

SB

1911

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 191

Revision Date: 19-Mar-91 Department Affected: Natural Resources
 Title: Homestead Entry Program BRU: Land & Water
 Components: Land & Water
 Sponsor: Senator Ellason
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Gary Gustafson Phone: 762-2672
 Division: Land & Water Date: 19-Mar-91
 Approved by Commissioner: Harold Heinze Date: 19-Mar-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

ALASKA STATE LEGISLATURE SENATE

SENATOR RICHARD I. ELIASON

PRESIDENT OF THE SENATE
LABOR & COMMERCE COMMITTEE
RESOURCES COMMITTEE
RULES COMMITTEE
CHAIRMAN, SPECIAL COMMITTEE ON
DOMESTIC & INTERNATIONAL
COMMERCIAL FISHERIES



P.O. BOX 143
SITKA, ALASKA 99835

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4916

FAX (907) 465 4928

M E M O R A N D U M

TO: Senator Rick Halford, Chairman
Senate Judiciary Committee

FROM: Senator Dick Eliason

DATE: March 18, 1991

RE: Scheduling of SB 191

I would like to request that SB 191 be scheduled for a hearing in your Judiciary Committee. The bill is aimed at correcting a few problems in the state's homesite program, primarily "house-keeping-type" problems that have arisen over things which were simply not anticipated when the program was established.

Some information regarding the bill is attached. If you need further information, please contact Mary McDowell of my staff.

Thank you.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

April 5, 1991

SUBJECT: Draft CSSB 191 (Judiciary)

TO: Senator Rick Halford, Chair
Senate Judiciary Committee
ATTN: Doug Baily

FROM: Jack Chenoweth
Legislative Counsel

I have prepared section 10 of the draft committee substitute in line with your instructions, but I take this opportunity to invite the committee to give further consideration to the effect of its decision.

It should be obvious that the Act applies to events that occur after the effective date of the Act. We don't usually draft and then, in a separate section, say that. Having said it in this bill, you invite litigants challenging this legislation (or other legislation that lacks this kind of statement) to question the validity of the Act. Also, your choice of language seems to raise a question as to whether or not other bill sections not mentioned in section 10 apply to new homesite patents and permits.

If the committee insists on abandoning the language of section 10 of the original and substituting something in line with your instruction, we would be more comfortable with:

* Sec. 10. APPLICABILITY. This Act applies to homesite entry patents and permits issued on or after the effective date of this Act, and the following provisions of this Act apply retroactively to homesite entry patents and permits that are in effect on the effective date of this Act:

((setting out the list))

Thank you.

JC:gc
91-188.glc

Enclosure

SECTION 10 The provisions of Sections 1,2,3,5,7, of this Act apply to all homosite entry patents and permits that are in effect as of the effective date of this Act, as well as to homosite entry permits and patents issued after the effective date of this Act.

This new Sec 10 is adopted

Pass with Indw. Rec.

SENATE BILL NO. SB191

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR ELIASON, *Duncan, Menard*

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the homesite entry program; and providing for an effective date."

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

3 * Section 1. AS 38.08.040(c) is amended to read:

4 (c) The permit may not be assigned, conveyed, or in any manner transferred except by
5 testate or intestate succession, to a spouse during marriage, by order of a court as part of a
6 divorce or dissolution of marriage settlement, or to either a member of the immediate family
7 or a grantee of the applicant in the case of an extreme emergency or illness that disables the
8 applicant. An attempt to assign, convey, [OR IN ANY MANNER] transfer, or acquire a [THE]
9 permit except as permitted by this subsection or by (e) of this section is void and constitutes a
10 substantial breach of the permit.

11 * Sec. 2. AS 38.08.040(d) is amended to read:

12 (d) An applicant may apply for more than one available homesite. Except as provided
13 in (e) of this section,

14 (1) a [A] person holding a homesite patent may not apply for a homesite entry

1 permit;

2 (2) [,] a person may not simultaneously hold more than one homesite entry
3 permit; [,] and

4 (3) a person who is a member of the homesite entry permit holder's household
5 may not be issued a homesite entry permit while a member of the homesite entry permit holder's
6 household.

7 * Sec. 3. AS 38.08.040 is amended by adding a new subsection to read:

8 (e) The limitations against applying for or holding a homesite patent or homesite entry
9 permit set out in (c) and (d) of this section do not apply to a homesite patent or homesite entry
10 permit

11 (1) transferred by testate or intestate succession; or

12 (2) transferred with the approval of the director in the case of an extreme
13 emergency involving a person applying for or holding a patent or permit or in the case of an
14 illness that disables the person.

15 * Sec. 4. AS 38.08.060(a) is amended to read:

16 (a) A person who enters upon homesite entry land under a permit issued by the director
17 shall be issued a patent to the land conveying an unencumbered title if that person

18 (1) occupies the land for a cumulative total of 35 months within the seven-year
19 period following issuance of the homesite entry permit;

20 (2) erects a habitable, permanent, single-family dwelling on the homesite, that
21 [WHICH] meets all applicable state and local regulations, within five years of the date of
22 issuance of the homesite entry permit; for the purposes of this paragraph, a mobile home is
23 [HOMES ARE] not considered to be a permanent dwelling [DWELLINGS] unless it is [THEY
24 ARE] placed on and permanently attached to a permanent foundation;

25 (3) reimburses the state for the survey and platting undertaken in accordance with
26 this chapter; the director shall provide by regulation for installment payments of this requirement.

27 * Sec. 5. AS 38.08.060(c) is amended to read:

28 (c) Except as provided in (f) and (g) of this section, a [A] person

29 (1) may not be issued more than one patent during a lifetime;

30 (2) [, NOR MAY ANY PERSON] who is a member of a patent holder's
31 household may not be issued a permit [PATENT] while a member of the patent holder's

1 household.

2 * Sec. 6. AS 38.08.060(d) is amended to read:

3 (d) If a dwelling is found to have been substantially completed under AS 38.08.100(1)
4 [AS 38.08.100], patent shall be issued upon completion of the dwelling if that completion meets
5 the requirements of AS 38.08.100(2), notwithstanding (a)(2) of this section.

6 * Sec. 7. AS 38.08.060 is amended by adding new subsections to read:

7 (f) Notwithstanding (c) of this section, an applicant who inherits the homesite entry
8 permit of another applicant may

9 (1) qualify under this section for each homesite entry;

10 (2) use the efforts of the deceased applicant to qualify for the patent to the
11 inherited entry; and

12 (3) be issued a patent under this section.

13 (g) The limitations against applying for or holding a homesite patent or homesite entry
14 permit set out in this section do not apply to a homesite patent or permit

15 (1) transferred by testate or intestate succession; or

16 (2) transferred with the approval of the director in the case of an extreme
17 emergency involving a person holding a patent or permit or in the case of an illness that disables
18 the person.

19 * Sec. 8. AS 38.08.100 is amended to read:

20 Sec. 38.08.100. REVOCATION OF ENTRY PERMIT [SUBSTANTIAL
21 COMPLETION OF DWELLING]. The director may revoke a homesite [AN] entry permit
22 [MAY NOT BE REVOKED] for failure to

23 (1) erect a dwelling in the time required under AS 38.08.060(a)(2) unless [IF] the
24 director finds that erection of the dwelling has been substantially completed and progress toward
25 completion is being made at the expiration of the time required; or

26 (2) convert a substantially completed dwelling for which an exception has
27 been made under (1) of this section into a habitable permanent dwelling within one year
28 after the deadline set out in AS 38.08.060(a)(2).

29 * Sec. 9. Section 87, ch. 152, SLA 1984 is amended to read:

30 Sec. 87. For homesite entry permits issued by the commissioner of natural resources
31 under AS 38.08.040 before July 1, 1983, the director

1 (1) may

2 (A) grant the person [MAY BE GRANTED] 10 years to accumulate the
3 35 months of residence required under AS 38.08.060(a)(1);

4 (B) grant the person [AND MAY BE GRANTED] eight years to erect
5 a habitable, permanent, single family dwelling on the homesite as required under
6 AS 38.08.060(a)(2);

7 (2) shall revoke a homestead entry permit for failure

8 (A) to erect a dwelling in the time required by (1)(B) of this section
9 unless the director finds that erection of the dwelling has been substantially
10 completed and progress toward completion is being made at the expiration of the
11 time required;

12 (B) to convert a substantially completed dwelling for which an
13 exception has been made under (1) of this section into a habitable permanent
14 dwelling within one year after the deadline set out in (A) of this paragraph.

15 * Sec. 10. The provisions of this Act apply to all homesite entry patents and permits that are in effect
16 as of the effective date of this Act.

17 * Sec. 11. This Act takes effect July 1, 1991.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FACSIMILE: (907) 586-2754

April 3, 1991

The Honorable Rick Halford, Chair
Senate Judiciary Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Halford:

Subject: SB 191, which corrects inequities and administrative problems in the department's homesite entry land disposal program.

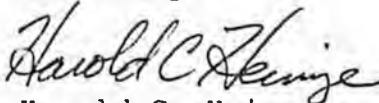
Position: The Department of Natural Resources supports this bill.

Background: The state's homesite program allows state residents of at least 18 years of age to apply for a permit to occupy and improve a homesite parcel in order to qualify for patent to the land. Only one homesite parcel is allowed per person and per household. To receive patent to the land, the applicant must erect a permanent, habitable dwelling within five years of receiving the permit and live on the land for 35 months within a seven year period. Five percent of the fair market value of the land may be paid to the state as a substitute for the 35 month living requirement.

In administering the department's homesite entry land disposal program, a number of inequities and administrative problems have come to light, including: inheritance of permits, transfer of permits, more than one permit per household because of divorce and remarriage, the deadline for building a structure on the homesite, and when deadline extensions may be granted. This bill would address these inequities and problems.

Please let me know if you have questions about this matter.

Sincerely,



Harold C. Heinze
Commissioner

enclosures

cc: Senator El'ason
Senator Duncan
Senator Menard
Committee Members
Bruce Kendall, Legislative Liaison, Office of the Governor

SB 191 Analysis

Section 1: Allows a permit to be transferred as part of the dissolution of a marriage; also allows a permit to be inherited.

Section 2: Allows a person to hold a permit to more than one homesite because of an inheritance, or because of a disabling injury to the original permit holder.

Section 3: New language needed to implement Sections 1 and 2.

Section 4: Amends the existing building requirement to ensure that dwellings are permanently attached to a permanent foundation. Mobile homes have, in the past, been placed on foundations to meet building requirements, and then removed once the department completed its inspection. Under this new language, mobile homes would still be allowed, but they would need to be permanently attached to a permanent foundation.

Section 5: Allows permit holders who marry after receiving their permits to both obtain title to homesteads. Currently, only one patent per household is allowed.

Section 6: Allows an applicant to obtain title to a homesite if the building requirements, as clarified by this bill, are met.

Section 7: Allows the applicant to obtain title to more than one homesite by inheritance and use the efforts of the deceased applicant to qualify for the homesite, or receive title if the permit was obtained from a disabled permit holder. (This is similar to Sections 1 and 2, but relates to obtaining title to the land. Sections 1 and 2 relate to holding the permit.)

Section 8: Amends the current law to allow an applicant an additional year to complete a dwelling if the director finds that a dwelling has been substantially completed within 5 years, but is not yet habitable. This would make the homesite program consistent with the homestead program (AS 38.09.040(a)(3)).

Section 9: Provides the same building requirement opportunities to applicants who received their entry permits prior to July 1, 1983 as is currently provided to applicants.

Section 10: Makes the provisions of this bill apply to anyone who currently holds a homesite entry permit.

Section 11: Adds an effective date of July 1, 1991 for the bill.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 191

Revision Date: 19-Mar-91 Department Affected: Natural Resources
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 Components: Land & Water
 Sponsor: Senator Eliason
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

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LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Gary Gustafson Phone: 762-2672
 Division: Land & Water Date: 19-Mar-91
 Approved by Commissioner: Harold Heinze Date: 19-Mar-91
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Sectional analysis of proposed homesite legislation

The changes proposed in this legislation are omnibus in nature. They are aimed to fix inequities in who may obtain permits and patents. The legislation also fixes several problems in how the program is administered. The following is a sectional analysis of this legislation.

Section 1. Allows permits to be transferred as the result of a dissolution of marriage and for a permit to be inherited.

Section 2. Allows a person to hold a hold a permit to more than one homesite in the case of inheritance, or disabling injury to the original permit holder.

Section 3. New language that implements Section 1 and 2.

Section 4. Amends the building requirement to ensure that dwellings and permanently attached to a permanent foundation. There have been numerous occasions where people placed a mobile home on a foundation then would easily remove the mobile home after the site was inspected. The use of mobile homes would still be permitted but they would have to be permanently attached to a foundation. The intent is that the permit holder actually use the site as a homesite.

Section 5. Allows permit holders who later marry to both obtain title to their homesites. The present law says only one patent per household. However, the permit for both permit holders were legally obtained before they married.

Section 6. Allows applicants to obtain title to their homesite if they meet building requirements. The building requirements are described in Section 8 of this legislation.

Section 7. This is new language that allows an applicant to obtain title to more than one homesite if obtained by inheritance, use the efforts by the deceased applicant to qualify, and obtain title if the permit was obtained from a disabled permit holder. This is essentially the same language as Section 1 and 2 but this deals with obtaining title while Section 1 and 2 deal with holding a permit. This change makes the homesite program consistent with the homestead program (AS 38.09.030(c)).

Section 8. This amends the current law to allow an applicant an additional year to complete a dwelling if the director finds that a dwelling has been substantially completed, but not yet habitable, within 5 years. This change would make the homesite program consistent with the homestead program (AS 38.09.040(a)(3)).

Section 9. Provides the same building requirement opportunity to applicants who received their entry permits previous to July 1, 1983. The building requirement was changed from 8 years to 5 years at that time.

Section 10. This is a retroactive clause. Makes the provisions of the Act effective to anyone who presently holds a homesite entry permit. Without this provision there is question if it applies only to future permit holders or all present permit holders.

Section 11. Provides an effective date of July 1, 1991.

TELECOPY COVER SHEET

DIVISION OF LAND AND WATER MANAGEMENT
P.O. Box 107005
Anchorage, AK 99510-7005
Phone (907) 762-2692
FAX (907) 762-2529

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SR 191 New section 10 for

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