concerns of the Department of Natural Resources, a requirement is added to the bill that class B convenience recording be physically separate from class A constructive notice recording. In the attached bill class B recording will be done only at a central recording office in the state. A separate indexing system will be used to further assure that the class A system is safe from any possible confusion with class B convenience recording.

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While the bill deals with all recorded documents in general, it also deals specifically with federal liens. Existing Alaska law on federal liens is the obsolete Uniform Federal Tax Lien Registration Act, AS 43.10.090--43.10.150. That Act would be repealed and replaced by proposed AS 40.19.010--40.19.050. The new sections follow the current Uniform Federal Lien Registration Act (1978) with changes and deletions to fit Alaska's statewide recording system, and, according to the previous sectional analysis, the form of these sections has been approved by the Internal Revenue Service at both the state and national levels. The bill applies part of these sections to state tax liens as well.

#### SECTIONAL ANALYSIS

Section 1. The main body of the bill is Section 1. It creates a new chapter 17 in AS 40 to replace AS 34.15.260--34.15.350. The Uniform Simplification of Land Transfers Act is the basis for several of the sections and is referred to in these notes as the USLTA. Alaska Statute numbers are used here for reference within the section.

#### AS 40.17.010

**SOURCE:** The section is original drafting.

**COMMENT:** This section is an overview of the recording system expressed in terms of the recording and retrieval services to be provided by the Department of Natural Resources. References to class B documents in (c) and to class A documents in (d) can be clarified by looking at AS 40.17.110 in the bill where class A and class B are defined. Class A may be thought of as the existing recording system, while class B is a new and subordinate system with no purpose beyond providing a convenience to persons who wish a permanent repository of a copy of any document. Therefore, the concentration of the bill is on class A recording.

Basic to the class A system are provisions for future recording in a central place by electronic transmission of documents from offices for the various recording districts, and records will be available for search in those offices.

By subsection (c), the date for starting the class B system is the effective date of the bill. Although recording of class B documents will be in one central place, the B system is relatively informal and recording B documents in a central place need not wait for readiness of electronic transmission and access. Central recording of B documents is to permit tight control by the recorded--one of the devices to assure that class B convenience recording is kept separate from the class A system.

In contrast, central recording of documents in the basic "constructive notice" (class A) recording system can be and perhaps must be, deferred. One or more recording districts

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at a time can be shifted to central recording based upon readiness for the transfer as reflected in appropriations the department requests and receives for the purpose. (Reference (a) (4)). Under (d), complete transfer to central recording is mandated only when the DNR staff and equipment are ready. The broad standard of readiness in (d) seems necessary at this stage since no malfunction of the system can be risked. Subsection (d) should be read with AS 44.37.025, which gives the Department of Natural Resources broad authority over establishing, modifying, or discontinuing recording districts.

AS 40.17.020

SOURCE: AS 34.15.260 with major changes and additions. Part of existing AS 34.15.260 also appears in Sections 40.17.080 and 40.17.090 in this bill.

COMMENT: (a) is traditional recording law except for reference to "class A" documents. "Class A" is the class of traditional recorded (constructive notice) documents listed and defined in Sec. 110, as opposed to "class B" which is all other documents.

Subsection (b) provides that certified copies of documents recorded or filed in public recording offices in other states or in the Bureau of Land Management are entitled to recordation as class A documents. It is sometimes necessary to go to these records to complete a chain of title. Recording is defined in the general definitions section, AS 40.17.900.

AS 40.17.030

SOURCE: (a)(1) is from USLTA sec. 2-301(a)(1); (a)(2) is from USLTA sec. 2-301(a)(2); (a)(3) is from USLTA sec. 2-301(a)(3); (a)(4) and (a)(5) are original drafting; (a)(6) is AS 34.15.345 paraphrased; (b) is original drafting; (c) is based on USLTA sec. 2-301(b); (d) is from AS 34.08.170(h).

COMMENT: Except for subsection (e), the form requirements of this section are applicable to all documents offered for recording. The section fits the definition of "document" which may even be in the form of electronic signals so long as the form is compatible with equipment in the recording office.

Subparagraph (a)(4) contains only a minimal reference to the requirement of indexing information. Indexing is the subject of the following section, AS 40.17.040. Subparagraph (a)(5) is to discourage the unauthorized presentation of a document for recording and to provide a record of how each document came to the recording office. At present, a document is mailed back after it is recorded. Subparagraph (a)(6) is information needed by municipalities to keep up real property tax rolls and provides assistance in locating parties to transactions.

Because anything can be recorded as a class B document, subsection (b) requires that the name of the person in whose behalf a class B document is recorded be included in or accompany the document when it is presented for recording. This should prevent the recording of anonymous defamatory material.

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Regarding subsection (c), the bill leaves intact the requirement that a conveyance must be acknowledged before it can be recorded. Reference AS 40.17.110(b)(1) in the bill. The term is broadly defined in the "definitions" section, AS 40.17.900, to mean any transfer of an interest in real property other than by will or operation of law. But where another document is made recordable by law, only the form requirements of that law and this section apply.

AS 40.17.040

SOURCE: The section is original drafting.

COMMENT: In the bill, except for the specific indexing requirements of AS 34.08 (Uniform Common Interest Ownership Act) that are included in (b) of this section, indexing of class A documents has been left to regulation of the department responsible for the recording system. Indexing a document to a specific tract is highly desirable. But parts of the state are not sufficiently accustomed to the existing formalities of recording to make it practical to require sophisticated tract indexing information in all recording districts. Regulation is the more flexible approach and seems the desirable one for the present. Unofficial tract indices are kept at present and would be continued in any event.

The index of class B documents is kept with the class B records at one central recording office, another safeguard to ensure that class B recording will not be confused with class A.

The indexing of class B documents is specifically limited to emphasize that class B is for personal safekeeping of documents not part of the chain of title to real property. It is intended that a title search should never involve searching the class B index.

AS 40.17.050

SOURCE: The section is from USLTA sec. 2-309.

COMMENT: The purpose of allowing the recording of master forms is to reduce the volume of documents recorded. A final sentence of USLTA sec. 2-309(a) provides: "This section does not affect contractual relations of parties to a title transaction." The sentence is omitted as superfluous.

Indexing of a master form is not covered here since indexing is to be generally covered by regulation.

AS 40.17.060

SOURCE: AS 34.15.270, paraphrased.

COMMENT: The section of Alaska Statutes this section would replace applies only to "conveyances" and provides that a conveyance legal when executed remains recordable and

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retains "the same force as evidence." The redraft is broader since it applies to all class A documents. The reference to "same force as evidence" is not included since it is considered to be unnecessary. The "force" of recorded documents as evidence is addressed in AS 40.17.090.

AS 40.17.070

SOURCE: (a) is from USLTA sec. 6-203; (b) and (c) are based upon USLTA sec. 6-204(a) and 6-204(b) with additions; (d) is original drafting; (e) is from USLTA sec. 6-204(c); (f) is from USLTA sec. 6-205(a); (g) is from USLTA sec.

6-205(d); (h) is from USLTA sec. 6-201(b); and (i) is from USLTA sec. 6-205(d) paraphrased.

COMMENT: The recorder's duties are spelled out in this section. Subsection (b) is another provision to assure that class B recording will not be confused with class A. Subsection (b) does not refer to book and page indexing, but book and page indexing is consistent with it and can be continued as long as it is useful. Consistent with the definition of "record", (c) requires acceptance (recording) of a recordable document without delay in the order in which it is received. Subsections (c) and (d) make it clear that the time of recording is the time of acceptance even when a document is erroneously rejected and later accepted. If a person is damaged by erroneous rejection of a recordable class A document, the person's remedy is to seek damages from the state under AS 40.17.130 in this bill. The reference in (i) is to a master form recorded under AS 40.17.050.

AS 40.17.080

SOURCE: (a) is from AS 34.15.260(a); (b) is from AS 34.15.290; (c) is AS 34.20.010 redrafted; and (d) is from USLTA sec. 3-206 paraphrased.

COMMENT: Law on constructive notice is gathered in this section. Constructive notice is limited to class A documents which are defined in AS 40.17.110 in the bill. Within class A existing and traditional law is perpetuated. Subsection (d) allows a title searcher to assume that no contract or deed was executed pursuant to a recorded option or earnest money agreement after passage of a reasonable period of time.

AS 40.17.090

SOURCE: Subsection (a) is from AS 34.15.260(a)(1). Subsections (b) and (c) are based upon USLTA sec. 2-305(a) and (b), which in turn are based upon the Model Act concerning Evidentiary Effect of the Record. Subsection (d) is original drafting, and subsection (e) is from USLTA sec. 2-305(c) and Alaska Rules of Evidence, Rule 301(c).

COMMENT: This section is generally designed to pull together provisions for the evidentiary effect of recorded documents. Subsection (a) makes a recorded conveyance in proper form admissible in evidence without further proof.

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This is consistent with Rule 1065, Alaska Rules of Evidence. Subsections (b) and (c) provide in detail for several rebuttable presumptions arising from recording. By Alaska Rule of Evidence 301(a), a presumption created here would not shift the burden of proof, but a person seeking to avoid the presumption would have to present some evidence to rebut it.

AS 40.17.100

SOURCE: AS 34.15.310 redrafted.

COMMENT: No change in the substance of existing law is intended by this section, but the statutory language is simplified.

AS 40.17.110

SOURCE: (a) is original drafting. (b) is a list of documents derived from the following sources, with substantial changes in some instances. (b)(1) as indicated in the subparagraph; (b)(2) is from AS 34.15.320(a)(1) and AS 34.15.330; (b)(3) is from AS 34.15.320(a)(2); (b)(4) is original drafting; (b)(5) is from Conn. Gen. Stat. Ann. 47-1(a); (b)(6) is from AS 34.20.130; (b)(7), (b)(8) and (b)(9) are original drafting; (b)(10) is from AS 34.15.340(a)(6) but is expanded in coverage to apply to any otherwise recordable document; (b)(11) is from AS 34.15.340(a)(1); (b)(12) is based on 11 U.S.C. sec. 549(c) of the Bankruptcy Act; (b)(13) is from AS 34.15.340(a)(2); (b)(14) and (b)(15) are original drafting; (b)(16) is from AS 34.15.340(a)(3); (b)(17) is from AS 34.15.340(a)(4); (b)(18) is from AS 34.15.340(a)(5); (b)(19) is from AS 06.30.560; (b)(20) is from AS 09.30.010; (b)(21) is from AS 09.40.050; (b)(22) is from AS 09.55.370; (b)(23) is from AS 19.05.090; (b)(24) is from AS 10.30.020; (b)(25) is from AS 10.15.230--10.15.235; (b)(26) is from AS 10.15.260; (b)(27) is from AS 13.26.265; (b)(28) is from AS 23.10.047 (b)(29) is from AS 23.20.200; (b)(30) is from AS 23.30.165; (b)(31) is from AS 27.10.050 and AS 27.10.070, AS 38.05.185--38.05.220 and 38.05.245; (b)(32) is from AS 27.10.020 and AS 27.15.010; (b)(33) is from AS 27.10.160; (b)(34) is from AS 27.10.190; (b)(35) is from AS 40.15; (b)(36) is from AS 32.10.010 and 32.10.240; (b)(37) is from AS 34.07 and AS 34.08; (b)(38) is from AS 34.07.030 and AS 34.08; (b)(39) is from AS 34.20.120; (b)(40) is from AS 34.20.070--34.20.080; (b)(41) is from AS 34.35.064; (b)(42) is from AS 34.35.065; (b)(43) is from AS 34.35.069; (b)(44) is from AS 34.35.070, 34.35.085, 34.35.160, 34.35.185, 34.35.240, 34.35.250, 34.35.305, 34.35.330, 34.35.405, 34.35.440 and 34.35.450; (b)(45) is from AS 34.35.071; (b)(46) is from AS 34.35.072; (b)(47) is from AS 34.35.080; (b)(48) is from AS 43.10.042; (b)(49) is from AS 43.10.090--43.10.150 (and see sec. 38 of this bill); (b)(50) is from AS 46.15.160; (b)(51) is from the UCC, secs. 9-313-(1)(b) and 9-402(5); (b)(52) and (b)(53) are original drafting; (b)(54) is from AS 19.10.260(2); (b)(55) is from AS 26.10.070; (b)(56), (b)(57) and (c) are original drafting.

COMMENT: This section maintains control over what recorded documents will constitute constructive notice in the real property recording system (class A), but permits other writings to be recorded in a class B that will not be in-

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dexed with or clutter the real property recording system. The section pulls together as class A documents all documents made recordable throughout existing law and also includes documents made recordable in class A by departmental regulation. Class B includes any other document a person may wish to place in the public records for a private purpose, generally for safekeeping. Throughout the bill the traditional recording function is confined to class A, while class B is provided as a service that does not give constructive notice and would not be searched in a real property title search.

By (b)(1) a document that is a conveyance must be acknowledged or proven to be eligible for recording. Since every document by which an interest in land is transferred (except a will) is a conveyance, all such documents must be acknowledged or proven before they are recordable whether or not the term "acknowledged" or "proven" is used in listing the document as recordable.

Paragraph (b)(5) allows affidavits to be recorded. Recorded affidavits in other states have been helpful in clearing land titles and have caused no special problems. Paragraph (b)(7) broadly affords the opportunity to record a document that limits property rights, including a Public Land Order. Paragraph (b)(12) provides for recording a bankruptcy petition; 11 U.S.C. sec. 549(c) gives a particular legal effect to a recorded bankruptcy petition where a transfer of real property to a good faith purchaser is involved. Paragraph (b)(13) provides for recording a traditional notice of cases pending in Alaska and United States courts that affect Alaska real property. Paragraph (b)(14) provides for recording a lis pendens from outside the state in specified domestic relations cases where persons dealing with Alaska marital property should know a property settlement is pending; and (b)(16) provides for recording an order or judgment from such a case. Paragraph (b)(51) is a category called "fixture filing" in the 1972 uniform amendments to the UCC. (Reference: AS 45.09.313 and 45.09.402(f)). Paragraph (b)(55), an armed forces report of separation, is an example of a document not related directly related to real property but specifically made recordable by another statute, AS 26.10.070.

Subsection (c) allows recordation of all documents made recordable by other law or by regulation of the department.

AS 40.17.120

SOURCE: USLTA sec. 2-310.

COMMENT: This USLTA section is based upon the law of Pennsylvania and provides in simple terms for the recording of a memorandum of a lease. Some state laws on the subject are much more complex. A memorandum of lease avoids cluttering the records with lengthy documents of temporary significance.

AS 40.17.130

SOURCE: (a) is from USLTA sec. 6-210 with changes and (b) is from USLTA sec. 6-211 with changes.

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COMMENT: This section provides for an action to compel recording, clarifies the state's liability, and limits the conditions for liability of recording employees.

AS 40.17.900

SOURCE: (1) is original drafting; (2) is based on Rule 902, Alaska Rules of Evidence; (3) is from USLTA sec. 1-201; (4) is founded on AS 44.37.025; (5) is based on USLTA sec. 1-201; (6) is original drafting (7) is based upon USLTA sec. 1-201; (8) and (9) are original drafting; and (10) is based on USLTA sec. 1-201.

COMMENT: The broad definition of "document" is used in the draft to permit advanced technology in recording. Paragraph (7) makes acceptance for recording the event that determines when a document is recorded.

Sections 2-26

Except for sec. 7, which changes a statutory reference to conform to the new 40.17 chapter, sections 2 through 26 deal with plats, floor and constructions plans, and maps, and can be considered as a unit.

Some of the existing statutes on plats used the terms "file" and "record" interchangeably, Although statutory directions are not always clear, existing practice is to not record plats but to keep them on file in the recording offices.

Section 2 through 26 (except sec. 7) require that plats and plans be kept on file and that they be recorded, that is, copied into public records. In generations past, recording required laborious coping in longhand. These days a document is quickly copied by a photo process exactly in the form in which it is presented. (By AS 40.17.030 in the bill, if a plat, map or other document cannot be copied, it is not accepted for recording.)

The bill is drafted both for the existing system and for the future time when most use of the recording system will be through remote terminals. As noted above, plats, plans and maps that are required to be filed for public access will also be recorded so they can be viewed and copied at remote terminals. Since not all needs for a plat or plan will be met by the recorded copy, the original will be available in the district recorder's office to the same extent as at present.

Sections 2 through 26 (except sec. 7) accomplish this purpose for the following:

- maps      Sec. 2 (AS 19.10.260(2))--state highway right-of-way
- plats     Sec. 3 (AS 29.40.090(b))--subdivision and dedication
- plats     Sec. 4 (As 29.40.110(b))--subdivision and dedication
- Sec. 5 (AS 29.40.150)--subdivision and dedication plats
- Sec. 6 (AS 29.40.180)--subdivision and dedication plats

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- Sec. 8 (AS 34.07.020(14))--condominium floor plans
- Sec. 9 (AS 34.07.030)--condominium floor plans and survey maps
- Sec. 10 (AS 34.07.040(a))--condominium floor plans
- Sec. 11 (AS 34.07.050)--condominium floor plans
- Sec. 12 (AS 34.08.090)--common interest community plats/plans
- Sec. 13 (AS 34.08.140(b))--common interest community plats/plans
- Sec. 14 (AS 34.08.140(d))--common interest community plats/plans
- Sec. 15 (AS 34.08.160(b))--common interest community plats/plans
- Sec. 16 (AS 34.08.170(b))--common interest community plats/plans
- Sec. 17 (AS 34.08.170(f))--common interest community plats/plans
- Sec. 18 (AS 34.08.170(h))--common interest community plats/plans
- Sec. 19 (AS 34.08.180(a))--common interest community plats/plans
- Sec. 20 (AS 34.08.200(b))--common interest community plats/plans
- Sec. 21 (AS 34.08.210(a))--common interest community plats/plans
- Sec. 22 (AS 34.08.250(c))--common interest community plats/plans
- Sec. 23 (AS 34.08.320(a))--common interest community plats/plans
- Sec. 24 (AS 34.08.440(h))--common interest community plats/plans
- Sec. 25 (AS 34.08.700)--common interest community plats/plans
- Sec. 26 (AS 34.08.740(a))--common interest community plats/plans
- Sec. 27 (AS 34.08.990(30))--common interest community plats/plans

Section 28

SOURCE: This section is original drafting.

COMMENT: Recording of a master form is provided by AS 40.17.050 in section 1 of this bill. Section 28 is inserted to prevent a possible misuse of the recordable form.

Sections 29 - 37

Except as indicated for sec. 36, sections 28 - 37 are included for the same purpose as sections 2 - 27. Sections 29 - 37 accomplish this purpose for the following:

- Sec. 29 (AS 38.04.045(b))--state subdivision plats
- Sec. 30 (AS 40.15.010)--subdivision and dedication plats
- Sec. 31 (AS 40.15.020)--subdivision and dedication plats
- Sec. 32 (AS 40.15.030)--subdivision and dedication plats
- Sec. 33 (AS 40.15.040)--subdivision and dedication plats

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Sec. 34 (AS 40.15.050)--subdivision and dedication  
plats  
Sec. 35 (AS 40.15.060)--subdivision and dedication  
plats  
Sec. 36 (AS 40.15.070)--subdivision and dedication  
plats  
Sec. 37 (AS 40.15.075)--subdivision and dedication  
plats

Section 36 also changes the specified platting authority for certain areas of the state from the Division of Lands to the Department of Natural Resources.

### Section 38

SOURCE: AS 40.19.010--40.19.050 are the Uniform Federal Lien Registration Act (1978), with significant changes and deletions.

COMMENT: Several features of the Uniform Federal Lien Registration Act (1978) were found to be objectionable or unnecessary and are changed or deleted from this bill. The changes and deletions were all approved, according to the original sectional analysis, by the Internal Revenue Service, are:

(1) The uniform act provides for "filing" of federal liens. This bill provides for recording them. Filing requires the recorder to retain paper liens and releases, a procedure inconsistent with the photocopying system in use for documents generally in the recorder's offices. Although 26 U.S.C. sec. 6323 refers to "filing" of federal tax liens, the original sectional analysis indicated that IRS regional counsel considers the term to be used broadly to include recording, the procedure called for in this bill.

(2) The uniform act provides generally for filing (here the term includes recording) of both real and personal property liens with the recorder but calls for filing liens on personal property of corporations and partnerships with the "secretary of state." This is an apparent reference to Uniform Commercial Code filing. Federal law (26 U.S.C. sec. 6323) contains no such requirement. The original sectional analysis indicated that recording officials of King County, Washington had indicated that adoption of the provision in that state led to much confusion there. It is deleted from AS 40.19.020--40.19.050 in this bill, which provides a single method of recording all federal liens.

(3) The uniform act provides that the recorder, upon request, shall certify whether liens are filed against a named person. This would be a departure from the tradition that the recorder only keep the records available for search and not be required to search them. The provision is deleted from AS 40.19.040 in this bill.

(4) The uniform act sets fees and provides for billing. Since statutes are a poor place for such details, and since AS 44.37.025(b) gives broad power to the Department of Natural Resources to set fees and establish procedures, the provisions are deleted from this bill.

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A repealer at the end of the bill provides for repeal of the obsolete earlier version of the Uniform Federal Tax Lien Registration Act (AS 43.10.090--43.10.150) which was adopted by Alaska as ch. 94, CLA 1933. Existing state law is inadequate mainly because (1) it lacks provisions for determining where personal property will be deemed to be located; (2) it requires separate tax liens indices that are unnecessary and are not being kept as separate indices; and (3) its provisions for physically attaching a release to the original lien is not workable for recorded liens.

#### Section 39

SOURCE: AS 43.10.042

COMMENT: By this section, the method of recording federal tax liens in AS 40.19.040 in the bill is made applicable to state tax liens also.

#### Section 40

SOURCE: AS 44.37.025

COMMENT: The changes are designed to be compatible both with the existing system and with a central place of recording. The original sectional analysis indicated that the revisor of statutes might wish to move this section to Title 40 with recording statutes rather than leave it in Title 44 with statutes on duties of state departments.

#### Section 41

COMMENT: Except as indicated earlier in the commentary for sections 2-26 of the bill, there is no clear reason for the distinction made in existing laws that provide for filing some documents and recording (copying) others. With the concept of a central place of recording where all records (copies) are to be stored with access through remote terminals, maintaining the distinction between filing and recording becomes impractical. Keeping original documents such as tax liens on file instead of recording them would be cumbersome and would serve no useful purpose. In keeping with this concept, the various statutes are listed in which terminology should be changed to "record" from "file" or "file for record."

#### Section 42

This section repeals the following sections:

- AS 34.15.260, Recording conveyances and conveyances as evidence;
- AS 34.15.270, Conveyances executed and acknowledged under former laws;
- AS 34.15.280, Certificate of reception and recording of conveyance;
- AS 34.15.290, Invalidity of unrecorded conveyance;
- AS 34.15.300, Record or transcript of conveyance as evidence;
- AS 34.15.310, Recording instrument of defeasance;

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AS 34.15.320, Powers to convey and contracts to sell or purchase land;  
AS 34.15.330, Revocation;  
AS 34.15.340, Other real instruments that may be recorded;  
AS 34.15.345, Disclosure of address of record purchaser;  
AS 34.15.350, Definition;  
AS 34.20.020, Discharge of mortgage by entry in margin of record;

AS 43.10.090, Filing notices of liens and certificates of discharge;  
AS 43.10.100, Entry and filing of tax lien notices in Federal Tax Lien Index;  
AS 43.10.110, Entry of discharge certificate in Federal Tax Lien Index and attachment to notice of lien;  
AS 43.10.120, Manner of furnishing Federal Tax Lien Index and Federal Tax Lien Notices file;  
AS 43.10.130, Purpose;  
AS 43.10.140, Interpretation;  
AS 43.10.150, Short title.

Section 43

Makes the act effective January 1, 1989.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465-3800

April 10, 1987

The Honorable Bettye Fahrenkamp  
Chairman, Alaska Legislative Council  
P.O. Box V, State Capitol  
Juneau, Alaska 99811

RE: Bill on recording and recorded documents

Dear Senator Fahrenkamp:

The attached bill is submitted to the Alaska Legislative Council pursuant to AS 24.20.075 with the request that it be introduced in the Fifteenth Legislature.

The bill has been in the legislature before. In the Thirteenth Legislature it was HB 342/SB245 which in turn was a somewhat revised version of SB 78 of the Twelfth Legislature. In the Fourteenth Legislature it was HB 244/SB 197.

The commission continues to believe the legislation is needed and, in fact, overdue. It appears that the recording system is being left behind in the state's communication system. The bill would lay the groundwork for recording in a central place that is connected electronically with recording offices around the state. From those offices documents would be transmitted and in those offices the central records could be searched with equipment available in each office.

The bill provides that each existing recording office could participate in the interconnected system only when that office is ready and the central office is ready for it. Full statewide participation would evolve over whatever time period proved to be feasible.

As a necessary part of providing the framework for an electronically interconnected system, the bill gathers together and clarifies provisions on recording that are scattered through Alaska Statutes. Other features of the bill include provision for recording a subordinate class of document for

Senator Fahrenkamp  
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safekeeping only and provision for recording federal liens  
consistent with the Uniform Federal Lien Registration Act.

Respectfully submitted,

*Tamara Brandt Cook*

Tamara Brandt Cook  
Executive Secretary  
Alaska Code Revision Commission

TBC:mkr  
m11/006

cc: Hon. Steve Cowper  
Hon. Jay Rabinowitz, Chief Justice  
Executive Director, Legislative Affairs Agency

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 1-28-88 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

FINANCE

\*\*FISCAL NOTE(S) ATTACHED  \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

5/15/87

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

RESOURCES

Committee considered SB 304

filing and recording, recordable documents, conveyances, plats, and  
plattting authorities; efd.

and recommended:

- replace with CS SB 304 (Res)  same title
- attached amendment(s) *and the Cmte records do pass*  new title
- do pass
- do not pass
- no recommendation
- ~~individual recommendations~~
- further referral to \_\_\_\_\_
- ~~letter of intent adopted and attached~~
- \*\* Committee  attached or  adopted fiscal note(s) FN?
- zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Al Gleason*  
*Julius Sturgulewski*  
*John D. ...*  
*Paul ...*

*Ken ... No Rec*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Chairman signature and recommendation

Committee Backup Attached

*[Handwritten signature]*  
Do Pass