

HOUSE CS FOR SENATE BILL NO. 100(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR EGAN BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to municipal liens; relating to service areas in second class boroughs;**
2 **relating to a municipal tax exemption or deferral for economic development property;**
3 **relating to a municipal tax exemption for a fire protection system; and providing for an**
4 **effective date."**

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

6 * **Section 1.** AS 09.45.169(2) is amended to read:

7 (2) "nonconsensual common law lien" means a lien on real or personal
8 property that

9 (A) is not provided for by a specific state or federal statute **or**
10 **municipal ordinance;**

11 (B) does not depend on the consent of the owner of the
12 property affected for its existence; and

13 (C) is not an equitable, constructive, or other lien imposed by a
14 court recognized under state or federal law;

1 * **Sec. 2.** AS 11.46.560(a) is amended to read:

2 (a) A person commits the crime of offering a false instrument for recording in
3 the second degree if

4 (1) under AS 40.17, the person presents a lien to the recorder for
5 registration, filing, or recording with reckless disregard that the lien is not

6 (A) provided for by a specific state or federal statute **or**
7 **municipal ordinance**; or

8 (B) a lien imposed or authorized by a court recognized under
9 state or federal law;

10 (2) under a law authorizing the receipt and filing of a document, the
11 person presents a lien to a department or person having responsibility to accept a lien
12 for filing with reckless disregard that the lien is not

13 (A) provided for by a specific state or federal statute **or**
14 **municipal ordinance**; or

15 (B) a lien imposed or authorized by a court recognized under
16 state or federal law; or

17 (3) the person presents to the recorder a notice of the pendency of an
18 action affecting title to real property or the right to possession of real property with
19 reckless disregard of the fact that the action specified does not concern the title to or
20 right to possession of the real property referred to in the notice, or with reckless
21 disregard of the fact that there is no pending action concerning the title to or right to
22 possession of the real property referred to in the notice.

23 * **Sec. 3.** AS 29.35.010 is amended to read:

24 **Sec. 29.35.010. General powers.** All municipalities have the following
25 general powers, subject to other provisions of law:

26 (1) to establish and prescribe a salary for an elected or appointed
27 municipal official or employee;

28 (2) to combine two or more appointive or administrative offices;

29 (3) to establish and prescribe the functions of a municipal department,
30 office, or agency;

31 (4) to require periodic and special reports from a municipal department

1 to be submitted through the mayor;

2 (5) to investigate an affair of the municipality and make inquiries into
3 the conduct of a municipal department;

4 (6) to levy a tax or special assessment, and impose a lien for its
5 enforcement;

6 (7) to enforce an ordinance and to prescribe a penalty for violation of
7 an ordinance;

8 (8) to acquire, manage, control, use, and dispose of real and personal
9 property, whether the property is situated inside or outside the municipal boundaries;
10 this power includes the power of a borough to expend, for any purpose authorized by
11 law, money received from the disposal of land in a service area established under
12 AS 29.35.450;

13 (9) to expend money for a community purpose, facility, or service for
14 the good of the municipality to the extent the municipality is otherwise authorized by
15 law to exercise the power necessary to accomplish the purpose or provide the facility
16 or service;

17 (10) to regulate the operation and use of a municipal right-of-way,
18 facility, or service;

19 (11) to borrow money and issue evidences of indebtedness;

20 (12) to acquire membership in an organization that promotes
21 legislation for the good of the municipality;

22 (13) to enter into an agreement, including an agreement for
23 cooperative or joint administration of any function or power with a municipality, the
24 state, or the United States;

25 (14) to sue and be sued;

26 (15) to provide facilities or services for the confinement and care of
27 prisoners and enter into agreements with the state, another municipality, or any person
28 relating to the confinement and care of prisoners;

29 (16) to receive grants from and contract with the Department of Public
30 Safety under AS 18.65.670;

31 **(17) to provide by ordinance for the creation, recording, and**

1 **notice of a lien on real or personal property to secure payment of past due utility**
 2 **fees, costs incurred by the municipality in the abatement of an unsafe or**
 3 **dangerous building, and other fees and charges provided for by ordinance;**
 4 **except as otherwise provided by state law, when recorded, a municipal lien under**
 5 **this paragraph has priority over all other liens except**

6 **(A) liens for property taxes, special assessments, and sales**
 7 **and use taxes;**

8 **(B) liens that were perfected before the recording of the lien**
 9 **under this paragraph;**

10 **(C) liens that, under state law, are prior, paramount, and**
 11 **superior to all other liens; and**

12 **(D) mechanics' and materialmen's liens for which claims of**
 13 **lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have**
 14 **been recorded before the recording of the lien under this paragraph.**

15 * **Sec. 4.** AS 29.35.490 is amended by adding a new subsection to read:

16 (d) A second class borough may establish a service area for the provision of
 17 emergency services within a state highway corridor if no voters reside in the service
 18 area. A second class borough may provide emergency services in a service area
 19 established under this subsection by ordinance. Notwithstanding any other provision
 20 of law, a second class borough may not authorize or levy a property tax for the
 21 provision of emergency services in a service area established under this subsection.
 22 The boundaries of a service area established under this subsection may only include
 23 the highway corridor and publicly owned property adjacent to the highway corridor
 24 necessary to house emergency response equipment and personnel for the service area.

25 * **Sec. 5.** AS 29.45.050(m) is amended to read:

26 (m) A municipality may by ordinance partially or totally exempt all or some
 27 types of economic development property from taxation for **a designated period.**
 28 **Except as otherwise provided by an ordinance enacted by the municipality before**
 29 **January 1, 2017** [UP TO FIVE YEARS. THE MUNICIPALITY MAY PROVIDE
 30 FOR RENEWAL OF THE EXEMPTION UNDER CONDITIONS ESTABLISHED
 31 IN THE ORDINANCE. HOWEVER, UNDER A RENEWAL], a municipality that is

1 a school district may only exempt all or a portion of the amount of taxes that exceeds
 2 the amount levied on other property for the school **district's required local**
 3 **contribution under AS 14.17.410(b)(2)** [DISTRICT]. A municipality may by
 4 ordinance permit deferral of payment of taxes on all or some types of economic
 5 development property for **a designated period. A municipality may not apply an**
 6 **exemption or deferral under this subsection to taxes levied for special services in**
 7 **a service area that is supervised by a board under AS 29.35.460** [UP TO FIVE
 8 YEARS. THE MUNICIPALITY MAY PROVIDE FOR RENEWAL OF THE
 9 DEFERRAL UNDER CONDITIONS ESTABLISHED IN THE ORDINANCE]. A
 10 municipality may adopt an ordinance under this subsection only if, before it is
 11 adopted, copies of the proposed ordinance made available at a public hearing on it
 12 contain written notice that the ordinance, if adopted, may be repealed by the voters
 13 through referendum. An ordinance adopted under this subsection must include specific
 14 eligibility requirements and require a written application for each exemption or
 15 deferral. In this subsection, "economic development property" means real or personal
 16 property, including developed property conveyed under 43 U.S.C. 1601 et seq.
 17 (Alaska Native Claims Settlement Act) [, THAT]

18 (1) **to which one or more of the following applies:**

19 (A) **the property** has not previously been taxed as real or
 20 personal property by the municipality;

21 (B) **the property** [(2)] is used in a trade or business in a way
 22 that

23 (i) [(A)] creates employment in the municipality;

24 (ii) [(B)] generates sales outside of the municipality of
 25 goods or services produced in the municipality; or

26 (iii) [(C)] materially reduces the importation of goods or
 27 services from outside the municipality;

28 (C) **an exemption or deferral on the property enables a**
 29 **significant capital investment in physical infrastructure that**

30 (i) **expands the tax base of the municipality; and**

31 (ii) **will generate property tax revenue after the**

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exemption expires; or

(2) that [AND (3)] has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed; this paragraph does not apply if the property was used in the same trade or business in an area that has been annexed to the municipality within six months before the application for deferral or exemption is filed; this paragraph does not apply to inventories.

* **Sec. 6.** AS 29.45.050 is amended by adding a new subsection to read:

(y) A municipality may by ordinance exempt from taxation up to two percent of the assessed value of a structure if the structure contains a fire protection system that is approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. An exemption under this subsection is limited to an amount that does not exceed two percent of the value of the structure based on the assessment

(1) for 1981, if the fire protection system was a fixture of the structure on January 1, 1981; or

(2) as of January 1 of the year immediately following the installation of the fire protection system, if the fire protection system became a fixture of the structure after January 1, 1981.

* **Sec. 7.** AS 34.35.950(d)(2) is amended to read:

(2) "nonconsensual common law lien" means a lien on real or personal property that

(A) is not provided for by a specific state or federal statute **or municipal ordinance;**

(B) does not depend on the consent of the owner of the property affected for its existence; and

(C) is not an equitable, constructive, or other lien imposed by a court recognized under state or federal law;

* **Sec. 8.** AS 29.45.030(l) is repealed.

* **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).