

SB

304

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 1-28-87 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
planning authorities; efd.

Margot
and recommended:

replace with CS SB 304 (Res) same title
 ~~attached amendment(s) and the entire original~~ new title
+ dispass

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)
 zero fiscal impact

FN

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Glendon

Ken Fanning No REC

Julius Sturgulewski

J. Duncan

Paul Frank

Committee Backup Attached

John G. ...
Chairman signature and recommendation

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)

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.

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
Page 2
April 10, 1987

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

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coughill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Arliss Stuniglewski
Sen. Jim Duncan
Sen. Fred Zhatoff
Sen. Dick Eliason

Box V
Juneau, Alaska 99811
(907) 465-4007

M E M O R A N D U M

TO: Members of the Committee
FROM: Staff
RE: SB 304, recording of documents
DATE: January 20, 1988

Included in today's packet are:

1. Department of Natural Resources position paper
2. Fiscal note
3. Sectional analysis
4. Alaska Code Revision Commission transmittal letter
5. CSHB 266 and related backup dealing with recorder's office
6. 1985 backup on recording bill

A M E N D M E N T #1

Offered in the SENATE

By Coghill

TO: CSSB 304 (Finance)

Page 36, line 5:

Delete "system"

Insert "svsystems [SYSTEM]"

Page 36, following line 20:

Insert a new bill section to read:

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

(e) In addition to the recording system established under AS 40.17, the commissioner of natural resources may by regulation establish a system for recording documents to enable members of the public to safeguard copies of documents. Recording a document in the system established under this subsection does not provide constructive notice for any purpose."

Renumber remaining bill sections accordingly.

A M E N D M E N T

2

Offered in the SENATE

By Coghill

TO: CSSB 304 (Finance)

Page 36, line 5:

Delete "system"

Insert "systems [SYSTEM]"

Page 36, following line 20:

Insert a new bill section to read:

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

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

Renumber remaining bill sections accordingly.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 485-2400

January 18, 1988

The Honorable Jack Coghill
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senator Coghill:

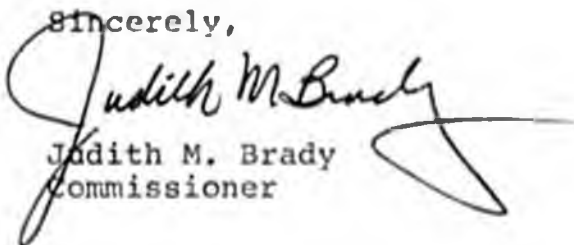
Your staff has requested a position statement on SB 304, An act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities.

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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 25, 1988

SUBJECT: Comparison of SB 304 and CSHB 266 (Resources)
TO: Senator Jack Coghill, Chairman
Senate Resources Committee
FROM: Theresa L. Bannister *TB*
Legislative Counsel

You have requested that I provide the Senate Resources Committee with a comparison between SB 304 and CSHB 266 (Resources) ("HB 266"), two bills dealing with the recording of documents. As a preliminary matter, note that this comparison should not be considered an authoritative interpretation of the bills and the bills themselves are the best statements of their contents.

In general, SB 304 contains a major revision of the state recording system while HB 266 addresses only two subjects on state recording, which are

- (1) the recorder's decision on whether the document is to be recorded (sec. 2 of HB 266); and
- (2) the adoption of regulations on recording (sec. 3 of HB 266).

Section 1 of HB 266 makes certain legislative findings for the bill. SB 304 does not contain findings.

Section 2 of HB 266 gives specific directions to the recorder for reviewing a document for recording. SB 304 directs the recorder to promptly record all documents presented which are recordable under certain sections (see Sec. 40.17.070(a)).

Sec. 34.15.343(1) prohibits the recorder from considering whether the document's contents are legally sufficient for the purpose of the document. SB 304 does not address this specific subject.

Sec. 34.15.343(2) directs the recorder to resolve any reasonable doubts about the document's eligibility for recording in favor of recording the document. SB 304 does not address this specific subject.

Sec. 34.15.343(3) prohibits the recorder from rejecting a document in certain listed situations.

Sec. 34.15.343(3)(A) prohibits the recorder from rejecting a document that met the requirements for recording when the document was executed. Sec. 40.17.060 (in sec. 1 of SB 304) provides nearly the same protection, except that SB 304 limits its application to certain listed documents.

+ Sec. 34.15.343(3)(B) prohibits the recorder from rejecting a document that serves more than one purpose. SB 304 does not address this issue.

Sec. 34.15.343(3)(C) prohibits the recorder from rejecting a document that does not state the name of the recording district, if the information is either given to the recorder when the document is offered for recording or contained in a cover letter accompanying the document. SB 304 requires that a document be accompanied by or include the information required by department regulations (Sec. 40.17.030(4)).

Sec. 34.15.343(3)(D) prohibits the recorder from rejecting a document that references an attached exhibit that is not labelled. SB 304 requires that a document be accompanied by or include the information required by department regulations (Sec. 40.17.030(4)).

Sec. 34.15.343(3)(E) prohibits the recorder from rejecting a document that is a certified copy of an official document from a governmental office in this or another state. SB 304 allows certified or otherwise verified copies of specific types of documents (e.g., judgments) to be recorded as Class A documents, but does not contain a general reference to all official governmental documents.

Section 3 of HB 266 prohibits a regulation from imposing a restriction on document recording unless the restriction is required by statute or furthers a legitimate administrative

Senator Jack Coghill, Chairman
Senate Resources Committee
Page 3
January 25, 1988

need. SB 304 requires that the regulations be consistent
with the new law.

If I may be of further assistance, please advise.

TLB:gc
WKC1:048

SB 304

SENATE BILL NO. 304 by the Rules Committee by request of the Legislative Council (for the Code Revision Commission), entitled:

"An Act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities; and providing for an effective date."

was read the first time and referred to the Resources Committee and the Finance Committee.

Sectional Analysis on SENATE BILL NO. 304 and HOUSE BILL NO. 320 (same bill) in Senate and House Joint Supplement No. 7.

SB 304

The Resources Committee considered SENATE BILL NO. 304 "An Act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities; and providing for an effective date" and a majority of the committee recommended it be replaced with

CS FOR SENATE BILL NO. 304 (Resources)

and do pass. The report was signed by Senator Coghill, Chairman and concurred in by Senators Eliason, Sturgulewski, Duncan and Fischer. Senator Fanning signed "no recommendation."

Fiscal note published today from Department of Natural Resources.

SENATE BILL NO. 304 was referred to the Finance Committee.

April 6, 1988

SENATE JOURNAL

p. 2903

SB 304

The Finance Committee considered SENATE BILL NO. 304 "An Act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities; and providing for an effective date" and a majority of the committee recommended it be replaced with

CS FOR SENATE BILL NO. 304 (Finance) and do pass. The report was signed by Senator Halford, Co-chairman and concurred in by Senators Duncan, Uehling, Hensley and Binkley. Senator Zharoff signed "do pass as long as there is no additional financial impact on Department of Administration."

Zero fiscal note published today from Senate Finance Committee.

SENATE BILL NO. 304 was referred to the Rules Committee.

April 8, 1988

SENATE JOURNAL

p. 2941

SB 304

The Rules Committee considered SENATE BILL NO. 304 "An Act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities; and providing for an effective date" and a majority of the committee recommended calendar. The report was signed by Senator Eliason, Chairman and concurred in by Senators Hensley, Faiks and Jones.

Senator Coghill moved and asked unanimous consent for the adoption of the Resources Committee Substitute offered on page 2168. Senators Halford and Kerttula objected.

The question being: Shall the Resources Committee Substitute for SENATE BILL NO. 304 be adopted? The roll was taken with the following result:

SB 304 RES CS MOTION

Yeas: 6 Coghill, Eliason, Fanning,
Fischer, Kelly, Sturgulewski

Nays: 6 Abood, Binkley, Faiks, Halford,
Josephson, Kerttula

Excused: 6 Duncan, Fahrenkamp, Hensley,
Jones, Uehling, Zharoff

Absent: 2 Rodey, Szymanski

and so, the Resources Committee Substitute was not adopted.

Senator Eliason moved and asked unanimous consent that SENATE BILL NO. 304 "An Act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities; and providing for an effective date" be held in second reading until Monday's calendar. Without objection, it was so ordered.

SB 304

Senator Coghill moved and asked unanimous consent that SENATE BILL NO. 304 be held until the April 12 calendar. Without objection, it was so ordered.

HOUSE & SENATE JOINT
JOURNAL SUPPLEMENT

April 8, 1983

No. 10

THE FOLLOWING COMMENTARY
FROM THE
ALASKA CODE REVISION COMMISSION
COVERS

HOUSE BILL NO. 342)
)
) "An Act relating to filing
) and recording and to record-
) able documents; and providing
) for an effective date."
)
SENATE BILL NO. 245)

MEMORANDUM

TO: Chairman, Alaska Legislative Council

FROM: John W. Abbott, Chairman *JWA*
Alaska Code Revision Commission

DATE: February 22, 1983

RE: Bill on recording and recorded documents

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 Thirteenth Legislature.

It is a simpler version of SB 78 of the Twelfth Legislature, a bill prepared by the code revision commission on the public recording system, repealing and replacing AS 34.-15.260--34.15.350.

SB 78 (the bill in the last legislature) included provisions changing certain requirements as to the form of recordable documents, deleting the statutory requirement that a conveyance be acknowledged before a notary public. The bill as reintroduced does not contain this controversial section. It makes no changes in existing law on the form of conveyances.

Other differences between this bill and SB 78 of the Twelfth Legislature are explained in the enclosed commentary and section analysis.

The general purpose of the bill remains the same: It gathers together and clarifies provisions on recording that are scattered throughout Alaska Statutes, and lays a suitable framework for future use of technological advances in a centralized recording system.

JWA:chw

Attachment

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

ALASKA CODE REVISION COMMISSION
SUPPLEMENT TO TRANSMITTAL STATEMENT AND DRAFT ON
RECORDING AND RECORDED DOCUMENTS

GENERAL FEATURES OF THE BILL

A bill drafted by the Alaska Code Revision Commission to revise the law on the public recording system was in the Twelfth Legislature as SB 78.

The attached bill is a redrafted SB 78 with changes to accommodate some requests made by title companies and by the Department of Natural Resources. Existing AS 34.15.260--34.15.350, AS 34.20.020, and AS 43.10.090--43.10.150 would be repealed by the bill.

The main purpose of the bill remains the same: (1) to gather together and clarify the jumble of Alaska law on recording, and (2) to provide a structure for future centralized recording. That 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.

Most of SB 78 is carried over into the attached bill, but there are some changes.

A provision in SB 78 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 about the provision agreed that there are shortcomings in the practices of some notaries public, they urged that the acknowledgment requirement not be dropped. The commission has accepted their position in the attached redrafted bill.

SB 78 provided for recording of subdivision plats and certain other maps and plats. The attached bill continues the requirement of SB 78 that these plats and maps be recorded. However, it adds the requirement that the original be retained in the recording office, 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 taken off.

An innovative part of the bill carried over from SB 78 is a provision 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 the 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.

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, adopted in Alaska in 1933. That Act would be repealed and replaced by proposed AS 40.19.010--40.19.030. The new sections follow the current Uniform Federal Lien Registration Act (1978) with changes and deletions to fit Alaska's statewide recording system. 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.

SECTION ANALYSIS

Sections 1-19

Sections 1 through 19 deal with plats and maps and can be considered as a unit.

Some of the existing statutes on plats use 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.

Sections 1 through 19 change existing law and practice. They retain provisions for keeping plats on file but add the requirement that they be recorded, that is, copied into public records. In generations past, recording required laborious copy-

ing 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 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 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.

The first nineteen sections of the bill make this change for the following:

- Sec. 1 (AS 19.10.260(2))--state highway right-of-way maps
- Sec. 2 (AS 29.33.160(b))--subdivision and dedication plats
- Sec. 3 (AS 29.33.170)--subdivision and dedication plats
- Sec. 4 (AS 29.33.190)--subdivision and dedication plats
- Sec. 5 (AS 29.33.200)--subdivision and dedication plats
- Sec. 6 (AS 29.33.230)--subdivision and dedication plats
- Sec. 7 (AS 34.07.020(14))--condominium floor plans
- Sec. 8 (AS 34.07.030)--condominium floor plans & survey maps
- Sec. 9 (AS 34.07.040(a))--condominium floor plans
- Sec. 10 (AS 34.07.050)--condominium floor plans
- Sec. 11 (AS 34.08.045(b))--state subdivisions
- Sec. 12 (AS 40.15.010)--subdivision and dedication plats
- Sec. 13 (AS 40.15.020)--subdivision and dedication plats
- Sec. 14 (AS 40.15.030)--subdivision and dedication plats
- Sec. 15 (AS 40.15.040)--subdivision and dedication plats
- Sec. 16 (AS 40.15.050)--subdivision and dedication plats
- Sec. 17 (AS 40.15.060)--subdivision and dedication plats

Sec. 18 (AS 40.15.070)--subdivision and dedication plats

Sec. 19 (AS 40.15.075)--subdivision and dedication plats

Section 20

The main body of the bill is Section 18. It creates a new chapter 17 in title 40 to replace AS 34.15.260--34.15.350. In it 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 transmittal and access. Central recording of B documents is to permit tight

control by the recorder--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 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 in class A 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 class A system can be risked. (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.

(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 40.17.040.

AS 40.17.030

SOURCE: (a)(1) is from WSLTA § 2-301(a)(1). (a)(2)

is from USLTA § 2-301(a)(2); (a)(3) is from USLTA § 2-301(a)(3); (a)(4) and (a)(5) are original drafting; (a)(6) is AS 34.15.345 paraphrased; (b) is original drafting; and (c) is from USLTA § 2-301(b).

COMMENT: 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.

(a)(4) contains only a minimal reference to the requirement of indexing information. Indexing is the subject of the following section, 040. (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. (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.

Regarding (c), in its redrafted form 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 40.17.140, 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, 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 § 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 § 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 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 covered in AS 40.17.090. See also Rule 1005, Alaska Rules of Evidence.

AS 40.17.070

SOURCE: (a) is from USLTA § 6-203; (b) is original drafting; (c) and (d) are based upon USLTA § 6-204(a) and 6-204(b), with additions; (e) is from USLTA § 6-204(c); (f) is from USLTA § 6-205(a); (g) is from USLTA § 6-205(d); (h) is from USLTA § 6-201(b); and (i) is from USLTA § 6-204(d) paraphrased.

COMMENT: The recorder's duties are spelled out in this section. (b) is another provision to assure that class B recording will not be confused with class A. (b) does not refer to book and page indexing, but book and page indexing is consistent with it and can be continued so 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. (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 § 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. (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: (a) is from AS 34.15.260(c)(1). (b) and (c) are based upon USLTA § 2-305(a) and (b), which in turn are based upon the Model Act Concerning Evidenciary Effect of the Record. (d) is original drafting; and (e) is from USLTA § 2-305(c) and Alaska Rules of Evidence, Rule 301(c).

COMMENT: This section is generally designed to pull together provisions for the evidenciary effect of recorded documents. (a) makes a recorded conveyance in proper form admissible in evidence without further proof. This is consistent with Rule 1005, Alaska Rules of Evidence. (b) and (c) provide in detail for several rebuttable presumptions arising from recording in class A. 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); (b)(11) is from AS 34.15.-340(a)(1); (b)(12) is based upon Bankruptcy Rule 602; (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 27.10.150; (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; (b)(38) is from AS 34.07.030; (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. 19 of this bill); (b)(50) is from AS 46.15.-160; (b)(51) is from the UCC, §§ 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(a); (b)(56), (b)(57) and (c) and (d) 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 indexed 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 his own 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.

(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. (b)(7) broadly affords the opportunity to record a document that limits property rights, including a Public Land Order. (b)(12) provides for recording a bankruptcy petition which appears still to be required by Bankruptcy Rule 602(a). (b)(13) provides for recording a traditional notice of cases pending in Alaska and United States courts that affect Alaska real property. (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. (b)(51) is a category called "fixture filing" in the 1972 uniform amendments to the UCC. (Reference: AS 45.09.313(1) and 45.09.402(f)). (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.

(c) is to include in class A all documents made recordable by other law or by regulation of the department.

AS 40.17.120

SOURCE: USLTA § 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 § 6-210 with changes and (b) is from USLTA § 6-211 with changes.

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 40.17.140

SOURCE: (1) is original drafting; (2) is from USLTA § 1-201; (3) is based on Rule 902, Alaska Rules of Evidence; (4) is founded on AS 44.37.025 (part of Executive Order 47 which became law during 1980); (5) is from USLTA § 1-201; (6) is original drafting; (7) is based upon USLTA § 1-201; (8) and (9)

are original drafting; and (10) is from USLTA § 1-201.

COMMENT: The broad definition of "document" is used in the draft to permit advanced technology in recording. (7) makes acceptance for recording the event that determines when a document is recorded.

Section 21

SOURCE: AS 40.19.010--40.19.250 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, all approved 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. § 6323 refers to "filing" of federal tax liens, 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. § 6323) contains no such requirement. We are informed by recording officials of King County, Washington that adopting of the provision in that state led to much confusion there. It is deleted from AS 40.19.-

020--40.19.040 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 search them himself. 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.

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, SLA 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 lien indices that are unnecessary and are not being kept as separate indices; and (3) its provision for physically attaching a release to the original lien is not workable for recorded liens.

Section 22

SOURCE: The section is original drafting.

COMMENT: Recording of a master form is provided for by AS 40.17.050 as it appears in section 20 of this bill. This section is to outlaw a possible misuse of the recordable form.

Section 23

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 24

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 Revisor of Statutes might wish to change this section to Title 40 with recording statutes rather than to leave it in Title 44 with statutes on duties of state departments.

Section 25

COMMENT: There is not a 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, in (d) of the section the various statutes are listed in which terminology should be changed to "record" from "file" or "file for record." The sections listed in (d) are gathered together in a binder and marked up for assistance to the Revisor of Statutes.

Section 26

COMMENT: Sections included in this repealer are discussed in the general comments at the start of these notes.

Section 27

COMMENT: It is primarily preparation for recording and indexing class B documents that warrants a deferred effective date. Amendment of the bill before passage could require an earlier or later date.

INDEX TO RECORDING BILL

Secs. 1-19

Amending AS sections to provide for filing and recording of plats and maps, as detailed at start of Section Analysis.

Sec. 20

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 40.17.140--DEFINITIONS

Sec. 21

Creating a Chapter 19 in Title 40 on RECORDING FEDERAL LIENS.

AS 40.19.010--SCOPE

AS 40.19.020--PLACE OF RECORDING

AS 40.19.030--EXECUTION OF NOTICES AND CERTIFICATES

AS 40.19.040--DUTIES OF RECORDER

AS 40.19.050--UNIFORMITY OF APPLICATION AND CONSTRUCTION

Sec. 22

AS 34.15.015--USE OF RECORDED MASTER FORM

Sec. 23

AS 43.10.042--RECORDING LIEN AND CERTIFICATE OF DISCHARGE

Sec. 24

AS 44.37.025--RECORDING (basic authority of Department of
Natural Resources)

Sec. 25

Listing sections in which Revisor of Statutes is to
change terminology.

Sec. 26

Repealer.

Sec. 27

Effective date.

Referred: Judiciary

Original sponsor: Ulmer

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
 2 CS FOR HOUSE BILL NO. 266 (Resources)
 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 the recording of documents."

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

8 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that the

9 (1) recording of legal documents of the kind customarily re-
10 corded throughout the United States is an essential state function;

11 (2) time and place of the recording of a document can be more
12 important than the underlying legal sufficiency of the document;

13 (3) recording offices exist primarily for the benefit and conve-
14 nience of the general public;

15 (4) business community, commercial institutions including banks,
16 and private individuals cannot function effectively without the public
17 notice protection afforded by recording their documents; and

18 (5) policy of the state is to maintain a convenient means of
19 regularly recording legal documents relating to property and obtaining
20 information concerning existing recorded documents.

21 * Sec. 2. AS 34.15 is amended by adding a new section to read:

22 Sec. 34.15.343. RECORDING CRITERIA. When determining whether a
23 document may be recorded, the recorder

24 (1) may not consider whether the contents of the document
25 are legally sufficient to achieve the purposes of the document;

26 (2) shall resolve reasonable doubts about whether the
27 document is eligible for recording in favor of recording the document;

28 (3) may not reject a document because the document

29 (A) does not satisfy the current requirements for

1 recording, if the document satisfied the requirements for record-
2 ing that existed at the time the document was executed;

3 (B) serves more than one purpose;

4 (C) does not state the name of the recording district,
5 if the name is given to the recorder at the time the document is
6 offered for recording, or if the name is contained in a cover
7 letter accompanying the document;

8 (D) references an attached exhibit that is not la-
9 belled;

10 (E) is a certified copy of an official document from a
11 governmental office in this or another state; or

12 (4) may not require that a document that serves more than
13 one purpose be recorded separately for each of the purposes; this
14 paragraph does not prevent the multiple recording of the document if
15 the person offering the document requests that the document be re-
16 corded for more than one of its purposes.

17 * Sec. 3. AS 44.37.025(a) is amended to read:

18 (a) The Department of Natural Resources shall adopt regulations
19 [,] establishing, modifying, or discontinuing recording districts or
20 precincts and prescribing the records to be maintained and the instru-
21 ments to be recorded. A regulation may not impose a restriction on
22 document recording unless the restriction is required by statute or
23 furtheres a legitimate administrative need of the recorder; a "legiti-
24 mate administrative need" includes ensuring the legibility of the
25 documents and identifying the parties, the capacity of each party, and
26 the affected property.

DOUGLAS L. GREGG, Esq.

A PROFESSIONAL CORPORATION

ATTORNEY-AT-LAW

130 SEWARD STREET, SUITE 417

JUNEAU, ALASKA 99801

January 28, 1987

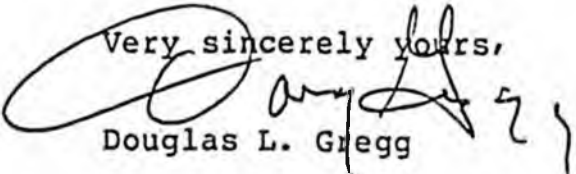
Honorable Fran Ulmer
State Representative
State Capitol
P.O. Box V
Juneau, Alaska 99811

Re: Amendments to AS 44.37.025 (Recording Documents);

Dear Fran:

I learned today that you may not have received a copy of the Juneau Bar letter and enclosures of January 7th. Here is a copy. The issue at hand may well relate to the budget in that the host of regulations which have been implemented in the last year or two cannot help but have added substantially to the work load of the recorder's offices around the state. In any event, we appreciate your assistance. We'd like to see a bill drafted to add a few amendments to the existing statute. Thank you.

Very sincerely yours,


Douglas L. Gregg

ENCLS:

cc: James E. Fisher, President
Juneau Bar Association

J U N E A U B A R A S S O C I A T I O N

6645 N. Douglas Highway
Juneau, Alaska

January 7, 1987

Honorable Jim Duncan
State Senator
State Capitol
P.O. Box V
Juneau, Alaska 99811

Honorable Fran Ulmer
State Representative
State Capitol
P.O. Box V
Juneau, Alaska 99811

Honorable Bill Hudson
State Representative
P.O. Box V
Juneau, Alaska 99811

Re: Amendments to AS 44.37.025 (Recording Documents);

Dear Juneau Legislative Delegation:

There is a need for new legislation to correct a serious problem with recording documents in Alaska. In recognition of that difficulty, the Juneau Bar Association, at its regular meeting on December 5, 1986, adopted the recommendation of its Committee on the Office of the Recorder, copy enclosed. The committee was formed as the result of numerous complaints about the many new restrictions on the right to record documents that were imposed through the rule-making power of the Department of Natural Resources, which has jurisdiction over the Office of the Recorder.

In addition to amending existing legislation, we are requesting that new regulations be adopted by DNR. However, we request that a bill be drafted to provide guidelines restricting future rule-making power to those matters of legitimate concern to the Office of the Recorder. Such an amendment to the statute should make it clear that the public has a right to record legal documents and that the Office of the Recorder is not to judge the internal legal integrity of documents but simply to record them

if they meet certain minimum requirements.

As to the rule-making power of the department, six recommendations are contained within the committee's report. However, the department might well consider several other changes in its current regulations. The committee restricted itself to the most obvious areas of needed change. The regulations could be further amended to provide that the Recorder may not refuse to record or file a document because:

- it lacks a title reflecting its overall content;
- it does not contain a "return to" address;
- the individual who incurred an assessment is not named (even though the property against which the assessment is placed is described and the party claiming the assessment is identified).

The Juneau Bar Association is not opposed to all regulation of the right to record. The new regulations are, however, onerous. More importantly, they are constituting a substantial restriction on the right to place a document on the record as public notice. Many times a document serves that purpose even though the document could admittedly be improved in its context and could be more complete than it is. But the right to record and create the public notice for the protection of parties is of paramount importance. Perfection in legal documents is desirable but many people making use of the Recorder's Office are not lawyers or skilled title examiners. Failure to successfully record can have dire results when intervening filings place a party in a secondary position.

We will appreciate your assistance in correcting the problem through the amendment of AS 44.37.025 to insure that future regulations will not contravene public policy. Thank you for your cooperation in this matter.

Very sincerely yours,

ESJ
James E. Fisher, President
Juneau Bar Association

ENCL

COPY

REPORT OF COMMITTEE ON OFFICE OF THE RECORDER

The Committee met on August 22nd. The work of the Committee was assigned to its members, Larry Weeks, Fred J. Baxter, and Douglas Greag. Bruce Hansen of Title Insurance Agency was invited to attend that meeting as an ex-officio member. He was requested to make inquiries of other title companies in an effort to obtain their viewpoints on the current difficulties in recording documents in Alaska. Fred Baxter spent some time outlining the essentials of a hypothetical complaint for damages. Larry Weeks explored the question whether the Office of the Recorder can, under the language of the statute requiring him to record instruments, refuse to record in reliance on the new regulations. Fred concluded that a person suffering damages by reason of the recorder's refusal to record an instrument could frame a good cause of action in many instances. Larry concluded that there would be a good chance, in a declaratory judgment action, to secure a judgment invalidating many of the regulations in question.

Your chairman met with Mr. Hansen on November 7th, at which time Mr. Hansen had received and compiled the results of an informal poll conducted among title insurance offices throughout the state. There were over 35 written responses (some did not answer every question.) Mr. Hansen had posed 15 questions in the poll. A simple "yes" or "no" was solicited to these questions.

The top of the poll asked whether the recipient felt that the Recorder should refuse to record or file a document when the document had certain attributes. These attributes were described in the 15 questions he selected. (Poll and results annexed.) There was near unanimity on several of the 15 items, with a more or less equal division of other items. Comments of respondents are omitted from this report. Several respondents sent letters praising Mr. Hansen for taking a personal hand in the difficulty.

A summary of the poll results shows general dissatisfaction with the system currently being employed by the Recorder in rejecting documents offered for recording.

Your committee's proposed amendments to the statute would help ensure that when new rules and regulations are adopted they will be circumscribed in such manner as to prevent unreasonable or unnecessary restrictions.

The Committee agrees that there is a need for modification in the existing regulations entirely apart from our proposed amendment to AS 44.37.025 which grants rule making power to the Department of Natural Resources. It may adopt regulations "... prescribing the records to be maintained and the instruments to be recorded." The statute currently lacks any restrictions or guidelines as to the scope of that power. An amendment would

help ensure that over-zealous rule-making will not in the future impair the ability of the public to make reasonable use of the Recorders' Offices.

Such an amendment to the statute could articulate a public policy. For example, it might state something along these lines:

PREAMBLE. The Legislature recognizes and therefore finds as follows:

1. The recording of legal documents of the kind customarily recorded throughout the United States is an essential State function.
2. The time and place that a document was placed of record may well be more important than the underlying sufficiency of that document from a strictly legal standpoint.
3. The Recorder's Office exists primarily for the benefit and convenience of the general public.
4. Commercial institutions, the business community, banks, and private individuals cannot safely function without the protections afforded by the right to give public notice through the ability to record their legal documents.

BE IT ENACTED etc. etc. . . . that public policy of this State is declared as follows: to maintain a convenient means of regularly recording legal documents and to obtain information concerning existing recorded documents. In the making of rules and regulations to facilitate the legitimate administrative needs of the various recording offices, reasonable doubts shall be resolved in favor of recording rather than of rejection. The Recorder shall not make judgments as to the legality of the contents of any document offered for recording. Nevertheless, the Department of Natural Resources shall adopt such rules and regulations as it requires to control indiscriminate filings of documents that do not meet certain minimum requirements. These regulations may include but shall not be limited to the requirement for a legal description, if needed, names of parties, capacity of parties, legibility and other such reasonably required information to assure that the Recorder's Office functions in a manner consistent with the needs of the citizens of this state.

The foregoing suggestions for a statutory change to control the rule-making authority of DNR is one suggestion. The second is that a request be made to DNR for proposed new amendments to the existing provisions contained in the Alaska Administrative Code relative to recording. Your Committee recommends that at least the following amendments be specifically requested of DNR:

1. All documents valid at the time they were made shall be recorded, notwithstanding that they may not meet the requirements contained in later-adopted rules and regulations.
2. A document shall not be rejected on the ground that it serves more than a single purpose nor shall it be required that a document be recorded separately for each of the

various purposes for which it may appear to stand. (This shall not preclude the multiple recording by the offering party of a document which has several purposes.)

3. A document which makes reference to an attached exhibit shall not be rejected on the ground that the exhibit does not contain a label.
4. A document shall not be rejected on the ground that it lacks the recording information contained in another document that is being amended by the one being offered.
5. An official certified document from any governmental office in this state or a sister state shall not be rejected on the ground that it is not the original provided it is legible.
6. A document shall not be rejected on the ground that it does not specify the name of the recording district provided that that information is given to the Recorder by the person offering the document, or such information is contained in a cover letter accompanying the document. (The information so received by the Recorder may be noted by the Recorder elsewhere on the document for future reference.)

CONCLUSION

It is recognized that many of the existing regulations may be desirable in the abstract. However, uncompromising loyalty to multiple details, often of questionable importance, result in the rejection of instruments and consequent delays in giving notice. Such delays can have disastrous results. All persons who are drawing legal instruments and submitting them for recording are not attorneys or title companies. The public's right to record ought to be paramount.

DATED: December 5, 1986.

Respectfully submitted,

Douglas L. Gregg

Larry Weeks

Fred J. Baxter

Do you feel that the recorder should refuse to record or file a document because:

YES 10

17 15 Contains no "return to" address.

30 4 Lacks trustee name on deed of trust.

29 8 Lacks real property description.

15 17 Lacks a title reflecting its overall content.

26 10 Document not executed entirely in English.

26 9 Lacks the recording information of the original document being amended, corrected, extended, modified, or released.

16 13 Document is larger than 8 1/2 by 14 inches.

29 9 Document must state in what capacity the signatory executed the document; individually, as attorney-in-fact, partner, corporate officer, executor, administrator, guardian or trustee.

22 11 Lacks the name of the recording district in which it is to be recorded.

16 14 Lacks reference to attached exhibit/Exhibit not clearly labeled.

26 5 Lacks attached exhibit when reference is made to such.

5 27 An original, recordable document may not be accepted as an attachment to another document.

3 32 The document serves more than one purpose. Recording fee is charged separately for each purpose.

19 14 Does not name person against whom assessment is placed.

3 29 Document is valid instrument executed prior to effective date of regulations but does not conform to current regulations.

282 217

COMMENTS:

499 RESPONSES

APPROX 35 INDIVIDUAL RESPONSES

244002

IN THE HOUSE

BY ULMER BY REQUEST

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the recording of documents."

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

* Section 1. LEGISLATIVE FINDINGS. The legislature finds that the

(1) recording of legal documents of the kind customarily recorded throughout the United States is an essential state function;

(2) time and place of the recording of a document can be more important than the underlying legal sufficiency of the document;

(3) recording offices exist primarily for the benefit and convenience of the general public;

(4) business community, commercial institutions including banks, and private individuals cannot function effectively without the public notice protection afforded by recording their documents; and

(5) policy of the state is to maintain a convenient means of regularly recording legal documents relating to property and obtaining information concerning existing recorded documents.

* Sec. 2. AS 34.15 is amended by adding a new section to read:

Sec. 34.15.343. RECORDING CRITERIA. When determining whether a document may be recorded, the recorder

(1) may not consider whether the contents of the document are legally sufficient to achieve the purposes of the document;

(2) shall resolve reasonable doubts about whether the document is eligible for recording in favor of recording the document;

(3) may not reject a document because the document

(A) does not satisfy the current requirements for

recording, if the document satisfied the requirements for recording that existed at the time the document was executed;

(B) serves more than one purpose;

(C) does not have a title that reflects the overall contents of the document;

(D) does not state the name of the recording district, if the name is given to the recorder by the person offering the document, or if the name is contained in a cover letter accompanying the document;

(E) references an attached exhibit that is not labelled;

(F) is a certified copy of an official document from a governmental office in this or another state; or

(4) may not require that a document that serves more than one purpose be recorded separately for each of the purposes; this paragraph does not prevent the multiple recording of the document if the person offering the document requests that the document be recorded for more than one of its purposes.

* Sec. 3. AS 44.37.025(a) is amended to read:

(a) The Department of Natural Resources shall adopt regulations [,] establishing, modifying, or discontinuing recording districts or precincts and prescribing the records to be maintained and the instruments to be recorded. A regulation may not impose a restriction on document recording unless the restriction is required by statute or furthers a legitimate administrative need of the recorder; a "legitimate administrative need" includes ensuring the legibility of the documents and identifying the parties, the capacity of each party, and the affected property.

A Brief History and Organization of the Alaska Recorder's Office



Division of Technical Services
May, 1984

 Alaska Department of
**NATURAL
RESOURCES**

PREFACE

The recordation/filing^{1/} of real property and other documents for the purpose of serving constructive notice to the public has had a long and varied history. It is the purpose of this "Brief History and Organization of Alaska Recorder's Office" to acquaint the reader with how it all started, developed over the years, and to some extent, what it all means. There is no attempt to discuss any legal issues.^{2/} Alaska is a "race/notice" state, i.e. first in time, first in line and recording/filing of real property and other documents effects all of us.

Credit for some of the material in this paper is given to a document entitled "Recordation and Recording Procedures in Alaska" prepared in 1966 by E.Z. Rehbock, Legal Assistant for the Alaska Court System.

^{1/}The words "record" and "file" and sometimes the phrase "file for record" are sometimes erroneously used interchangeably. Within the context of the Recorder's Office system, there is a basic difference in the words. A recorded document is one that is copied into the records in some manner and returned to the owner. A filed document is placed on file, becomes the property of the State and is not returned to the original owner. The recorder's office handles both types of documents.

^{2/}Statutory authorities are contained in parts of AS 09. Civil; AS 10. Corporation; AS 13. Estates & Trusts; AS 23. Labor & Workman's Compensation; AS 27. Mining; AS 29. Municipal; AS 32. Partnerships; AS 34. Property; AS 38. Public Lands; AS 40. Public Records; AS 44. State Government; AS 45. U.C.C.; and AS 46. Water Conservation. In recent years, legislation has been introduced to clarify requirements of these authorities under a single recording act but has not to date been enacted into law.

INTRODUCTION

Registration of land titles in one form or another has existed for several centuries in Europe and had been used in parts of the British Empire throughout the world. The colonists, who were responsible for initiation of the system in colonial America, may have secured the general idea from the Dutch system with which some of them had become familiar during their stay at Leyden in the Netherlands and from the abortive campaign of Henry VIII for a universal system of recording conveyances. The first acts followed quite closely the wording of the Statute of Enrollments, passed in England in 1635 requiring that conveyances of real property be "enrolled" on a public record except that they substituted recording for enrolling.

The necessity of requiring deeds, mortgages, and other instruments to be recorded in some public office was recognized in the preamble to the first recording act of South Carolina, enacted in 1698, which reads in part:

"Whereas, the want or neglect of registering or recording sales, conveyances and mortgages of lands, negroes, and other goods and chattels hath encouraged and given opportunity to several knavish and necessitous persons to make two or more sales, conveyances, and mortgages, . . . whereby buyers and lenders do lose, . . . therefore it is enacted"

Though to some extent patterned after European systems, the recording system that developed in America is unique and in its present form almost entirely confined to North America. It has been stated that "the distinctive features of the American system of recording deeds are . . . indigenous."

The early day "settlers" in Alaska found civil government and matters concerning recording land "titles" and "ownership" non-existent. It was the early day prospector before the turn of the century that, out of necessity to protect "title" to mining locations and prevent claim jumping, formed "mining districts" and appointed a "recorder of claims." For instance, on October 15,

1898, the three original locators of the richest gold placer claims in the Nome area joined with three other would-be miners to form the Cape Nome Mining District and appoint an official recorder who could then officially record their claims. The boundaries have been enlarged but the name of the District is still in use today. Similar actions had been taken even earlier in other areas such as the Porcupine Mining District which today is part of the Haines District. From this very early start utilizing basic systems enacted by the original colonists, the recording system in Alaska grew into what it is today.

Under the territorial form of government in Alaska, the recordation of conveyances, filing of tax liens and recordation of mining claims and other mining instruments was a duty of the United States Commissioners in their respective precincts. The beginning of recording activities in Alaska can be traced to the establishment of civil government for Alaska in 1884 when the Congress provided that Alaska should be governed by the laws of Oregon. Oregon statutes contained copious provisions for the recordation of instruments and the commissioners were charged with the administration of these laws. In 1900 Congress enacted a code of laws based mainly on Oregon law and containing detailed and specific rules for a recording system, which is basically still in force and comports with the principles of recordation as used in the majority of jurisdictions.

The early records of Alaska, as found in the various districts, contained meager information on fee title to real property, although this is one of the important types of information desired. The old records contain mining or quitclaim deeds of property (usually unsurveyed) of which there is no pretense of a legal estate. This condition must not be ascribed to "loss" of old records (although in some precincts it unfortunately happened that they were destroyed by fire), but to the fact that the Congress had for a time long neglected to enact legislation for the acquisition of fee titles in Alaska. Legislation authorizing townsite entry was first enacted in 1891. The homestead laws were extended to Alaska only in 1898. The U.S. Public Land Survey System was not extended to Alaska until as late as 1899.

An important statute provides that persons "actually in use or occupation" of lands in Alaska at the beginning of civil government on May 17, 1884 shall not be disturbed therein, but that the acquisition of such land is reserved to future legislation of the Congress. This act was intended as a preliminary to the enactment of future legislation by the Congress for the acquisition of land. It served as a temporary protection.

The functions assigned to recorders in Alaska were augmented in the early 1900's by congressional legislation on mining on the federal public domain and by enactment of territorial laws on mechanic's liens, conditional sales and chattel mortgages. The body of territorial law relating to the filing in the recorder's office of conditional sales, bulk sales, chattel mortgages and

other chattel security became obsolete in 1962 when Alaska adopted the chattel filing provisions of Title 9, UCC.

At the time of transition from the territorial U.S. District Court to the integrated Alaska Court System, there existed a great variety of functions concerned with recording. The difficulty of transition was alleviated because the present boundaries of recording districts are essentially oriented by the boundaries of the former recording precincts, and the commissioners were replaced by magistrates upon whom the recording duties devolved.

Under territorial government, instruments submitted for recordation were originally copied into the record book by longhand. The use of typewriters was established around 1915. A photostatic copying method was introduced in the larger cities, mainly in Anchorage and Fairbanks, around 1950. At that time it was a practice of the territorial U.S. District Court, which had jurisdiction over recording, to enter into reproduction contracts with commercial title insurance companies. The companies furnished the cameras, were responsible for adequate reproductions and furnished a copy of each instrument to the court under the terms of the contract. Since these arrangements were on a local basis, the size of the copies and the quality of the product varied from place to place. The functions of the recorders were regulated by statute, but their activity lacked central supervision. The statutes made some provision for maintenance of books, for indexing, for fees and general duties of recorders.

Early actions to adjust district boundaries and/or combine districts were accomplished by order of the District Court for the Territory of Alaska. One such order dated November 30, 1948 merged the Goodnews Bay District with the Bethel District. The map attached dated February 1, 1958 illustrates the district boundaries and names as they existed just prior to Statehood.

With the advent of Statehood and pursuant to the Session Laws of Alaska of 1959 and effective in 1960, the Alaska Supreme Court, by Order No. 12, established the recording districts and designated District and Deputy Magistrates to act as Recorders. There are fourteen (14) amendments to Order No. 12 which correct descriptions, change places of record and combine recording districts. Some of these amendments were complex in nature. For

instance, the Noatak-Kobuk Recording District was merged with the Fairbanks Recording District in 1969. A portion of the Noatak-Kobuk Recording District/Fairbanks Recording District above the 68°N latitude is now the Barrow Recording District and a portion of the Noatak-Kobuk Recording District/Fairbanks Recording District below the 68°N latitude is now the Kotzebue Recording District. Amendment Number 12 dated September 11, 1970 combined the Wade Hampton District with the Bethel District.

The last major change took place on July 1, 1975. Order No. 12 was revised to combine the geographical boundaries of:

McCarthy and Chitina Recording Districts to be known as the Chitina Recording District

Hyder and Ketchikan Recording Districts to be known as the Ketchikan Recording District

Whittier and Anchorage Recording Districts to be known as the Anchorage Recording District.

Fairhaven and Cape Nome Recording Districts to be known as the Cape Nome Recording District.

The Barrow Recording District was established.

The Kotzebue Recording District was established.

Paragraph 5 of Amendment 13 effective July 1, 1975 put the place of recording for the Cordova Recording District in the town of Valdez. Amendment 14 effective July 21, 1975 took the place of recording for the Cordova Recording District from Valdez and placed it in Anchorage.

From 1960 until June 16, 1967, the written description for each recording district was the official description of that recording district. Amendment No. 8 of Order No. 12, dated June 16, 1967 changed that by designating the "Alaska Recording Districts' Portfolio," dated September 1, 1964 as the official maps describing the boundaries of all recording districts. The maps

and legal descriptions were intended to complement each other, but if there were a discrepancy, the boundary as shown on the official maps would govern. A full set of these maps, as amended, may be found in Anchorage, Fairbanks and Juneau. Each place of recording for the other areas has sets for the recording districts for which they are the place of record. There is also a large Recording District Map in each office, showing boundaries of all recording districts in relation to one another.

Since the last major changes to recording districts on July 1, 1975, there have been thirty-four (34) recording districts serviced through fourteen (14) different offices. Ten (10) of these offices are staffed and managed by Department of Natural Resources, Division of Technical Services personnel. The remaining four (4) offices are administered through the Alaska Court System personnel on a part or full time basis. Sitka, on October 1, 1983, was the most recent office to be placed under the management of the Department of Natural Resources. Boundaries and names of current districts are shown on the map dated January 1, 1980, attached.

Due to the great expanse of real estate within the State of Alaska and the infrequency of population centers, the functions and scope of separate recording offices will vary. In some instances the volume of recording is not sufficient to warrant an office and full time employee. In four (4) recording districts (Chitina, Kodiak, Seward, and Valdez) the situation is handled by employing Court System personnel on a part time basis. In other recording districts the volume is so low that part time employment of court employees is not feasible. These areas are handled by larger recording district offices with maintenance of grantor and grantee indices and paper copies of documents supplied to court offices within those districts. Recording districts administered in this manner include: Aleutian Islands, Bristol Bay, Cordova, Haines, Kuskokwim, Kvichak, Nenana, Petersburg, Skagway and Wrangell. Still other sparsely populated districts are administered and maintained in larger offices with no local offices maintained. These districts include: Barrow, Ft. Gibbon, Iliamna, Kotzebue, Manley Hot Springs, Mt. McKinley, Nulato, Rampart, Seldovia and Talkeetna.

On August 3, 1971, the court created the position of District (State) Recorder with the responsibility for overseeing the operation of recording throughout the State.

On January 1, 1977, the Recording System was transferred to the Department of Administration, Division of General Services and Supply.

On July 1, 1979, the Recording System was transferred to the Department of Commerce and Economic Development, Division of Banking and Securities.

On July 1, 1980, the Recording System was transferred to the Department of Natural Resources, Division of Technical Services, which agency and division now has the responsibility for operation of the recorder's offices.

With each transfer, the department was given authority to promulgate regulations for establishing, modifying or discontinuing recording districts and to prescribe the manner in which business was to be conducted.

Total processing of a document is much the same in all offices. After the initial process of checking for statutory compliance, clocking in and indexing, all documents must be forwarded to one of the three (3) copy centers established for microfilming of the original documents. After microfilming, all documents are returned to their place of reception for proper dispersal. The copy centers are:

ANCHORAGE for: Aleutian Islands, Anchorage, Bethel, Bristol Bay, Chitina, Cordova, Homer, Iliamna, Kenai, Kodiak, Kuskokwim, Kvichak, Palmer, Seldovia, Seward, Talkeetna and Valdez Recording Districts.

FAIRBANKS for: Barrow, Fairbanks, Ft. Gibbon, Kotzebue, Manley Hot Springs, Mt. McKinley, Nenana, Cape Nome, Nulato and Rampart Recording Districts.

JUNEAU for: Haines, Juneau, Ketchikan, Petersburg, Skagway, Sitka and Wrangell Recording Districts.

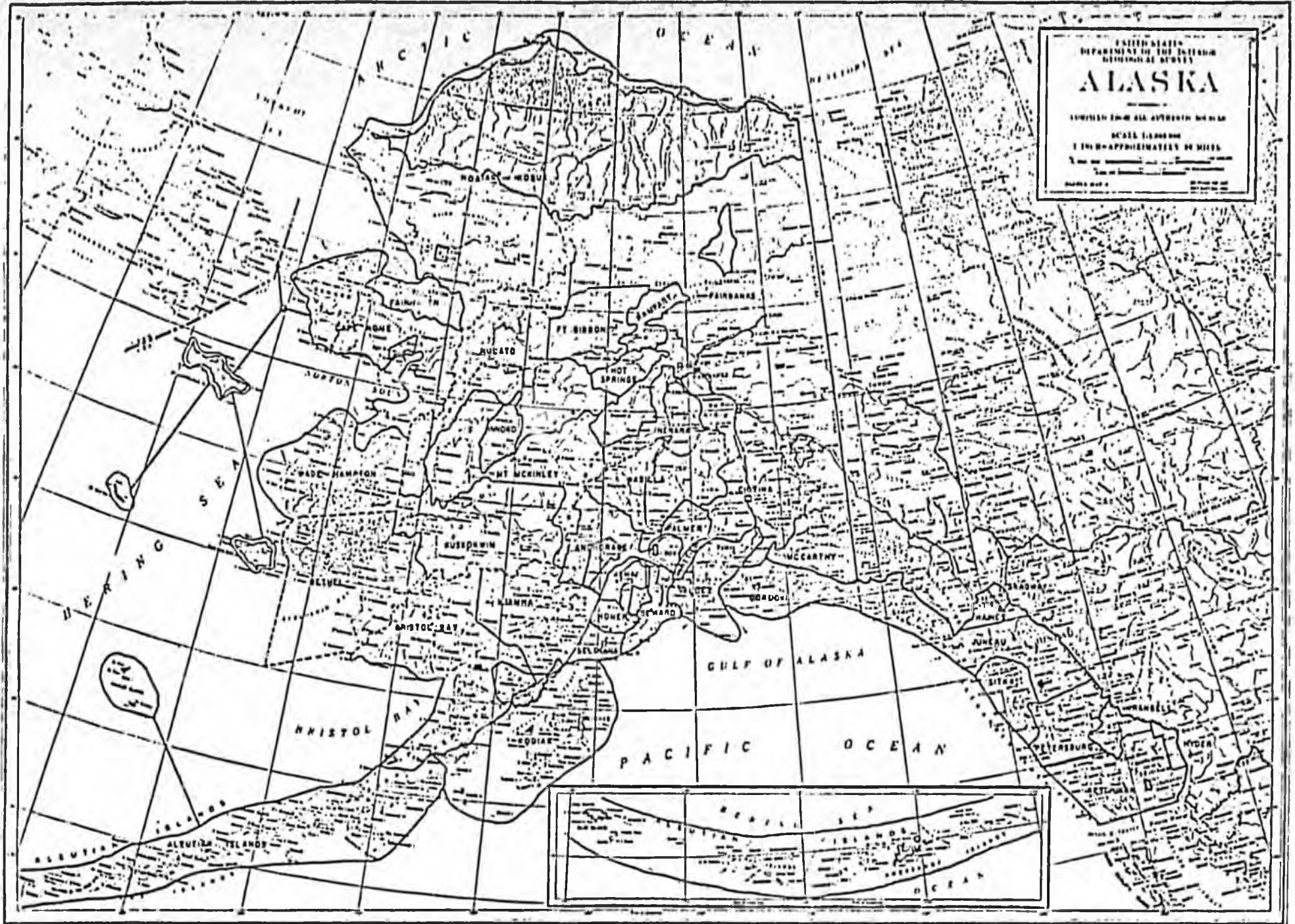
Photostatic copying was introduced in the larger cities (Anchorage and Fairbanks) around 1950. In 1971 microfilming techniques were instituted and have been refined to the present day use of microfilm reader/printers and 16 and 35mm microfiche and roll microfilm, cataloged through the use of computerized alphabetic grantor, grantee and real property legal description indices. The Anchorage Recording Districts was the first district with computerized indices. This was started June 22, 1971. The Palmer Recording District began November 1, 1971. Talkeetna, Fairbanks, Kodiak, Kenai and Cape Nome Recording Districts began January 2, 1972; Juneau Recording District began July 1, 1972; Ketchikan and Sitka Recording Districts began August 1, 1972; Homer Recording District began July 1, 1974; Kvichak, Cordova, Aleutian Islands, Nenana, Rampart, Nulato, Mt. McKinley, Manley Hot Springs, Kuskokwim, Bethel, Chitina, Valdez and Seward Recording Districts began January 2, 1975; Petersburg, Wrangell, Seldovia and Bristol Bay Recording Districts began July 1, 1975; Haines and Skagway Recording Districts began January 2, 1976. There are also computerized indices for Fairhaven Recording District from January 2, 1972 until it was merged with Cape Nome July 1, 1975. There are also computerized indices for McCarthy Recording District from January 2, 1972 until it was merged with the Chitina Recording District July 1, 1975. There are computerized indices for the Hyder Recording District from January 2, 1973 until it was merged with Ketchikan Recording District July 1, 1975. All the computerized information is dispersed to the appropriate offices through the Anchorage Recording District office.

The purpose of the Recorder's Offices has always been to provide a secure, impartial place of record for real property documents. In most cases these records are irreplaceable and necessary to maintain a chain of title to all real estate within the State of Alaska. The Recorder's Offices also provide a mechanism by which liens, Deeds of Trust and other encumbrances against specific properties may be brought to the public notice.

Illustrations attached indicate the complexity and type of documents filed or recorded. Statistical data has been supplied for years 1975 through 1983. Also a skeleton organizational chart depicting the present day structure of the fourteen State Recorder's Offices is included along with the two maps referred to earlier.

RECORDING DISTRICTS AND WITHDRAWN AREAS IN ALASKA

ALASKA MAP A



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ALASKA
SHOWS FROM ALL APPROVED RECORDS
SCALE 1:500,000
1 INCH APPROXIMATELY 50 MILES



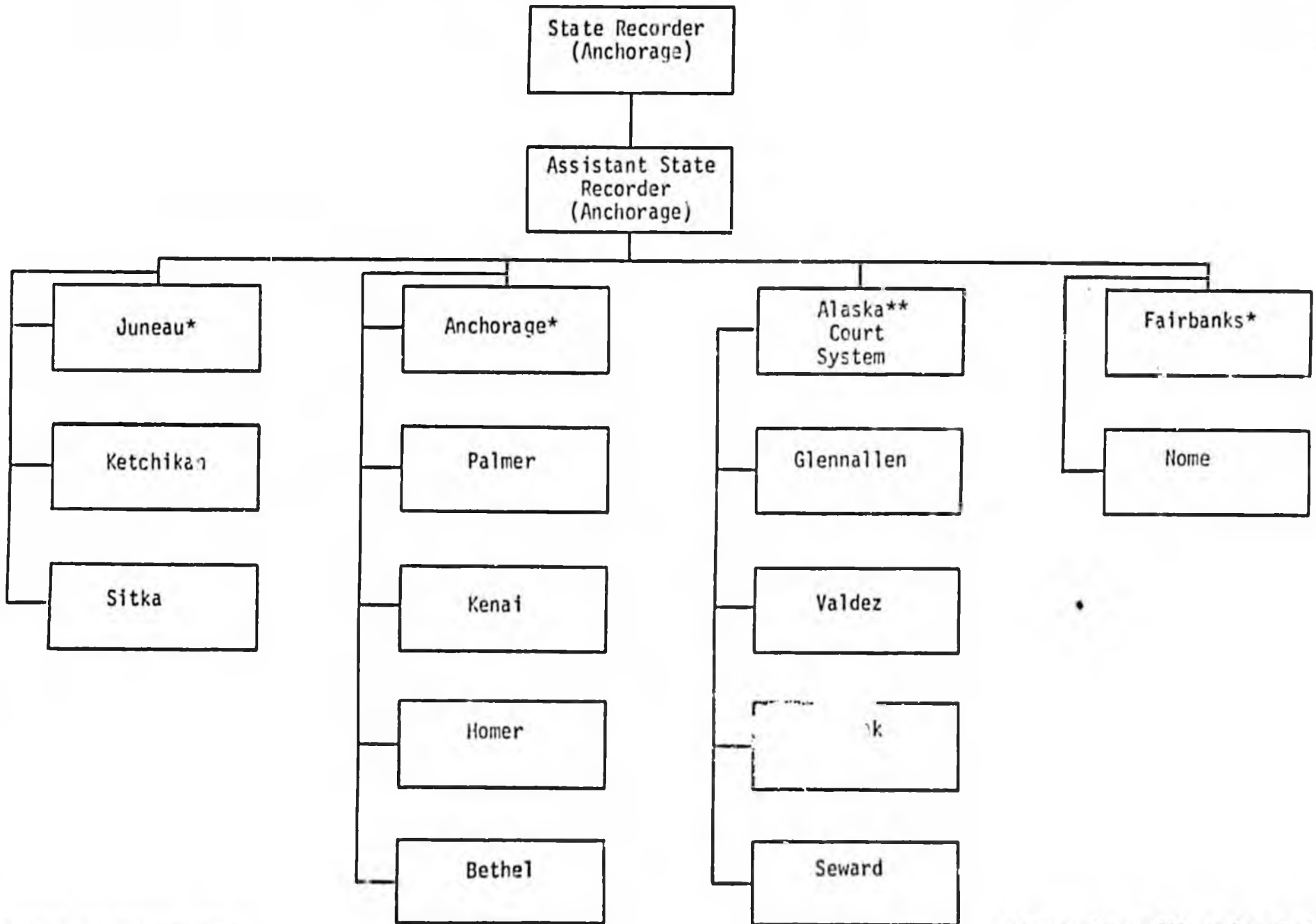
ALASKA
MAP A

THE BOUNDARIES OF RECORDING DISTRICTS, RED CIRCLES INDICATE LOCATIONS OF RECORDING OFFICES
WHERE LOCATED ARE DOTTED BOUNDARIES OF RECORDING DISTRICTS COINCIDENT WITH BOUNDARIES BETWEEN ADJACENT
RECORDING OFFICES FOR THE BRISTOL BAY DISTRICT IS AT COMPTON CREEK
RECORDING OFFICE FOR THE BRISTOL BAY DISTRICT IS AT MICHIGAN
WITHDRAWN AREAS ARE WITHDRAWN FROM PROSPECTING, AND MINING

RESEARCH DEPARTMENT
BUREAU OF LAND MANAGEMENT
UNIVERSITY OF ALASKA
February 8, 1938

NOTE: ONLY THE FEDERAL WITHDRAWN AREAS ARE SHOWN. THE EXISTENCE OF A SMALL WITHDRAWN AREA SHOULD
BE SUSPECTED IF ANY GOVERNMENTAL INSTALLATION OR PUBLIC PROPERTY, SUCH AS BARRIERS, ROADS,
BARRIERS, AIRFIELD, MILITARY ESTABLISHMENTS, AMBASSADATORIAL HEADQUARTERS OF AGENCIES, ETC. AND
SITINGS OR CITIES AT THE BUREAU OF LAND MANAGEMENT OFFICE IN THE APPROPRIATE DIVISION THROUGH
SOME WITHDRAWALS ARE NOT SHOWN. WITHDRAWN AREAS AND RECORDING DISTRICTS ARE SUBJECT TO
CHANGE.

Chart Showing Structure and Physical Location of Alaska State Recorder's Offices (1983). For Names of Geographical Areas Services by Each Office Refer to Statistical Chart Attached



*Serves as copy center for offices shown below.

**Recording offices located within Court System

TOTAL NUMBER OF DOCUMENTS FILED AND/OR RECORDED
COMPARATIVE STATISTICAL REPORT
BY RECORDING DISTRICTS
FOR CALENDAR YEARS

DISTRICT	1975	1976	1977	1978	1979	1980	1981	1982	1983	% Increase (Decrease)	
										Over Previous Year	Since 1975
ANCHORAGE*	56669	62218	72702	77619	68812	61602	82011	86793	111651	29	97
Aleutian Is.	213	213	283	323	321	725	1006	815	1127	38	429
Bristol Bay	473	533	472	499	855	576	701	720	704	(2)	49
Cordova	741	733	793	820	718	810	1765	1276	900	(30)	22
Iliamna	99	148	296	261	155	151	268	540	348	(36)	252
Kuskokwim	131	141	199	287	659	1268	1697	743	789	6	502
Kvichak	187	188	176	250	301	271	285	374	418	12	124
TOTAL	58513	64174	74921	80059	71821	65403	87733	91261	115937	27	98
BETHEL	669	737	993	1427	972	905	1362	2155	2030	(6)	203
CHITINA** (Glennallen)	1228	1206	1612	1418	1303	1582	1198	1287	1449	13	18
FAIRBANKS*	23916	25766	29458	31618	26184	28625	34847	32903	40294	23	69
Barrow	351	2425	7607	3360	661	1251	2510	1071	1436	34	309
Ft. Gibbon	46	38	654	174	329	217	981	66	181	174	294
Kotzebue	2073	1618	854	1988	1990	2149	3501	817	1228	50	(41)
Manley Hot Sp.	75	89	111	315	656	942	592	333	323	(3)	331
Mt. McKinley	141	205	268	452	362	748	1987	1160	1889	63	1240
Nenana	1751	1414	1198	1252	935	831	1163	941	1041	11	(41)
Nulato	60	408	309	194	553	1011	619	1273	1843	45	2972
Rampart	25	41	58	67	112	58	174	84	69	(18)	176
TOTAL	28438	32004	40517	39420	31782	35832	46374	38648	48304	25	70
HOMER	2916	3578	5201	5628	5306	4634	5328	5313	7236	36	148
Seldovia		245	232	285	609	733	498	321	479	49	96
TOTAL	2916	3823	5433	5913	5915	5067	5826	5634	7715	37	165

DISTRICT	1975	1976	1977	1978	1979	1980	1981	1982	1983	% Increase/(Decrease)	
										Previous Year	Since 1975
KENAI	7042	7959	11009	12364	11067	9367	10803	12020	17291	44	146
KETCHIKAN	4491	5963	5886	5495	5286	4448	5681	5306	6985	32	56
Petersburg	1209	814	1148	2439	951	1308	1320	1155	1534	33	27
Wrangell	523	607	720	1484	531	336	439	577	725	26	39
TOTAL	6223	7384	7754	9418	6768	6092	7440	7038	9244	31	49
JUNEAU*	4772	6083	7460	9336	7801	8483	10638	10634	15184	43	218
Haines	448	485	496	595	497	506	650	678	1020	50	128
Skagway	288	334	345	249	225	168	211	222	161	(28)	(44)
TOTAL	5508	6902	8301	10180	8523	9157	11499	11534	16365	42	197
KODIAK**	2149	2481	2653	2580	2693	2415	3116	3124	4126	32	118
NOME	1681	2768	2021	6978	3479	3514	3071	2843	2986	5	78
PALMER	12034	14573	17678	19189	18180	14409	19186	23410	33708	44	180
Talkeetna	2009	3448	2412	2269	3105	4105	3746	3348	3744	12	86
TOTAL	14043	18021	20090	21458	21285	18514	22932	26758	37452	40	167
SEWARD**	1378	1359	1690	1864	1731	1430	2695	2491	3221	29	134
SITKA	1501	1896	2377	2956	2283	2221	2916	2505	2985	19	99
VALDEZ**	1633	1207	1363	1488	2104	1808	1731	1725	1795	4	10
Combined Statistics	132922	151921	180734	197523	171726	163307	208696	209023	270900	30	104

NOTES

*Court Center

These offices not only serve as the place of recording for the districts named but also serve as copy centers for a designated number of smaller offices which do not have adequate copy, micrographic and reproduction capabilities.

**Court Offices

These Recording Offices are located within the Court facilities and are staffed by part-time or full-time court employees.

XIV. TABLE OF COMMON DOCUMENTS

This is a compiled list of legal documents that are most frequently recorded of record: (Must use Book & Page Numbers)

DOCUMENTS RECORDED IN THE DEED BOOK: INDEX CODE - D

Warranty Deed	AS 34.15.030
Quitclaim Deed	AS 34.15.040
State Police Deed	
Guardian's, Administrator's or Executor's Deed	AS 34.25.050
Trustee's Deed	AS 34.25.080
Patents	
Clerks Deed	
Bill of Sale (when conveyance of real property and requires a full acknowledgement)	
Tax Deed	AS 34.25.080

DOCUMENTS RECORDED IN THE LIEN BOOK: INDEX CODE - LI

Notice of Right To Lien	AS 34.35.064
Acknowledgement of Right to Lien	AS 34.35.069
Verified Mechanics or Materialmen Lien	AS 34.35.070
Bond	AS 34.35.072
Extension Notice	AS 34.35.080
Release of Lien	AS 34.35.485
Certified Copy of Judgement or Decree of a Court of This State or the United States	AS 09.30.010
Satisfaction of Judgement	AS 09.30.310
Certificate of Attachment or an Order or Proceeding of Record Discharging attachment	AS 09.40.050
Employees Lien for Failure to Make Payments to a Benefit Fund	AS 23.10.047
Verified Workmen's Compensation Lien	AS 23.30.165
Timber and Lumber Liens	AS 34.35.230 - 240
Landowner's Lien For Timber	AS 34.35.245
Manufacturing Lien Claim	AS 34.35.305
Packers & Processor's Lien	AS 34.35.320 - 330
Child Support Lien	AS 47.23.230
Watchmen's Lien	AS 34.35.395 - 415

DOCUMENTS RECORDED IN THE MINING BOOK: INDEX CODE - MI

Mining Location	AS 38.05.195 & 27.10.050
Amended Location	AS 38.05.200 & 27.10.070
Mining Lease	AS 38.05.205
Annual Labor	AS 38.05.210 & 27.10.160
Surveys May Qualify as Annual Labor	AS 27.10.230
Notice to Contribute & Affidavits	AS 38.05.220 & 27.10.190
Liens on Mines & Oil Wells	AS 34.35.125 - 165
Lien for Performance of Annual Labor	AS 38.05.230
Prospecting Site Location	AS 38.05.245
Grubstake Contract	AS 27.10.020 & 27.15.010

TAKEN FROM THE MANUAL OF RECORDING
PROCEDURE FOR THE ALASKA LAND RECORDING
OFFICE DATED JULY 1, 1980

DOCUMENTS RECORDED IN THE MISCELLANEOUS BOOK:

INDEX CODE - MS

CONTRACT OR OPTION FOR THE SALE OR PURCHASE OF REAL PROPERTY WHEN ACKNOWLEDGED BY ALL PARTIES RESTRICTIONS & COVENANTS ON REAL PROPERTY	
LIS PENDENS (containing description of property) (must contain the case number assigned by the court, no requirement to be notarized)	AS 09.45.790
FINAL ORDER OF CONDEMNATION	AS 09.55.370
DECLARATION OF TAKING	AS 09.55.420
LETTER OF CONSERVATORSHIP & ORDERS TERMINATING CONSERVATORSHIP	AS 13.26.265
CONDOMINIUM DECLARATION & AMENDMENTS	AS 34.07.020 - 0
WATER APPROPRIATION OR CERTIFIED COPY BY COMMISSIONER OF DEPT. OF NATURAL RESOURCES	AS 46.15.160
LEASES, SUB-LEASES, ASSIGNMENTS & TERMINATIONS DISCHARGE PAPERS UTILITY, SEWER & RIGHT OF WAY EASEMENTS ASSIGNMENTS OF RENT & RELEASES THEREOF JUDGEMENTS QUIETING TITLE DECREES OF DIVORCE	
ATTESTED OR NOTARIZED COPY OF A NOTICE OF NONRESPONSIBILITY	AS 34.35.065
VERIFIED NOTICE OF COMPLETION	AS 34.35.071
PARTY WALL AGREEMENTS	
CERTIFICATE OF REDEMPTION	AS 29.53.320
CERTIFICATE OF SALE	
CONTRACT FOR THE SALE OF TIMER, MINERALS, OR THE LIKE OR A STRUCTURE OR ITS MATERIALS TO BE REMOVED FROM REALTY IS A CONTRACT FOR THE SALE OF GOODS. EFFECTIVE AS A TRANSFER OF AN INTEREST IN LAND.	AS 45.02.107
OIL & GAS LEASES & ASSIGNMENTS EARNEST MONEY RECEIPT (acceptable only if signature of seller and buyer is acknowledged)	

TAKEN FROM THE MANUAL OF RECORDING
PROCEDURE FOR THE ALASKA LAND RECORDING
OFFICE DATED JULY 1, 1980

DOCUMENTS RECORDED IN THE MORTGAGE BOOK:

INDEX CODE - M

REAL MORTGAGE	AS 34.20
RELEASE OF MORTGAGE	AS 34.20
DEED OF TRUST & ASSIGNMENTS	AS 34.20.110
PROMISSORY NOTE (acceptable only if attached to a deed of trust or if separate document original signature must be acknowledged and must contain the legal description of property)	
SUBSTITUTION OF TRUSTEE	AS 34.20.120
ASSIGNMENT OF BENEFICIAL INTEREST	AS 34.20.130
SUBORDINATION OR WAIVER AS TO PRIORITY	AS 34.20.130
NOTICE LIMITING FUTURE ADVANCES	AS 06.30.560
NOTICE OF DEFAULT	AS 34.20.070
AFFIDAVIT OF PUBLICATION OF NOTICE OF SALE	AS 34.20.080
AFFIDAVIT OF MAILING THE NOTICE OF DEFAULT	AS 34.20.080
DEED OF RECONVEYANCE	

DOCUMENTS RECORDED IN THE POWER OF ATTORNEY BOOK: INDEX CODE - PA
POWER OF ATTORNEY & REVOCATION THEREOF AS 34.15.320 - 33

TAKEN FROM THE MANUAL OF RECORDING
PROCEDURE FOR THE ALASKA LAND RECORDING
OFFICE DATED JULY 1, 1980

This is a compiled list of legal documents that are most frequently filed of record: (No Book & Page Number is used)

DOCUMENTS FILED:

BULK SALE TRANSFER	AS 45.05.516	INDEX CODE - BS
COPY OF RECORD OF MEETING OF CENETARY ASSOCIATION	AS 10.30.020	INDEX CODE - CM
FINANCING STATEMENTS, SECURITY AGREEMENTS - U.C.C. Amendments & Continuations	AS 45.05.768*	INDEX CODE - FS
ASSIGNMENTS OF F. S.	AS 45.05.776	INDEX CODE - FS
TERMINATION STATEMENTS & PARTIAL RELEASES - U.C.C.	AS 45.05.774 .	INDEX CODE - TS
COOPERATIVE CONTRACTS & TERMINATIONS	AS 10.15.230 - 255	INDEX CODE - FS
LIST OF TERMINATED CONTRACTS	AS 10.15.260	INDEX CODE - FS
PLATS	AS 40.15.010	INDEX CODE - PL
PLAT WAIVERS	AS 29.33.170	INDEX CODE - PL
CONDOMINIUM SURVEYS	AS 34.07.030	INDEX CODE - PL
BOUNDARY SURVEYS		INDEX CODE - PL
LIMITED PARTNERSHIP	AS 32.10.010	INDEX CODE - PR
MISCELLANEOUS LIENS		INDEX CODE - FL
LIEN NOTICE ON CHATTELS	AS 34.35.175 - 190	
HOSPITAL & NURSES LIEN	AS 34.35.450 - 480	
VERIFIED WAGE LIEN	AS 34.35.440	
TAX LIENS & RELEASES		INDEX CODE - TL
STATE TAX LIEN	AS 43.20.240	
FEDERAL TAX LIEN	AS 43.10.090 - 150	
EMPLOYMENT SECURITY CONTRIBUTION	AS 23.20.200	
REAL PROPERTY OWNERSHIPS	AS 34.10.040	INDEX CODE - PO
(Repealed 7/19/78 - Only ones stamped by the Dept. of Natural Resources Filed)		
LOG BRANDS	AS 45.50.250	INDEX CODE - LB
(Amended - Now filed with the Dept. of Natural Resources, Forest Land & Water Management "Forestry").		

TAKEN FROM THE MANUAL OF RECORDING
PROCEDURE FOR THE ALASKA LAND RECORDING
OFFICE DATED JULY 1, 1990

5-1077B
Bannister
2/1/88

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, laws 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 commun-
25 ity 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. Δ [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 acknowledgment 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.

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:

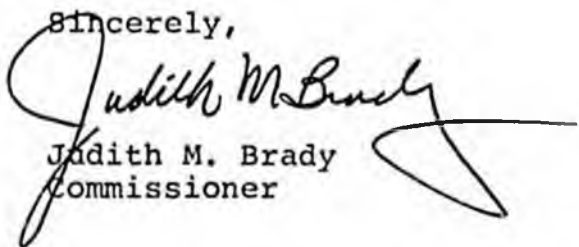
Your staff has requested a position statement on SB 304, An act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities.

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

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FRIDAY

No. 7

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)

STATE 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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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 transmittal 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. 6-204(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 1005, 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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This is consistent with Rule 1005, Alaska Rules of Evidence. Subsections (b) and (c) provide in detail for several rebuttable presumptions arising from recording. By Alaska Rules 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 34.15.290, 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
Page 2
April 10, 1987

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

ALASKA CODE REVISION COMMISSION



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EXECUTIVE SECRETARY
TAMARA BRANDT COOK

MEMORANDUM

TO: Alaska Code Revision Commission

FROM: Dick Regan, Research Director *like Regan*

DATE: February 4, 1985

RE: Reintroduction of recording bill

The attached transmittal and general features part of the commentary are proposed for submission with the commission's bill on recording and recordable documents. No change is required in the balance of the commentary. The emphasis in the transmittal is on those aspects of the bill that make it a vehicle for a future high technology system. That might get legislative attention. However, it can be changed if you prefer emphasis to be on the general cleanup aspect of the bill.

As this is penciled, a question (a small one, I think) has again raised its head: John Abbott met with DNR representatives and got their commitment to support the bill if a Blacks Law Dictionary definition of "conformed copy" could be included. John left it to me to deal with the question, and I agreed with Joe Burch of DNR that we would use the definition although I had reservations. In the LAA review of the bill the definition was independently challenged, and I was called over to discuss it. The outcome is discarding the definition but using the term "exact or conformed copy" in the text of the bill in place of the term "conformed copy". That should satisfy Burch, but I will assure that it is explained and worked out so it will not jeopardize DNR support. I think it a small matter in the larger picture.

LAA will have the bill in retyped form for introduction by the time of the commission meeting.

DR:chw
Enclosures

ALASKA CODE REVISION COMMISSION



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February 15, 1985

EXECUTIVE SECRETARY
TAMARA BRANDT COOK

The Honorable Jack Fuller
Chairman, Alaska Legislative Council
Pouch V, State Capitol
Juneau, Alaska 99811

Re: Bill on recording and recorded documents

Dear Chairman Fuller:

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 Fourteenth Legislature.

The bill has been in the legislature before. In the Thirteenth Legislature it was HB 342/SB 245 which in turn was a somewhat revised version of SB 78 of the Twelfth Legislature.

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.

Differences between this bill and the corresponding bill first introduced are explained in the attached commentary and section analysis.

The Department of Natural Resources joins the commission in urging enactment of the bill in its present form.

Respectfully submitted,

John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Attachments

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Executive Director, Legislative Affairs Agency

FEBRUARY, 1985
ALASKA CODE REVISION COMMISSION
COMMENTARY TO ACCOMPANY DRAFT ON
RECORDING AND RECORDED DOCUMENTS

GENERAL FEATURES OF THE BILL

A bill drafted by the Alaska Code Revision Commission to revise the law on the public recording system was in the Twelfth Legislature as SB 78 and in the Thirteenth Legislature as HB 342/SB 245. There were significant changes in the bill between the Twelfth and Thirteenth Legislatures. Because of other priorities, the bill in the Thirteenth Legislature got little attention and did not move out of committee. That bill is here reintroduced without material change. Since the changes are to the initial form of the bill, notes on changes relate back to SB 78 of the Twelfth Legislature. The attached bill is a redrafted SB 78 with changes to accommodate some requests from title companies and by the Department of Natural Resources.

Existing AS 34.15.260--34.15.350, AS 34.20.020, and AS 43.10.090--43.10.150 would be repealed by the bill.

The main purpose of the bill remains the same: (1) to gather together and clarify the jumble of Alaska law on recording, and (2) to provide a structure for future centralized recording. That 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.

Most of SB 78 is carried over into the attached bill, but there are some changes.

A provision in SB 78 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 about the provision agreed that there are shortcomings in the practices of some notaries public, they urged that the acknowledgment requirement not be dropped. The commission has accepted their position in the attached redrafted bill.

SB 78 provided for recording of subdivision plats and certain other maps and plats. The attached bill continues the requirement of SB 78 that these plats and maps be recorded. However, it adds the requirement that the original be retained in the recording office, 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 taken off.

An innovative part of the bill carried over from SB 78 is a provision 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 the 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.

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, adopted in Alaska in 1933. That Act would be repealed and replaced by proposed AS 40.19.010--40.19.030. The new sections follow the current Uniform Federal Lien Registration Act (1978) with changes and deletions to fit Alaska's statewide recording system. 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.

SECTION ANALYSIS

Sections 1-19

Sections 1 through 19 deal with plats and maps and can be considered as a unit.

Some of the existing statutes on plats use the terms "file" and "record" interchangeably. Although statutory directions are not always clear, existing practice is to not record

A provision in SB 78 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 about the provision agreed that there are shortcomings in the practices of some notaries public, they urged that the acknowledgment requirement not be dropped. The commission has accepted their position in the attached redrafted bill.

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Some of the existing statutes on plats use 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.

Sections 1 through 19 change existing law and practice. They retain provisions for keeping plats on file but add the requirement that they be recorded; that is, copied into public records. In generations past, recording required laborious copy-

ing 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 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 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.

The first nineteen sections of the bill make this change for the following:

- Sec. 1 (AS 19.10.260(2))--state highway right-of-way maps
- Sec. 2 (AS 29.33.160(b))--subdivision and dedication plats
- Sec. 3 (AS 29.33.170)--subdivision and dedication plats
- Sec. 4 (AS 29.33.190)--subdivision and dedication plats
- Sec. 5 (AS 29.33.200)--subdivision and dedication plats
- Sec. 6 (AS 29.33.230)--subdivision and dedication plats
- Sec. 7 (AS 34.07.020(14))--condominium floor plans
- Sec. 8 (AS 34.07.030)--condominium floor plans & survey maps
- Sec. 9 (AS 34.07.040(a))--condominium floor plans
- Sec. 10 (AS 34.07.050)--condominium floor plans
- Sec. 11 (AS 34.08.045(b))--state subdivisions
- Sec. 12 (AS 40.15.010)--subdivision and dedication plats
- Sec. 13 (AS 40.15.020)--subdivision and dedication plats
- Sec. 14 (AS 40.15.030)--subdivision and dedication plats
- Sec. 15 (AS 40.15.040)--subdivision and dedication plats
- Sec. 16 (AS 40.15.050)--subdivision and dedication plats
- Sec. 17 (AS 40.15.060)--subdivision and dedication plats

Sec. 18 (AS 40.15.070)--subdivision and dedication plats

Sec. 19 (AS 40.15.075)--subdivision and dedication plats

Section 20

The main body of the bill is Section 18. It creates a new chapter 17 in title 40 to replace AS 34.15.260--34.15.350. In it 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 transmittal and access. Central recording of B documents is to permit tight

control by the recorder--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 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 in class A 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 class A system can be risked. (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.

(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 40.17.040.

AS 40.17.030

SOURCE: (a)(1) is from USLTA § 2-301(a)(1); (a)(2)

is from USLTA § 2-301(a)(2); (a)(3) is from USLTA § 2-301(a)(3); (a)(4) and (a)(5) are original drafting; (a)(6) is AS 34.15.345 paraphrased; (b) is original drafting; and (c) is from USLTA § 2-301(b).

COMMENT: 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.

(a)(4) contains only a minimal reference to the requirement of indexing information. Indexing is the subject of the following section, 040. (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. (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.

Regarding (c), in its redrafted form 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 40.17.140, 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, 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 § 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 § 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 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 covered in AS 40.17.090. See also Rule 1005, Alaska Rules of Evidence.

AS 40.17.070

SOURCE: (a) is from USLTA § 6-203; (b) is original drafting; (c) and (d) are based upon USLTA § 6-204(a) and 6-204(b), with additions; (e) is from USLTA § 6-204(c); (f) is from USLTA § 6-205(a); (g) is from USLTA § 6-205(d); (h) is from USLTA § 6-201(b); and (i) is from USLTA § 6-204(d) paraphrased.

COMMENT: The recorder's duties are spelled out in this section. (b) is another provision to assure that class B recording will not be confused with class A. (b) does not refer to book and page indexing, but book and page indexing is consistent with it and can be continued so 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. (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 § 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. (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: (a) is from AS 34.15.260(c)(1). (b) and (c) are based upon USLTA § 2-305(a) and (b), which in turn are based upon the Model Act Concerning Evidentiary Effect of the Record. (d) is original drafting; and (e) is from USLTA § 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. (a) makes a recorded conveyance in proper form admissible in evidence without further proof. This is consistent with Rule 1005, Alaska Rules of Evidence. (b) and (c) provide in detail for several rebuttable presumptions arising from recording in class A. 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); (b)(11) is from AS 34.15.340(a)(1); (b)(12) is based upon Bankruptcy Rule 602; (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; (b)(38) is from AS 34.07.030; (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. 19 of this bill); (b)(50) is from AS 46.25.160; (b)(51) is from the UCC, §§ 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(a); (b)(56), (b)(57) and (c) and (d) 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 indexed 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 his own 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.

(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. (b)(7) broadly affords the opportunity to record a document that limits property rights, including a Public Land Order. (b)(12) provides for recording a bankruptcy petition which appears still to be required by Bankruptcy Rule 602(a). (b)(13) provides for recording a traditional notice of cases pending in Alaska and United States courts that affect Alaska real property. (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. (b)(51) is a category called "fixture filing" in the 1972 uniform amendments to the UCC. (Reference: AS 45.09.313(1) and 45.09.402(F)). (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.

(c) is to include in class A all documents made recordable by other law or by regulation of the department.

AS 40.17.120

SOURCE: USLTA § 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 § 6-210 with changes and (b) is from USLTA § 6-211 with changes.

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 40.17.140

SOURCE: (1) is original drafting; (2) is from USLTA § 1-201; (3) is based on Rule 902, Alaska Rules of Evidence; (4) is founded on AS 44.37.025 (part of Executive Order 47 which became law during 1980); (5) is from USLTA § 1-201; (6) is original drafting; (7) is based upon USLTA § 1-201; (8) and (9)

are original drafting; and (10) is from USLTA § 1-201.

COMMENT: The broad definition of "document" is used in the draft to permit advanced technology in recording. (7) makes acceptance for recording the event that determines when a document is recorded.

Section 21

SOURCE: AS 40.19.010--40.19.250 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, all approved 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. § 6323 refers to "filing" of federal tax liens, 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. § 6323) contains no such requirement. We are informed by recording officials of King County, Washington that adopting of the provision in that state led to much confusion there. It is deleted from AS 40.19.-

020--40.19.040 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 search them himself. 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.

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, SLA 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 lien indices that are unnecessary and are not being kept as separate indices; and (3) its provision for physically attaching a release to the original lien is not workable for recorded liens.

Section 22

SOURCE: The section is original drafting.

COMMENT: Recording of a master form is provided for by AS 40.17.050 as it appears in section 20 of this bill. This section is to outlaw a possible misuse of the recordable form.

Section 23

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 24

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 Revisor of Statutes might wish to change this section to Title 40 with recording statutes rather than to leave it in Title 44 with statutes on duties of state departments.

Section 25

COMMENT: There is not a 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, in (d) of the section the various statutes are listed in which terminology should be changed to "record" from "file" or "file for record." The sections listed in (d) are gathered together in a binder and marked up for assistance to the Revisor of Statutes.

Section 26

COMMENT: Sections included in this repealer are discussed in the general comments at the start of these notes.

Section 27

COMMENT: It is primarily preparation for recording and indexing class B documents that warrants a deferred effective date. Amendment of the bill before passage could require an earlier or later date.

INDEX TO RECORDING BILL

Secs. 1-19

Amending AS sections to provide for filing and recording of plats and maps, as detailed at start of Section Analysis.

Sec. 20

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 40.17.140--DEFINITIONS

Sec. 21

Creating a Chapter 19 in Title 40 on RECORDING FEDERAL LIENS.

AS 40.19.010--SCOPE

AS 40.19.020--PLACE OF RECORDING

AS 40.19.030--EXECUTION OF NOTICES AND CERTIFICATES

AS 40.19.040--DUTIES OF RECORDER

AS 40.19.050--UNIFORMITY OF APPLICATION AND CONSTRUCTION

Sec. 22

AS 34.15.015--USE OF RECORDED MASTER FORM

Sec. 23

AS 43.10.042--RECORDING LIEN AND CERTIFICATE OF DISCHARGE

Sec. 24

AS 44.37.025--RECORDING (basic authority of Department of
Natural Resources)

Sec. 25

Listing sections in which Revisor of Statutes is to
change terminology.

Sec. 26

Repealer.

Sec. 27

Effective date.