

1 IN THE SENATE

BY SENATOR RIVERS

2 SENATE BILL NO. 67

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act enabling town councils to establish
7 small claims courts under city magistrates
8 for processing civil actions based on con-
9 tract for recovery of sums not exceeding
10 \$300.00 with allowance of appeal to the
11 District Court, filing judgments with the
12 Clerk of the District Court, docketing
13 thereof, and creation of judgment liens as
14 a result thereof; and amending Sec. 68-2-8
15 ACLA 1949."

16 BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

17 Section 1. Sec. 68-2-8 ACLA 1949 is hereby amended to read
18 as follows:

19 Sec. 68-2-8. [THAT] The town council of any incorporated
20 city or town in Alaska is hereby empowered to confer by ordi-
21 nance upon the municipal magistrate of such town the jurisdic-
22 tion to try civil actions arising on contract where the
23 amount involved is not in excess of [ONE HUNDRED DOLLARS
24 (\$100.00)] \$300.00, and to prescribe the procedure and sched-
25 ule of costs in such [C] court [.]; Provided, however, that any
26 such ordinance enacted by a town council shall substantially
27 conform to the provisions of law applicable to the practice
28 and procedure in civil cases in the Justice's Courts, to-wit:

29 (a) The mode of proceedings and rules of evidence and

1 N provisions as to records and court docket shall conform
2 E substantially to the requirements set forth in Secs. 67-1-3
3 W through 67-1-5 and Sec. 68-1-1 ACLA 1949, except that there
4 will be no jury, and reference to provisional remedies shall
5 M pertain only to attachments of personal property or money,
6 A including garnishments.

7 T (b) Jurisdiction of the magistrate's court shall be
8 T limited to claims based on contract not exceeding the amount
9 E above specified in this Section, and jurisdiction in a
10 R particular case shall depend upon service being had upon
11 the defendant within the municipality wherein the action is
12 commenced without regard to where the cause arose. The
13 magistrate may be empowered to allow costs to the prevail-
14 ing party and an attorney fee not exceeding the rates set
15 forth in Sec. 68-7-16 ACLA 1949.

16 (c) An appeal may be taken by either party to the
17 District Court where the amount in controversy is in excess
18 of \$50.00 in the mode and manner set forth in Sec. 68-2-9
19 ACLA 1949.

20 (d) Formal pleadings are not to be required and proof
21 of instruments may be made as set forth in Secs. 68-3-1
22 through 68-3-3 ACLA 1949.

23 (e) Summons shall issue by the magistrate in the
24 manner denoted in Secs. 68-4-1 and 68-4-2 ACLA 1949, requir-
25 ing the appearance of the defendant in not less than 6 nor
26 more than 20 days from date thereof.

27 (f) Service of summons accompanied by a true copy of
28 the complaint or claim must be served within the incorporated
29 limits of the municipality wherein the case was started, and

1 such service of process may be made in the time and manner
2 set forth in Secs. 68-4-3 and 68-4-4 ACLA 1949, by any
3 police officer of the municipality or adult disinterested
4 citizen, or by any suitable person appointed by the magis-
5 trate in the manner set forth in Sec. 68-4-5 ACLA 1949.

6 (g) The time allowed for the appearance of the defendant
7 shall be the same as set forth in Sec. 68-4-6 ACLA 1949.

8 (h) Such ordinance as a town council may enact hereunder
9 may include proper provision for the attachment of personal
10 property and money within the town and of money or property
11 in the hands of third persons within the town, any such
12 attachment writ to be returnable in 30 days from date of
13 issue.

14 (i) Postponement of trial for good cause shown shall
15 be governed by the provisions of Sec. 68-6-3 ACLA 1949.

16 (j) A magistrate shall have power to issue subpoenas
17 for the attendance of witnesses and any such subpoena will
18 have full force and effect if served within the jurisdiction
19 of the court, and depositions of witnesses would be governed
20 by the provisions of Sec. 68-6-5 ACLA 1949.

21 (k) After trial by the magistrate, which may be con-
22 ducted in an informal manner without a jury, he may render
23 judgment generally as the law and the evidence may require
24 as outlined in Sec. 68-7-1 ACLA 1949, and the magistrate
25 may thereafter issue a writ of execution returnable in 30
26 days for levy upon personal property and money within the
27 municipality in like manner as attachments prior to judgment.

28 (l) Whenever a judgment is given in such magistrate's
29 court for the sum of \$10.00 or more, exclusive of costs, the

SB 67
Engraved

1 prevailing party may, within one year after entry of same,
2 file a certified transcript thereof with the Clerk of the
3 District Court and thereupon the Clerk shall docket same
4 in like manner as provided for the docketing of Justice
5 Court judgments in Sec. 68-7-2 ACLA 1949, upon payment of
6 such fee, if any, for such service as may be charged by such
7 Clerk in conformity with the fee schedule under which his
8 office is operated.

9 (g) From the time of such docketing, as provided in the
10 last subsection, such judgment shall be a lien upon the real
11 property of defendant the same as other judgments denoted
12 in Sec. 68-7-3 ACLA 1949.

13 (n) When a judgment of a magistrate has been duly
14 docketed in the District Court, it shall become enforceable
15 as a District Court judgment as provided for other judgments
16 referred to in Sec. 68-7-10 ACLA 1949, and with further
17 regard to collecting upon any such magistrate's judgment,
18 the provisions of Secs. 68-7-12 through 68-7-14 ACLA 1949
19 shall apply.
20
21
22
23
24
25