

## CHAPTER 47.

## AN ACT

[S. B. 42]

To provide for taking up of estrays and disposing of the same and repealing Sections 676 to 683, both inclusive, of Chapter 26, Compiled Laws of Alaska, 1913.

*Be it enacted by the Legislature of the Territory of Alaska:*

Section 1. The Commissioner of each precinct in this Territory shall keep a suitable book which shall be called "Record of Estrays", wherein he shall keep a record of claims, notices, awards, orders, affidavits and proceedings herein provided relative to estrays.

Commissioner to keep record of estrays.

Section 2. Any person, or his agent, upon whose premises any estray may be running at large, may take up and impound such estray in a reasonably safe place.

Who may impound estray.

Section 3. If the owner or person entitled to possession of such estray is known to the taker-up, the latter shall immediately notify him of such taking up. Should the owner or person entitled to possession of such estray fail, upon receipt of such notice from the taker-up, to immediately take and remove said estray, or should such person or owner entitled to possession of such estray be unknown to the taker-up, the latter shall forthwith give ten days' notice of such taking up by posting, within two miles of the place of taking up, notices in three public places of which one shall be at the nearest post office, if within that distance. Such notices shall contain a reasonably correct description of the estray's sex, breed, size, probable age, natural, artificial and other identifying marks, the name of the taker-up, and the time and place of taking up.

Notice to owner of estray.

Contents of notice.

Section 4. If the owner or person entitled to the possession of the estray shall prove previous to the expiration of said ten days' period, his ownership of or

Owner to recover estray on proof and payment of costs.

possessory right to said estray, the taker-up shall immediately surrender possession thereof to him upon his paying the taker-up one dollar (\$1.00) for the latter's services of taking up said estray and posting said notices, and a reasonable rate for keeping the same together with payment for any damages said estray has caused to the property of the taker-up; if the taker-up knew, at the time of taking up said estray, the owner or person entitled to the possession thereof but failed to notify him as required by Section 3, then the taker-up shall not recover for taking up, posting or keeping the estray.

Statement of taking up, etc.

Section 5. If, at the expiration of ten days said estray shall not have been reclaimed from him as provided in Section 4, the taker-up shall file with the Commissioner of the precinct wherein said estray is taken up a verified statement showing such failure and the efforts made by him to find the owner or person entitled to possession of the estray and, also, the damages, if any, he has suffered by said estray running at large upon his premises and the keeping rates, if any, he claims as compensation for keeping said estray.

Commissioner's hearing—assessment of damages.

Section 6. The Commissioner, with whom said statement is filed, shall promptly hold a public hearing thereon at which the owner or person entitled to possession of said estray is entitled to be heard; the Commissioner at said hearing shall allow and assess against said estray all such reasonable damages, keeping rates and costs to which it appears said taker-up is justly entitled. Upon request of said taker-up or of the owner or person entitled to possession of said estray, and payment of the required fees, the Commissioner shall appoint three residents of the precinct, who have the qualifications to act as jurors therein, to assess said damages, keeping rates and costs. The decision of the Commissioner or, if he appoint assessors, then of a majority of them, shall be final, but, if the amount

Appeal, when.

involved exceeds Fifty Dollars (\$50.00), an appeal shall lie to the District Court as in other civil cases of appeal from the Commissioner's or Justice's court. The assessors shall receive for their services the same compensation as is paid the jurors in the Commissioner's court, to be taxed as costs in the proceeding.

Section 7. Any estray, against which damages, keeping rates, or costs have been assessed, shall be sold to satisfy them at public auction within not less than two or more than three weeks after such assessment is entered by the Commissioner. The taker-up shall give notice of such sale by publication for not less than once a week for two consecutive weeks in a newspaper published nearest the place where such estray is taken up and by posting, within two miles of the place of said sale, notices in three public places, of which one shall be the nearest post office if it be within that distance, provided publication may be omitted if no newspaper of general circulation is published within twenty-five miles of the place where said estray is taken up. The notice of sale shall contain a description of said estray's sex, breed, brand, size, probable age, natural, artificial and other identifying marks, the name of the taker-up, the date of taking-up, the date, hour and place of sale, and a statement of the assessed damages, keeping rates, costs and expenses for which said estray will be sold.

Sale of estrays  
—when.

Notice of sale.

Contents of  
notice.

Section 8. Any person, other than the taker-up, may act as auctioneer at such sale, and any person may bid at such sale. The proceeds derived from said sale shall be applied in the following manner: First, costs and expenses of sale; Second, Commissioner's, assessors' and auctioneer's fees, and expenses of publishing and posting notice of sale; Third, keeping rates up to the time of sale, including the aforesaid fee of One Dollar (\$1.00); and Fourth, damages done by said estray and assessed as aforesaid. The buyer of the animal, if

the proceedings be regular, shall acquire good title to the same superior to all liens, encumbrances and mortgages; PROVIDED, However, the owner, mortgagee, or person entitled to possession of the estray may, at any time before such sale, re-take it upon paying to the taker-up all damages, keeping rates, costs, charges and expenses incurred hereunder up to the time of such re-taking.

Commissioner to hold excess proceeds, when.

Section 9. Any excess proceeds derived from said sale, shall be held by the Commissioner in trust for the owner of the estray sold, and shall be paid by the Commissioner to said owner upon the latter's making written, verified claim thereto, with proof of his ownership, to the Commissioner within six months after the date of said sale; if no such claim be made within six months after the date of said sale, he shall thereupon immediately pay such excess proceeds to the Territorial Treasurer who shall cover the same into the Territorial Treasury, and said owner, within seven years thereafter, may recover said money from the Territory in the same manner as though said money had been escheated.

Liability of person who impounds, when.

Section 10. If any person shall take up, impound, or use any estray, except in accordance with the provisions hereof, he shall be liable to a penalty of double the value of such estray, which may be recovered by the owner or person entitled to possession of such estray in any court of the Territory having jurisdiction of the parties.

Provisions not applicable to municipal or public officers.

Section 11. The provisions hereof shall not apply to municipal or other public officers who by statute or municipal ordinance are empowered and authorized to take up and impound animals running at large or in contravention of such statutes or municipal ordinance.

Fees allowed Commissioner.

Section 12. For filing, recording, entering and docketing orders and other papers in the proceedings

the Commissioner shall charge and receive the same fees charged and received by him for similar services in other proceedings in his court.

Section 13. That Sections 676 to 683, both inclusive, Compiled Laws of Alaska, 1913, be, and the same are, hereby repealed.” <sup>Repeal.</sup>

Approved April 25, 1933.

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## CHAPTER 48.

### AN ACT

[H. B. 1]

To amend Section 684 of the Compiled Laws of Alaska as amended by Chapter 17 of the Session Laws of Alaska for 1913, relative to interest and usury.

*Be it enacted by the Legislature of the Territory of Alaska:*

Section 1. That Section 684 of the Compiled Laws of Alaska as amended by Chapter 17 of the Session Laws of Alaska for 1913, relative to interest and usury, be amended to read as follows:

“Section 684. Legal Rate of Interest. The rate of interest in the Territory of Alaska shall be eight per centum per annum, and no more, on all moneys after the same become due; on judgments and decrees for the payment of money; PROVIDED, That judgments and decrees hereafter rendered founded on contracts in writing providing for the payment of interest until paid at a specified rate exceeding eight per centum per annum, and not exceeding ten per centum per annum, shall bear interest at the rate specified in such contracts, provided that such interest rate is set forth in the judgment or decree; on money received to the use of another and retained beyond a reasonable time with- <sup>Legal rate of interest.</sup>