

1 IN THE SENATE

BY COMMITTEE ON TAXATION AND
REVENUE

2 SENATE BILL NO. ~~104~~ 105

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-SECOND SESSION

5 A BILL

6 For an Act entitled: "An act establishing a procedure to
7 insure the collection of all Territorial
8 taxes and license fees from nonresident
9 corporations, firms, partnerships, asso-
10 ciations, joint ventures, persons and
11 all other nonresident business entities
12 who sever or take any resources or trans-
13 act or do any business in Alaska; requiring
14 a statement to be filed with the Tax Com-
15 missioner; requiring posting of a tax
16 bond under certain conditions; appointing
17 the Auditor as agent for service of pro-
18 cess; prescribing penalties; and declaring
19 an emergency."

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

21 Section 1. INTENT.

22 With respect to the collection of taxes from nonresident
23 corporations, firms, partnerships, associations, joint ventures,
24 persons and all other nonresident business entities who sever or
25 take any resources from, or transact or do business in Alaska,
26 the Legislature recognizes these facts:

27 (a) That the overwhelming majority of such nonresidents
28 have no security or property physically located in Alaska
29 against which the Territory can proceed to enforce the pay-

1 ment of Territorial taxes and license fees;

2 (b) that such nonresidents leave Alaska for varying
3 periods, thereby making the recovery of Territorial taxes
4 and license fees difficult, if not impossible;

5 (c) that by reason of such departures from Alaska it
6 is impossible to obtain personal service upon such nonresi-
7 dents in any proceeding instituted for the recovery of Terri-
8 torial taxes and license fees.

9 Therefore, in order to establish a procedure to insure the
10 collection of any and all Territorial taxes and license fees
11 from such nonresidents who sever or take any resources from, or
12 transact or do business in Alaska, the Legislature deems it
13 necessary that all such nonresidents, as a condition precedent
14 thereto, must:

15 (1) File a sworn statement with the Tax Commissioner
16 as hereafter provided, and

17 (2) post a tax liability bond, if required, as here-
18 after provided, and

19 (3) appoint the Auditor as their statutory agent for
20 the service of legal process.

21 Sec. 2. FILING STATEMENT AND TAX BOND WITH TAX COMMISSIONER.

22 Every nonresident corporation, firm, partnership, asso-
23 ciation, joint venture, person and other business entity shall,
24 as a condition precedent to the act of severing or taking any
25 resources from, or transacting or doing business in Alaska, file,
26 on or before June first of each year, a sworn statement in affi-
27 davit form with the Tax Commissioner setting forth, among other
28 things, the following information: name and address of the tax-
29 payer and, in case of a corporation, the name and address of each

1 officer; estimated gross business receipts for the current tax
2 year or, in those instances where resources will be severed or
3 taken from Alaska, the estimated fair market value thereof; total
4 estimated payroll in Alaska for the current tax year; total
5 estimated taxes and license fees of any and all kind that will
6 be owing the Territory for the current tax year; whether the
7 taxpayer owns any real property in Alaska on which such taxes
8 may become a first lien, and if so, a description of said pro-
9 perty and the fair market value of the taxpayer's interest
10 therein. If the said value of the taxpayer's interest in such
11 real estate is not equal to twice the amount of the estimated
12 tax and license fees for which such taxpayer will be liable to
13 the Territory, the taxpayer shall file with the Tax Commissioner
14 a bond or other security approved by the Attorney General of
15 Alaska in a sum equal to twice the estimated amount of such
16 taxes and license fees, but in no event shall said bond be less
17 than One Thousand (\$1,000.00) Dollars. Provided, however, that
18 the bond requirement may be waived, in whole or in part, if the
19 taxpayer shows in writing to the satisfaction of the Attorney
20 General that the amount of the bond would be an undue hardship.

21 **Sec. 3. AUDITOR AS AGENT FOR SERVICE OF PROCESS.**

22 Every nonresident corporation, firm, partnership,
23 association, joint venture, person and other business entity,
24 shall, as a condition precedent to severing or taking any
25 resources or transacting or doing business in Alaska, file with
26 the Auditor of Alaska a duly executed and notarized instrument,
27 constituting the Auditor and his successors in office the true
28 and lawful attorney, upon whom all original process may be
29 served in any action or legal proceeding resulting from the tax-

1 payer's failure or neglect to pay any Territorial taxes or li-
2 cense fees, and therein shall agree that any original process
3 against such nonresident taxpayer shall be of the same force
4 and effect as if personally served on such nonresident taxpayer
5 within Alaska. The service of such process shall be made by
6 leaving a copy with the Auditor. In the event legal action is
7 instituted against such a nonresident taxpayer, the Auditor
8 shall forthwith notify such nonresident by sending a copy of
9 said process by registered letter to the post office address
10 stated in the affidavit on file with the Tax Commissioner.

11 In case such a nonresident taxpayer has engaged in
12 severing or taking any resources or transacting or doing busi-
13 ness in Alaska, and shall have failed to comply with the above
14 condition precedent of appointing the Auditor as agent for ser-
15 vice of process, service may nevertheless be made upon the Audi-
16 tor, who shall then transmit a copy of said process by registered
17 mail to the last known address of the taxpayer, and such service
18 shall be held in all courts within the Territory to be binding
19 to the same force and effect as if personally served on such
20 nonresident taxpayer within Alaska.

21 Sec. 4. PROCEEDINGS AGAINST BOND.

22 In the event a bond or other security is filed, any
23 judgment recovered by the Territory against a nonresident tax-
24 payer for delinquent taxes, license fees, penalties or interest
25 may be satisfied in whole or in part by appropriate action
26 against the bond or other security. Provided, however, that
27 nothing herein shall prevent the Territory from pursuing any
28 other remedy for the collection of delinquent taxes or license
29 fees.

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Sec. 5. PENALTIES.

Any person, or officer of any nonresident corporation, firm, partnership, association, joint venture, or other business entity who shall fail or neglect to comply with any of the provisions of this act shall be punished by a fine not to exceed \$1,000.00 or imprisonment not to exceed one year, or both such fine and imprisonment. Any fines or penalties imposed hereunder resulting from prosecution by the Attorney General of Alaska shall be covered into the General Fund.

Sec. 6. EMERGENCY.

An emergency is hereby declared to exist and this act shall take effect immediately upon its passage and approval.