

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 86/2

5467 SB 304

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

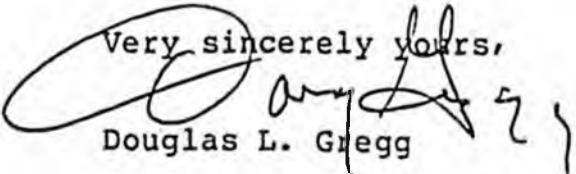
Honorable Fran Ulmer  
State Representative  
State Capitol  
P.O. Box V  
Juneau, Alaska 99811

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,

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Douglas L. Gregg

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Larry Weeks

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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<sup>1/</sup> 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.<sup>2/</sup> 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.

<sup>1/</sup>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.

<sup>2/</sup>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.

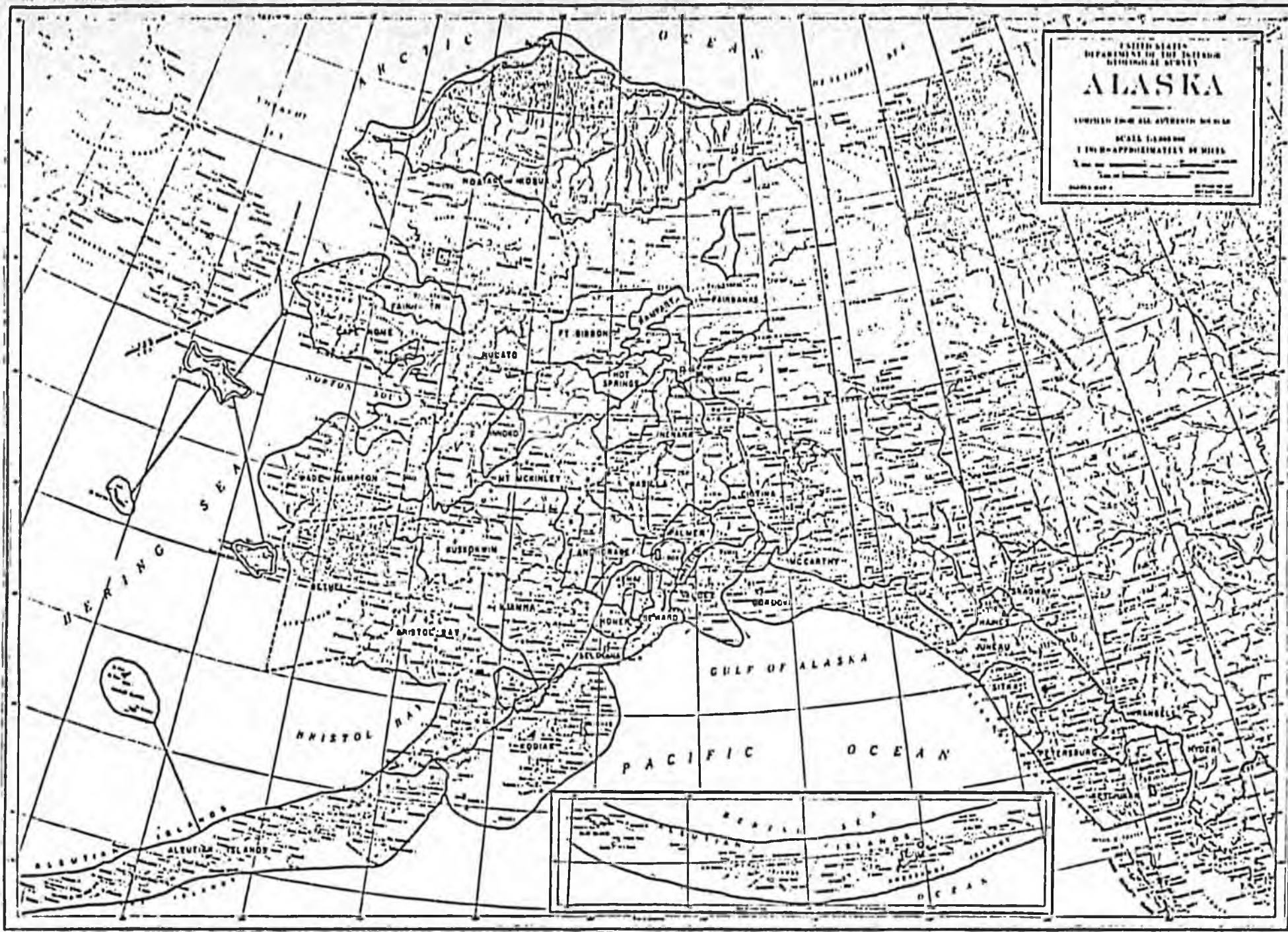
Photostatic copying was introduced in the larger cities (Anchorage and Fairbanks) around 1950. In 1971 microfilming techniques were instituted and have been refined to the present day use of microfilm reader/printers and 16 and 35mm microfiche and roll microfilm, cataloged through the use of computerized 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.

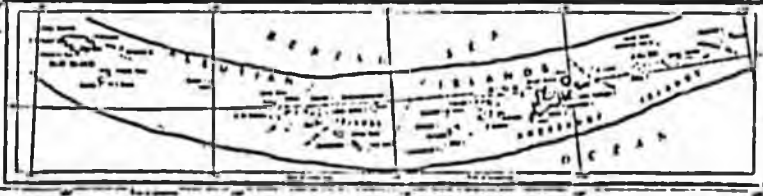
Illustrations attached indicate the complexity and type of documents filed or recorded. Statistical data has been supplied for years 1975 through 1983. Also a skeleton organizational chart depicting the present day structure of the fourteen State Recorder's Offices is included along with the two maps 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 APPROXIMATE SCALES  
SCALE 1:500,000  
1 INCH APPROXIMATELY 50 MILES



THE BOUNDARIES OF RECORDING DISTRICTS, RED CIRCLES INDICATE LOCATIONS OF RECORDING OFFICES  
WHERE THERE ARE LOCAL BOUNDARIES OF RECORDING DISTRICTS COINCIDE 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  
WHERE BOUNDARIES ARE WITHDRAWN FROM PROSPECTIVE, AND MINING

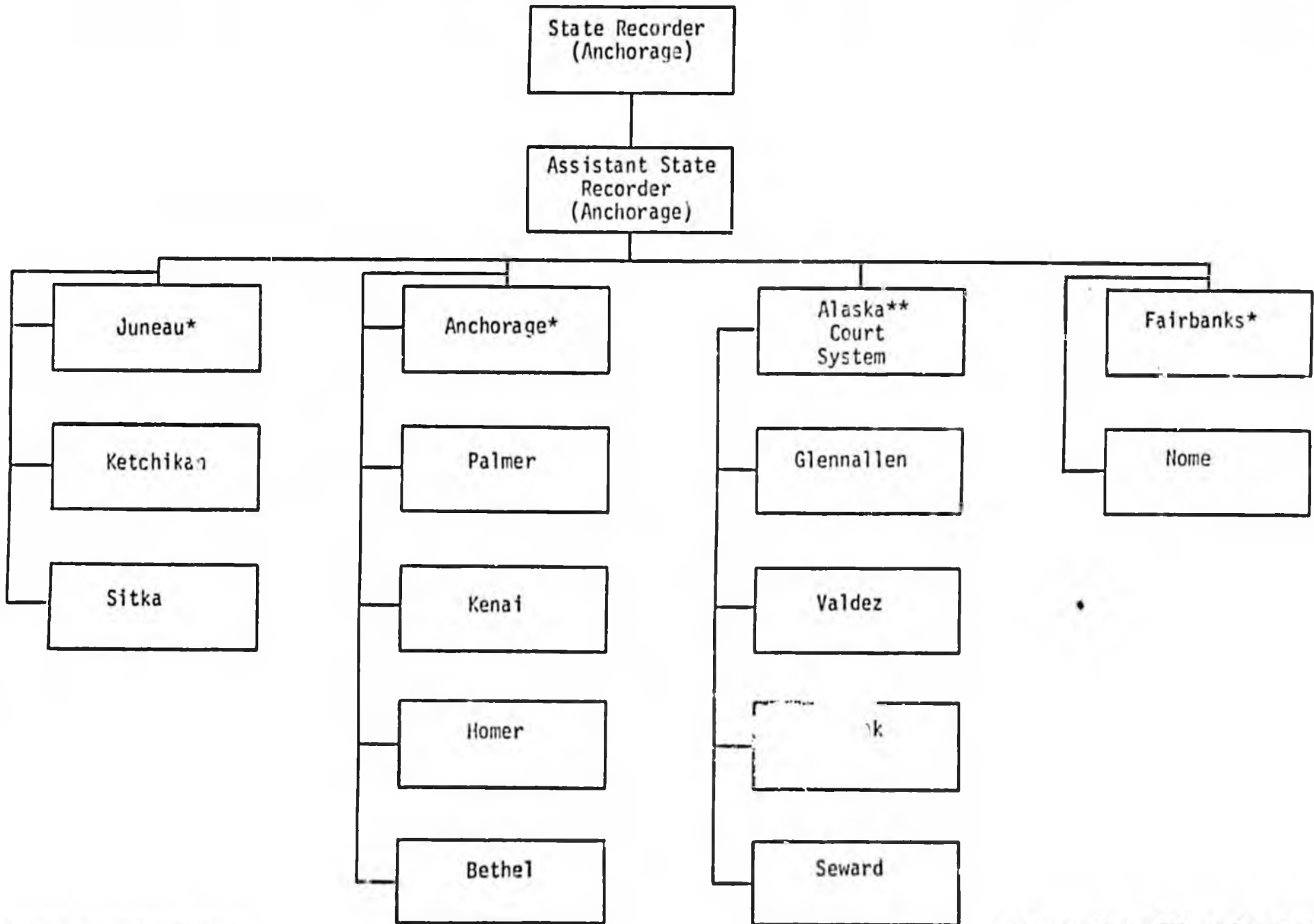
RESEARCH DEPARTMENT  
"RECORD" MINING  
UNIVERSITY OF ALASKA  
February 8, 1938

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, AMBASSADATE, MARSHLANDS, OR SCENIC, ETC. AND  
SHOULD BE CHECKED AT THE BUREAU OF LAND MANAGEMENT OFFICE IN THE APPROPRIATE DIVISION. FEDERAL  
LAND WITHDRAWALS ARE NOT SHOWN. WITHDRAWN AREAS AND RECORDING DISTRICTS ARE SUBJECT TO  
CHANGE.

ALASKA  
MAP A



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	AS 13.26.265
TERMINATING CONSERVATORSHIP	
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 commu-  
25 nity or within real estate that may be added to the common inter-  
26 est community;

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

29 (F) merge or consolidate a common interest community

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

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

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

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

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

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

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

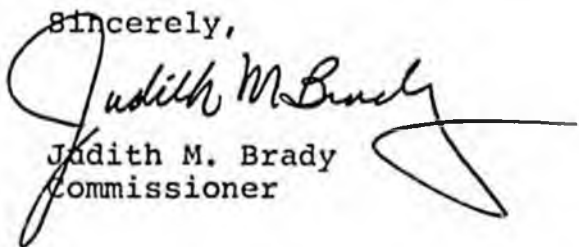
Your staff has requested a position statement on SB 304, An act relating to filing and recording, recordable documents, conveyances, plats, and platting authorities.

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

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Letter of April 20, 1987 and

Memorandum of April 20, 1987  
(sectional analysis of proposed Code  
Revision Commission bill on the  
Recording of Documents)

from Legislative Affairs Agency

concerning

SENATE BILL NO. 304 and

HOUSE BILL NO. 320

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

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-