

HOUSE CS FOR CS FOR SENATE BILL NO. 179(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS BJORKMAN, Gray-Jackson

REPRESENTATIVES Coulombe, Vance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to municipal property tax; relating to assessment of property, boards**
2 **of equalization, and certification of assessors; prohibiting municipalities from levying a**
3 **tax on the transfer of real property; prohibiting the state from levying a tax on the**
4 **transfer of real property; relating to municipal taxation of mobile telecommunications**
5 **services; and providing for an effective date."**

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

7 * **Section 1.** AS 29.10.200(56) is amended to read:

8 (56) AS 29.45.650(c), (d), (e), (f), (i), (j), [AND] (k), and (l) (sales and
9 use tax);

10 * **Sec. 2.** AS 29.10.200(57) is amended to read:

11 (57) AS 29.45.700(d), (e), [AND] (g), and (h) (sales and use tax);

12 * **Sec. 3.** AS 29.45.050(m) is amended to read:

13 (m) A municipality may by ordinance partially or totally exempt all or some
14 types of economic development property from taxation for a designated period.

1 [EXCEPT AS OTHERWISE PROVIDED BY AN ORDINANCE ENACTED BY
2 THE MUNICIPALITY BEFORE JANUARY 1, 2017, A MUNICIPALITY THAT IS
3 A SCHOOL DISTRICT MAY ONLY EXEMPT ALL OR A PORTION OF THE
4 AMOUNT OF TAXES THAT EXCEEDS THE AMOUNT LEVIED ON OTHER
5 PROPERTY FOR THE SCHOOL DISTRICT'S REQUIRED LOCAL
6 CONTRIBUTION UNDER AS 14.17.410(b)(2).] A municipality may by ordinance
7 permit deferral of payment of taxes on all or some types of economic development
8 property for a designated period. A municipality may apply an exemption or deferral
9 under this subsection to taxes levied for special services in a service area that is
10 supervised by an elected service area board under AS 29.35.460 unless the elected
11 service area board objects to the exemption or deferral by resolution adopted not later
12 than 60 days after the effective date of the municipal ordinance enacting the tax
13 exemption or deferral. A municipality may adopt an ordinance under this subsection
14 only if, before it is adopted, copies of the proposed ordinance made available at a
15 public hearing on it contain written notice that the ordinance, if adopted, may be
16 repealed by the voters through referendum. An ordinance adopted under this
17 subsection must include specific eligibility requirements and require a written
18 application for each exemption or deferral.

19 * **Sec. 4.** AS 29.45.050(t) is amended to read:

20 (t) A municipality may by ordinance [APPROVED BY THE VOTERS]
21 partially or totally exempt from taxation **farm land and farm structures** [A FARM
22 STRUCTURE] used exclusively for farming activity, or purposes directly related to
23 farming activity, if the farm **land or farm** structure **meets the criteria set out in this**
24 **subsection. The farm land or farm structure must be** [IS] owned or leased by a
25 person that is actively engaged in farming, and **the owner or lessee must sell at least**
26 **\$2,500 of agricultural products produced from the land during the tax year and**
27 **file an Internal Revenue Service Schedule F (Form 1040) with the United States**
28 **Internal Revenue Service. The farm land or farm** [THAT DERIVES AT LEAST
29 10 PERCENT OF THE PERSON'S YEARLY GROSS INCOME FROM FARMING
30 ACTIVITY, AND THE] structure **must be** [IS] used for

31 (1) the growing, storage, or processing of grains, fruits, vegetables,

1 **aquatic farm products as defined in AS 16.40.199**, or other crops **specified by**
2 **ordinance** [INTENDED FOR HUMAN CONSUMPTION] and produced by the
3 owner's or lessee's farming activity;

4 (2) the storage or processing of

5 (A) feed for livestock;

6 **(B) livestock**, poultry, or other animals used in the owner's or
7 lessee's farming activity;

8 **(C)** [(B)] milk or milk products produced by the owner's or
9 lessee's farming activity; or

10 (3) **sheltering**, stabling, or milking the owner's or lessee's dairy
11 animals, **poultry, or livestock**.

12 * **Sec. 5.** AS 29.45.050(y) is amended to read:

13 (y) In this section, "farming activity" means raising and harvesting crops;
14 feeding, breeding, and managing livestock; dairying; **propagating, farming, or**
15 **cultivating an aquatic farm product as defined in AS 16.40.199**; or any
16 combination of those activities.

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

18 (z) In the event that an owner or lessee of farm use land does not sell \$2,500
19 of agricultural products produced from the land during a tax year because of
20 circumstances beyond the control of the owner or lessee, the owner may secure the
21 exemption under (t) of this section if the farm use land qualified for the exemption
22 under (t) of this section for the three preceding tax years. In this subsection,
23 "circumstances beyond the control of the owner or lessee" includes crop failure or
24 physical injury that prevents the owner or lessee from conducting farming activity.

25 * **Sec. 7.** AS 29.45.060(a) is amended to read:

26 (a) Farm use land, **and structures on farm use land that are used for farm**
27 **operations**, included in a farm unit and not dedicated or being used for nonfarm
28 purposes shall be assessed on the basis of full and true value for farm use and may not
29 be assessed as if subdivided or used for some other nonfarm purpose. The assessor
30 shall maintain records valuing the land for both full and true value and farm use value.
31 If the land is sold, leased, or otherwise disposed of for uses incompatible with farm

1 use or converted to a use incompatible with farm use by the owner, the owner is liable
2 to pay an amount equal to the additional tax at the current mill levy together with eight
3 percent interest for the preceding seven years, as though the land had not been
4 assessed for farm use purposes. Payment by the owner shall be made to the state to the
5 extent of its reimbursement for revenue loss under (d) of this section for the preceding
6 seven years. The balance of the payment shall be made to the municipality.

7 * **Sec. 8.** AS 29.45.060(b) is amended to read:

8 (b) An owner of farm use land shall, to secure the assessment under this
9 section, apply to the assessor on or before May 15 of each year in which the
10 assessment is desired. The application shall be made on [UPON] forms prescribed by
11 the state assessor for the use of the local assessor, and must include information that
12 may reasonably be required to determine the entitlement of the applicant. If the land is
13 leased for farm use purposes, the applicant shall furnish to the assessor a copy of the
14 lease bearing the signatures of both lessee and lessor along with the completed
15 application. The applicant shall furnish the assessor a copy of the lease covering the
16 period for which the exemption is requested. This subsection does not apply to a
17 person with an interest in land that is classified by the state for agricultural use or that
18 is restricted by the state for agricultural purposes.

19 * **Sec. 9.** AS 29.45.060(c) is amended to read:

20 (c) In the event that an owner or lessee of farm use land does not sell
21 \$2,500 of agricultural products produced from the land during a tax year
22 because of circumstances beyond the control of the owner or lessee, the owner
23 may secure the assessment under this section if the farm use land qualified for
24 the assessment under this section for the three preceding tax years. In this
25 subsection, "circumstances beyond the control of the owner or lessee" includes
26 [OF A] crop failure or physical injury that prevents the owner or lessee from
27 conducting farming activity [BY AN ACT OF GOD THE PREVIOUS YEAR, THE
28 OWNER OR LESSEE MAY SUBMIT AN AFFIDAVIT AFFIRMING THAT 10
29 PERCENT OF GROSS INCOME FOR THE PAST THREE YEARS WAS FROM
30 FARMING].

31 * **Sec. 10.** AS 29.45.060(f) is amended to read:

1 (f) This section does not apply to land for which the owner has granted, and
 2 has outstanding, a lease or option to buy the surface rights. A property owner wishing
 3 to file for farm use classification having no history of farm-related income may submit
 4 a declaration of intent at the time of filing the application with the assessor setting out
 5 the intended use of the land and **certifying that the property owner intends to file**
 6 **an Internal Revenue Service Schedule F (Form 1040) with the United States**
 7 **Internal Revenue Service for the current tax year** [THE ANTICIPATED
 8 PERCENTAGE OF INCOME]. An applicant using this procedure shall file with the
 9 assessor **on or** before **April 15** [FEBRUARY 1] of the following year a **copy of the**
 10 **Schedule F (Form 1040) the applicant files with the Internal Revenue Service**
 11 [NOTARIZED STATEMENT OF THE PERCENTAGE OF GROSS INCOME
 12 ATTRIBUTABLE TO THE LAND]. Failure to make **a** [THE] filing required in this
 13 subsection forfeits the exemption.

14 * **Sec. 11.** AS 29.45.060(g) is amended to read:

15 (g) In this section,

16 **(1) "farm use" means the use of land for the production of crops,**
 17 **fruits, or other agricultural products for human or animal consumption or for**
 18 **the sustenance or grazing of livestock if the owner or lessee sells at least \$2,500 of**
 19 **agricultural products produced from the land during the tax year and files an**
 20 **Internal Revenue Service Schedule F (Form 1040) with the United States Internal**
 21 **Revenue Service;**

22 **(2) "livestock" includes cattle, hogs, sheep, goats, chickens,**
 23 **turkeys, pigeons, and other poultry raised to provide meat or other products for**
 24 **human consumption** [PROFIT FOR RAISING AND HARVESTING CROPS, FOR
 25 THE FEEDING, BREEDING, AND MANAGEMENT OF LIVESTOCK, FOR
 26 DAIRYING, OR ANOTHER AGRICULTURAL USE, OR ANY COMBINATION
 27 OF THESE. TO BE FARM USE LAND, THE OWNER OR LESSEE MUST BE
 28 ACTIVELY ENGAGED IN FARMING THE LAND, AND DERIVE AT LEAST 10
 29 PERCENT OF YEARLY GROSS INCOME FROM THE LAND].

30 * **Sec. 12.** AS 29.45.110(a) is amended to read:

31 (a) The assessor shall assess property at its full and true value as of January 1

1 of the assessment year, except as provided in this section, AS 29.45.060, and
2 29.45.230. The full and true value is the estimated price that the property would bring
3 in an open market and under the then prevailing market conditions in a sale between a
4 willing seller and a willing buyer both conversant with the property and with
5 prevailing general price levels. **The assessor shall determine the full and true value**
6 **as provided in standards adopted by the department under (e) of this section or**
7 **another set of standards provided by ordinance.**

8 * **Sec. 13.** AS 29.45.110 is amended by adding a new subsection to read:

9 (e) The department shall adopt standards for assessing the full and true value
10 of property under (a) of this section that are not inconsistent with standards adopted by
11 the International Association of Assessing Officers and update the standards when
12 necessary.

13 * **Sec. 14.** AS 29.45 is amended by adding a new section to read:

14 **Sec. 29.45.115. Assessor certification.** A municipality may not employ an
15 assessor, including a private contractor, unless the assessor has a level 3 certification
16 from the Alaska Association of Assessing Officers or works under the supervision of
17 an individual with a level 3 certification from the Alaska Association of Assessing
18 Officers.

19 * **Sec. 15.** AS 29.45.180(a) is amended to read:

20 (a) A person receiving an assessment notice shall advise the assessor of errors
21 or omissions in the assessment of the person's property. **If requested by the person,**
22 **the assessor shall meet with the person and answer reasonable questions relating**
23 **to the methods used to assess the person's property.** The assessor may correct
24 errors or omissions in the roll before the board of equalization hearing.

25 * **Sec. 16.** AS 29.45.200(a) is amended to read:

26 (a) The governing body **shall appoint one or more boards** [SITS AS A
27 BOARD] of equalization for the purpose of hearing an appeal from a determination of
28 the assessor [, OR IT MAY DELEGATE THIS AUTHORITY TO ONE OR MORE
29 BOARDS APPOINTED BY IT]. An appointed board **shall** [MAY] be composed of
30 not less than three persons, who shall be members of the governing body, municipal
31 residents, or a combination of members of the governing body and residents. The

1 governing body shall by ordinance establish the qualifications for membership. **The**
2 **governing body may by ordinance appoint itself to sit as a board of equalization.**

3 * **Sec. 17.** AS 29.45.210(b) is amended to read:

4 (b) The appellant bears the burden of proof. The only grounds for adjustment
5 of assessment are proof of unequal, excessive, improper, or under valuation based on
6 facts that are stated in a valid written appeal or proven at the appeal hearing. **The** [IF
7 A VALUATION IS FOUND TO BE TOO LOW, THE] board of equalization may **not**
8 raise the assessment **in the current year unless requested to do so by the appellant.**
9 **If the appellant provides a long form fee appraisal to support the appellant's**
10 **valuation and the board of equalization does not find in favor of the appellant,**
11 **the board shall make specific findings on the record to support its decision.**

12 * **Sec. 18.** AS 29.45.650(a) is amended to read:

13 (a) Except as provided in AS 04.21.010(c), AS 29.45.750, and in (f), (h), (i),
14 [AND] (j), **(k), and (l)** of this section, a borough may levy and collect a sales tax on
15 sales, rents, and [ON] services provided in the borough. The sales tax may apply to
16 any or all of these sources. Notwithstanding other statutes, exemptions may be granted
17 by ordinance. A borough may wholly or partially exempt a source from a borough
18 sales tax that is taxed by a city in that borough under AS 29.45.700.

19 * **Sec. 19.** AS 29.45.650 is amended by adding a new subsection to read:

20 (l) A borough may not levy or collect a sales or use tax on the transfer of real
21 property. This subsection applies to home rule and general law municipalities. In this
22 subsection, "transfer" has the meaning given in AS 34.70.200.

23 * **Sec. 20.** AS 29.45.700(a) is amended to read:

24 (a) A city in a borough that levies and collects areawide sales and use taxes
25 may levy sales and use taxes on all sources taxed by the borough in the manner
26 provided for boroughs. Except as provided in (d), [AND] (e), **(g), and (h)** of this
27 section, the assembly may by ordinance authorize a city to levy and collect sales and
28 use taxes on other sources.

29 * **Sec. 21.** AS 29.45.700 is amended by adding a new subsection to read:

30 (h) A city may not levy or collect a sales or use tax on the transfer of real
31 property. This subsection applies to home rule and general law municipalities. In this

1 subsection, "transfer" has the meaning given in AS 34.70.200.

2 * **Sec. 22.** AS 43.98 is amended by adding a new section to article 3 to read:

3 **Sec. 43.98.035. No tax on real property transfers.** The state may not levy or
4 collect a sales or use tax on the transfer of real property. In this section, "transfer" has
5 the meaning given in AS 34.70.200.

6 * **Sec. 23.** Section 4, ch. 100, SLA 2002, as repealed and reenacted by sec. 9, ch. 117, SLA
7 2003, and by sec. 2, ch. 30, SLA 2005; and secs. 6 and 9, ch. 100, SLA 2002, are repealed.

8 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 APPLICABILITY. AS 29.45.650(*l*), enacted by sec. 19 of this Act, and
11 AS 29.45.700(*h*), enacted by sec. 21 of this Act, do not apply to an ordinance that establishes
12 a sales or use tax on the transfer of real property adopted by a municipality before the
13 effective date of this Act.

14 * **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
17 Economic Development may adopt regulations necessary to implement the changes made by
18 secs. 12 - 17 of this Act. The regulations take effect under AS 44.62 (Administrative
19 Procedure Act), but not before the effective date of the law implemented by the regulation.

20 * **Sec. 26.** Sections 12 - 17 of this Act take effect January 1, 2025.

21 * **Sec. 27.** Sections 3 - 11 and 25 of this Act take effect immediately under AS 01.10.070(c).