

CS FOR HOUSE BILL NO. 355(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/15/02

Referred: Labor and Commerce

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the taxation of mobile telecommunications services by**
2 **municipalities; and providing for an effective date."**

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

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE; FINDINGS; INTENT. The United States Congress has enacted the
7 Mobile Telecommunications Sourcing Act, 4 U.S.C. 116 - 126 (P.L. 106-252), for the
8 purpose of establishing uniform nationwide sourcing rules for state and local taxation of
9 mobile telecommunications services. The legislature of the State of Alaska desires to adopt
10 implementing legislation governing taxation in the state. The legislature recognizes that the
11 federal act is intended to provide a clarification of sourcing rules that is revenue-neutral
12 among the states. A construction of this Act should reflect the legislature's intention to give
13 effect to the federal act.

14 *** Sec. 2.** AS 29.10.200 is amended by adding a new paragraph to read:

(62) AS 29.45.750 (taxation of mobile telecommunications).

* **Sec. 3.** AS 29.45.650(a) is amended to read:

(a) Except as provided in AS 04.21.010(c), AS 29.45.750, and in (f) and (h) of this section, a borough may levy and collect a sales tax on sales, rents, and on services provided in the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

* **Sec. 4.** AS 29.45.650(a) is amended to read:

(a) Except as provided in AS 04.21.010(c) [, AS 29.45.750,] and in (f) and (h) of this section, a borough may levy and collect a sales tax on sales, rents, and on services provided in the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

* **Sec. 5.** AS 29.45 is amended by adding a new section to read:

Article 5A. Mobile Telecommunications Sourcing Act.

Sec. 29.45.750. Mobile Telecommunications Sourcing Act. (a) The provisions of 4 U.S.C. 116 - 126 (Mobile Telecommunications Sourcing Act) are incorporated in this chapter by reference and have effect as though fully set out in this chapter.

(b) A municipality that levies and collects a sales tax on mobile telecommunications services shall do so in accordance with the provisions of 4 U.S.C. 116 - 126 (Mobile Telecommunications Sourcing Act).

(c) The procedures and remedies for correcting a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction are as follows:

(1) if a customer believes that an amount of tax, charge, or fee or an assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, the customer shall notify the home service provider; the customer shall notify the home service provider of the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request;

(2) within 60 days after receiving a notice under this section, the home service provider shall review the records and the electronic database or enhanced zip

code used according to 4 U.S.C. 116 - 126 to determine the customer's taxing jurisdiction; if this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax, charge, or fee erroneously collected from the customer for a period of up to two years; if this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer;

(3) the procedures in this subsection are the first course of remedy available to a customer seeking correction of assignment of place of primary use or taxing jurisdiction or a refund of or other compensation for taxes, charges, and fees erroneously collected by the home service provider.

(d) For purposes of this section, if a customer does not have a street address, the home service provider may accept from the customer as the customer's place of primary use an address that is not a street address if the address gives effect to the intent of 4 U.S.C. 116 - 126 (Mobile Telecommunications Sourcing Act).

* **Sec. 6.** AS 29.10.200(62) and AS 29.45.750 are repealed.

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. This Act applies to charges on customer bills issued on or after August 1, 2002.

* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PROVISIONS NOT SEVERABLE. Notwithstanding AS 01.10.030, the provisions of this Act are not severable.

* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONTINGENT EFFECT. Sections 4 and 6 of this Act take effect only if a court of competent jurisdiction whose decisions are binding in this state enters a final judgment on the merits that is based on federal law, is no longer subject to appeal or petition for certiorari, and substantially limits or impairs the essential elements of 4 U.S.C. 116 - 126.

- 1 * **Sec. 10.** Except as provided in sec. 11 of this Act, this Act takes effect August 1, 2002.
- 2 * **Sec. 11.** If secs. 4 and 6 of this Act take effect, they take effect on the day after the last
- 3 day on which the judgment described in sec. 9 of this Act could have been appealed.