

SENATE CS FOR CS FOR HOUSE BILL NO. 90(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/18/10

Referred: Today's Calendar

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to bonding limitations and confidentiality of records and information**
2 **of the Alaska Industrial Development and Export Authority; relating to municipal**
3 **taxation of interests in certain property of the Alaska Industrial Development and**
4 **Export Authority; and providing for an effective date."**

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

6 *** Section 1.** AS 29.45.030(a) is amended to read:

7 (a) The following property is exempt from general taxation:

8 (1) municipal property, including property held by a public corporation
9 of a municipality, state property, property of the University of Alaska, or land that is
10 in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-
11 830, 70 Stat. 709, except that

12 (A) a private leasehold, contract, or other interest in the
13 property is taxable to the extent of the interest; **however, an interest created**
14 **by a nonexclusive use agreement between the Alaska Industrial**

1 **Development and Export Authority and a user of an integrated**
2 **transportation and port facility owned by the authority and initially**
3 **placed in service before January 1, 1999, is taxable only to the extent of,**
4 **and for the value associated with, those specific improvements used for**
5 **lodging purposes;**

6 (B) notwithstanding any other provision of law, property
7 acquired by an agency, corporation, or other entity of the state through
8 foreclosure or deed in lieu of foreclosure and retained as an investment of a
9 state entity is taxable; this subparagraph does not apply to federal land granted
10 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
11 granted to the university by the state to replace land that had been granted
12 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
13 university under AS 14.40.365;

14 (C) an ownership interest of a municipality in real property
15 located outside the municipality acquired after December 31, 1990, is taxable
16 by another municipality; however, a borough may not tax an interest in real
17 property located in the borough and owned by a city in that borough;

18 (2) household furniture and personal effects of members of a
19 household;

20 (3) property used exclusively for nonprofit religious, charitable,
21 cemetery, hospital, or educational purposes;

22 (4) property of a nonbusiness organization composed entirely of
23 persons with 90 days or more of active service in the armed forces of the United States
24 whose conditions of service and separation were other than dishonorable, or the
25 property of an auxiliary of that organization;

26 (5) money on deposit;

27 (6) the real property of certain residents of the state to the extent and
28 subject to the conditions provided in (e) of this section;

29 (7) real property or an interest in real property that is exempt from
30 taxation under 43 U.S.C. 1620(d), as amended;

31 (8) property of a political subdivision, agency, corporation, or other

1 entity of the United States to the extent required by federal law; except that a private
 2 leasehold, contract, or other interest in the property is taxable to the extent of that
 3 interest unless the property is located on a military base or installation and the
 4 property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing
 5 Privatization Initiative), provided that the leaseholder enters into an agreement to
 6 make a payment in lieu of taxes to the political subdivision that has taxing authority;

7 (9) natural resources in place including coal, ore bodies, mineral
 8 deposits, and other proven and unproven deposits of valuable materials laid down by
 9 natural processes, unharvested aquatic plants and animals, and timber.

10 * **Sec. 2.** AS 29.45.030(a), as amended by sec. 1 of this Act, is amended to read:

11 (a) The following property is exempt from general taxation:

12 (1) municipal property, including property held by a public corporation
 13 of a municipality, state property, property of the University of Alaska, or land that is
 14 in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-
 15 830, 70 Stat. 709, except that

16 (A) a private leasehold, contract, or other interest in the
 17 property is taxable to the extent of the interest; [HOWEVER, AN INTEREST
 18 CREATED BY A NONEXCLUSIVE USE AGREEMENT BETWEEN THE
 19 ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY
 20 AND A USER OF AN INTEGRATED TRANSPORTATION AND PORT
 21 FACILITY OWNED BY THE AUTHORITY AND INITIALLY PLACED IN
 22 SERVICE BEFORE JANUARY 1, 1999, IS TAXABLE ONLY TO THE
 23 EXTENT OF, AND FOR THE VALUE ASSOCIATED WITH, THOSE
 24 SPECIFIC IMPROVEMENTS USED FOR LODGING PURPOSES;]

25 (B) notwithstanding any other provision of law, property
 26 acquired by an agency, corporation, or other entity of the state through
 27 foreclosure or deed in lieu of foreclosure and retained as an investment of a
 28 state entity is taxable; this subparagraph does not apply to federal land granted
 29 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
 30 granted to the university by the state to replace land that had been granted
 31 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the

1 university under AS 14.40.365;

2 (C) an ownership interest of a municipality in real property
3 located outside the municipality acquired after December 31, 1990, is taxable
4 by another municipality; however, a borough may not tax an interest in real
5 property located in the borough and owned by a city in that borough;

6 (2) household furniture and personal effects of members of a
7 household;

8 (3) property used exclusively for nonprofit religious, charitable,
9 cemetery, hospital, or educational purposes;

10 (4) property of a nonbusiness organization composed entirely of
11 persons with 90 days or more of active service in the armed forces of the United States
12 whose conditions of service and separation were other than dishonorable, or the
13 property of an auxiliary of that organization;

14 (5) money on deposit;

15 (6) the real property of certain residents of the state to the extent and
16 subject to the conditions provided in (e) of this section;

17 (7) real property or an interest in real property that is exempt from
18 taxation under 43 U.S.C. 1620(d), as amended;

19 (8) property of a political subdivision, agency, corporation, or other
20 entity of the United States to the extent required by federal law; except that a private
21 leasehold, contract, or other interest in the property is taxable to the extent of that
22 interest unless the property is located on a military base or installation and the
23 property interest is created under 10 U.S.C. 2871 - 2885 (Military Housing
24 Privatization Initiative), provided that the leaseholder enters into an agreement to
25 make a payment in lieu of taxes to the political subdivision that has taxing authority;

26 (9) natural resources in place including coal, ore bodies, mineral
27 deposits, and other proven and unproven deposits of valuable materials laid down by
28 natural processes, unharvested aquatic plants and animals, and timber.

29 * **Sec. 3.** AS 44.88.095(a) is amended to read:

30 (a) The authority may not issue bonds in a 12-month period in an amount that
31 exceeds \$400,000,000, **excluding refunding bonds.**

1 * **Sec. 4.** AS 44.88.095(g) is amended to read:

2 (g) **The** [BEFORE JULY 1, 2007, THE] authority may issue bonds in an
 3 amount greater than \$10,000,000 to assist in the financing of a development project
 4 under AS 44.88.172 - 44.88.177 only **if approved by law, excluding refunding**
 5 **bonds. Refunding bonds may be issued without further approval by law in a**
 6 **principal amount sufficient to provide funds for the payment of all bonds to be**
 7 **refunded by them and, in addition, for the payment of all other amounts that the**
 8 **authority considers appropriate in connection with the refunding, including**
 9 **expenses incident to the redeeming, calling, retiring, or paying of the outstanding**
 10 **bonds, the funding of reserves, and the issuance of the refunding bonds** [WITH
 11 LEGISLATIVE APPROVAL. BEGINNING JULY 1, 2007, AND THEREAFTER,
 12 WITHOUT PRIOR LEGISLATIVE APPROVAL, THE AUTHORITY MAY NOT
 13 ISSUE BONDS, EXCEPT REFUNDING AND CONDUIT REVENUE BONDS].

14 * **Sec. 5.** AS 44.88.215(a) is amended to read:

15 (a) In order to promote the purposes of **this chapter** [AS 44.88], unless the
 16 records **or information** were a matter of public record before submittal to the
 17 authority, the following records [, FILES,] and information shall be kept confidential
 18 **if** [UPON THE REQUEST OF] the person supplying the **records or** information or
 19 [UPON THE REQUEST OF] the project, bond, loan, or guarantee applicant or
 20 borrower **requests confidentiality and makes an adequate showing to the executive**
 21 **director of the authority that the records or information are** [:]

22 (1) income tax returns;

23 (2) financial statements, profit-and-loss statements, and cash flow
 24 projections, except the information required by the authority to calculate debt service
 25 coverage on the loan;

26 (3) financial business plans;

27 (4) credit reports from consumer reporting agencies and other credit
 28 information obtained from banks, creditors, or other credit reporting entities;

29 (5) trade secrets, **including confidential proprietary information**
 30 **and confidential information about products, pricing, or manufacturing or**
 31 **business processes;**

1 (6) appraisals, except the name of the appraiser, the date of the
2 appraisal, and the fair market value determined for the property appraised;

3 (7) market surveys and marketing strategy information; or [AND]

4 (8) any information required to be kept confidential by a federal law or
5 regulation or by state law.

6 * **Sec. 6.** AS 44.88.215(c) is amended to read:

7 (c) The records and information that the executive director of the authority
8 determines [IS DETERMINED] to be confidential under (a) or (b) of this section are
9 [IS] not [A] public records [RECORD] under AS 40.25.110 - 40.25.220.

10 * **Sec. 7.** AS 44.88.900 is amended by adding a new paragraph to read:

11 (14) "trade secret" has the meaning given in AS 45.50.940.

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

14 REVISOR'S INSTRUCTION. The revisor of statutes shall change the heading of
15 AS 44.88.215 from "Confidentiality of information" to "Confidentiality of records and
16 information."

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

19 RETROACTIVITY. AS 29.45.030(a)(1)(A), as amended by sec. 1 of this Act, is
20 retroactive to July 1, 2007.

21 * **Sec. 10.** Section 2 of this Act takes effect November 30, 2012.

22 * **Sec. 11.** Except as provided by sec. 10 of this Act, this Act takes effect immediately under
23 AS 01.10.070(c).