

1 IN THE SENATE

BY SENATOR LYNG

2 SENATE BILL NO. 125

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act revising the procedure for the  
7 annexation and exclusion of territory to  
8 and from municipal corporations; repealing  
9 Sections 16-1-21 through 16-1-28, AGLA  
10 1949, as amended; and reenacting in lieu  
11 thereof new Sections 16-1-21 through  
12 16-1-28; and declaring an emergency."

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

14 Section 1. Sections 16-1-21 through 16-1-28, AGLA 1949,  
15 inclusive, as amended, are hereby repealed, and in lieu thereof,  
16 new Sections 16-1-21 through 16-1-28 are enacted to read, as  
17 follows:

18 16-1-21 ANNEXATION OF TERRITORY AUTHORIZED. (First:)  
19 UNINCORPORATED TERRITORY. Any territory not heretofore  
20 incorporated as a city, public utility district or other  
21 local government unit exercising municipal powers, but  
22 lying contiguous to any municipal corporation incorporated  
23 and functioning under and pursuant to the provisions of  
24 Title 16 AGLA 1949, as amended, (hereinafter referred to  
25 as the city), may be annexed to such municipal corporation  
26 in the manner hereinafter provided, and when so annexed  
27 shall become a part of such municipal corporation and be  
28 subject to all of its laws and ordinances, provided, that,  
29 whenever such unincorporated territory is separated from

1 any such municipal corporation by water or by tide or shore  
2 lands, such unincorporated territory shall be deemed con-  
3 tiguous for the purpose of this Act.

4 (Second:) INCORPORATED TERRITORY. Any territory  
5 heretofore incorporated as part of any public utility  
6 district or other local government unit, other than a city,  
7 and lying contiguous to any municipal corporation incorpo-  
8 rated and functioning under and pursuant to the provisions  
9 of Title 16, ACLA 1949, as amended (hereinafter referred  
10 to as the city) may likewise be annexed to such municipal  
11 corporation in the manner hereinafter provided and with  
12 the same legal force and effect, provided all of the con-  
13 ditions hereinafter set forth shall have been met and  
14 complied with.

15 (Third:) CONDITIONS FOR ANNEXING INCORPORATED  
16 TERRITORY. Whenever the annexation of any territory to a  
17 city shall have been initiated by resolution of the city  
18 council or by petition of property owners as herein-  
19 after provided, and such territory, or any part thereof,  
20 shall have been heretofore incorporated as part of any  
21 public utility district or local government unit other  
22 than a city, the following steps shall first be taken:  
23 (a) The petition or resolution which initiated the pro-  
24 posed annexation shall first be submitted to the board of  
25 directors or other governing body of the local government  
26 unit concerned for concurrence or exception; (b) Such  
27 board or governing body shall have 60 days, or such  
28 additional time as the governmental units concerned may  
29 stipulate, to examine such petition or resolution and to

1 concur therein or to except, in writing, to the boundaries,  
2 validity of signatures or to any other matter of substance  
3 or form in such petition or resolution, or to submit an  
4 alternate annexation proposal. Thereafter, the annexa-  
5 tion file, consisting of the petition or resolution,  
6 concurrence or exceptions, and any alternate proposal,  
7 together with any exhibits or supporting documents, shall  
8 be promptly returned to the city council of the city  
9 initiating or proposing such annexation, who shall file it  
10 in the district court for the judicial division wherein  
11 the city is located, and proceedings thereon shall be had  
12 in the same manner as hereinafter provided, except that  
13 the court shall hear any pertinent testimony adduced by  
14 any of the governmental units involved and shall make  
15 such order respecting a revision of the proposed boundar-  
16 ies and all other matters in dispute as shall be fair and  
17 just to all parties concerned and which shall not injure  
18 the economic interests of one to the enrichment of the  
19 other, nor deprive anyone of property rights, revenue or  
20 other benefits without just compensation; (c) If the  
21 district court shall order an election as hereinafter  
22 provided, such election shall be held simultaneously on  
23 the question of the proposed annexation as well as on  
24 whether that portion of the public utility district or  
25 other governmental unit sought to be annexed shall be  
26 excluded therefrom or dissolved, which latter issue shall  
27 be submitted to the voters in the manner hereinafter pro-  
28 vided. Unless both the propositions on annexation and  
29 dissolution shall be approved by the voters as herein-

1 after provided, the annexation shall not take place,  
2 except that where part of the territory sought to be  
3 annexed is incorporated and part is not, such portion  
4 which is unincorporated may be declared to be annexed, if  
5 annexation is approved but dissolution is disapproved by  
6 the voters.

7 16-1-22. INITIATION OF ANNEXATION PROCEEDINGS;  
8 ELIMINATION AND EXCLUSION OF TERRITORY; QUALIFICATION OF  
9 PETITIONERS AND ELECTORS; JUDICIAL DETERMINATION.

10 (First:) INITIATION OF ANNEXATION PROCEEDINGS.

11 Annexation proceedings authorized under this Act may be  
12 initiated by either of the following alternative methods:  
13 (a) Whenever the council or other governing body of any  
14 city determines that annexation of certain contiguous  
15 territory will serve the best interests of the entire area  
16 affected, including the city and the territory to be  
17 annexed, such council may, subject to compliance with the  
18 requirements of Section 1 of this Act pertaining to the  
19 annexation of territory heretofore incorporated in whole  
20 or in part, file in the district court for the judicial  
21 division wherein the city is located a resolution of the  
22 council requesting that an election be ordered by the  
23 court. Such resolution shall be endorsed or supported  
24 by the individually-dated signatures of at least 30 per  
25 centum of all the property owners, as hereinafter defined,  
26 who reside or own property in the area proposed to be  
27 annexed. No signature shall be counted or otherwise  
28 considered which shall have been affixed more than 180  
29 days prior to the filing of the resolution in the district

1 court, except in cases involving heretofore incorporated  
2 territory requiring the consultation of one or more in-  
3 terested governmental units, in which case no signature  
4 shall be counted or otherwise considered which shall have  
5 been affixed more than 240 days prior to such filing;  
6 (b) Whenever any group of property owners, as hereinafter  
7 defined, shall desire to annex to any city lying con-  
8 tiguous to the territory in which they reside or own  
9 property, they may, subject to compliance with the  
10 requirements of Section 1 of this Act pertaining to the  
11 annexation of territory heretofore incorporated in whole  
12 or in part, file in the district court for the judicial  
13 division wherein the city is located a petition request-  
14 ing that an election be ordered by the court. Such  
15 petition shall be approved in writing by the city council  
16 and shall be endorsed or supported by the individually  
17 dated signatures of at least 30 per centum of all the  
18 property owners, as hereinafter defined, who reside or  
19 own property in the area proposed to be annexed. No  
20 signature shall be counted or otherwise considered which  
21 shall have been affixed more than 180 days prior to such  
22 filing, except in cases involving heretofore incorporated  
23 territory requiring the consultation of one or more  
24 interested governmental units pursuant to Section 1 of  
25 this Act, in which case no signature shall be counted or  
26 considered which shall have been affixed more than 240  
27 days prior to such filing. (c) In any annexation pro-  
28 ceeding, whether initiated by council resolution or by  
29 petition of property owners, the proponents of annexation

1 shall set forth in or attach to such resolution or pet-  
2 ition the proposed boundaries, by metes and bounds, of the  
3 territory sought to be annexed to such city, together  
4 with a plat based upon an actual survey by a competent  
5 surveyor setting forth the limits and boundaries of the  
6 territory to be annexed, by metes and bounds, and stating  
7 under oath the number of inhabitants therein as well as  
8 the number of property owners, as hereinafter defined,  
9 residing or owning property therein, as well as a state-  
10 ment of the manner in, or the source from which, such data  
11 was obtained and by whom, and together with such other  
12 facts as the court may deem necessary for a proper deter-  
13 mination of the issues. Any such resolution or petition  
14 shall be sworn to on behalf of the city and by at least  
15 one of the property owners herein provided for. In cases  
16 of a proposed annexation of territory heretofore incor-  
17 porated in whole or in part, as provided in Section 1 of  
18 this Act, true copies of all papers and exhibits filed in  
19 such annexation proceedings shall be served on each  
20 governmental unit concerned, and such governmental units  
21 shall be indispensable parties to such proceedings in the  
22 district court. The resolution or petition, together  
23 with all exhibits and supporting papers, including any  
24 concurrences, exceptions or alternate proposals provided  
25 for in Section 1 of this Act, upon due notice to all  
26 parties of record, may be presented in open court or to the  
27 judge in chambers and said judge, if satisfied that the  
28 record in the case shows upon its face that all applicable  
29 requirements of this Act have been complied with, shall

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

fix the time and place of hearing on the resolution or petition and shall cause notice of such hearing, together with an adequate map of the area proposed to be annexed, to be posted in at least three of the most public places in such city and in at least three of the most public places within the territory sought to be annexed, and if a newspaper be published or generally circulated in such city, then to publish such notice and map at least once a week for four consecutive weeks in such paper. Such notices and maps shall be and remain posted at least 30 days prior to the hearing and the first publication of such notices and maps shall be at least 30 days before the hearing; (d) No annexation resolution or petition shall be set for hearing or otherwise considered, unless in addition to complying with the applicable provisions hereinabove set forth, it also meets the following requirements:

(1) The boundaries and limits of any area proposed to be annexed shall coincide with natural boundaries, such as the crests of mountain ranges, large bodies of water, streams or canyons; or, where this is impossible, shall coincide with Township, Range or Section lines, as surveyed or to be surveyed; or, where this is impossible, shall follow quarter section or major subdivision lines, as surveyed or to be surveyed, except that the existing corporate boundaries of any city may form part of the boundaries or limits of any area sought to be annexed without regard to these requirements.

(ii) Any area proposed to be annexed shall be as

1 compact and as nearly rectangular in shape as is reasonably  
2 practicable, and no such area shall be proposed for annexa-  
3 tion which shall embrace less than <sup>40</sup>80 acres unless it shall  
4 be physically impossible to do so. Whenever two or more  
5 areas are proposed for annexation at the same time and such  
6 areas are contiguous, all proceedings thereon shall be  
7 consolidated and they shall be considered as one single  
8 annexation area for all purposes, and if such areas are not  
9 contiguous but can be made so without injury to property  
10 rights, the court, prior to the hearing, on its own motion  
11 or upon application of any party in interest, shall revise  
12 the proposed annexation boundaries so as to make such areas  
13 contiguous, and they shall thereafter be considered as one  
14 single annexation area for all purposes. (c) No pending  
15 annexation resolution or petition shall be considered  
16 further if it appears at any stage of the proceedings that  
17 all or part of the area therein proposed to be annexed has  
18 been the subject of any other annexation election held  
19 within one year or less prior to the date of filing of such  
20 pending annexation resolution or petition, but shall be  
21 henceforth dismissed without prejudice.

22 (Second:) ELIMINATION OF TERRITORY. Whenever a  
23 majority of the property owners, as hereinafter defined,  
24 residing or owning property within any area proposed to be  
25 annexed, or any portion thereof, shall file, not later than  
26 3 days prior to the annexation hearing, a certificate over  
27 their individually dated signatures and sworn to by at  
28 least one of the subscribers thereto, that they deem it in  
29 the best interest of the area affected to have such area

1 or portion thereof eliminated from the territory sought to  
2 be annexed, the court, unless it finds that less than a  
3 majority of such property owners, as hereinafter defined,  
4 residing or owning property within the boundaries of the  
5 area or portion sought to be thus eliminated from the pro-  
6 posed annexation territory have signed such certificate,  
7 shall enter an order eliminating such area or portion there-  
8 of from all further annexation proceedings pending before  
9 it and such proceedings shall thereafter be conducted as if  
10 the area eliminated had never been included in the resolu-  
11 tion or petition for annexation; provided, however, that  
12 any such certificate of elimination shall, in addition to  
13 complying with the applicable provisions hereinabove set  
14 forth, meet the following requirements:

15 (i) Such certificate shall set forth, by metes and  
16 bounds, the limits and boundaries of the area sought to be  
17 eliminated, and such boundaries shall coincide with natural  
18 boundaries or with survey, subdivision or original home-  
19 stead boundaries, as far as is reasonably practicable.

20 (ii) No area to be so eliminated shall contain less  
21 than 40 acres, unless it shall be physically impossible to  
22 to do.

23 (iii) No signature on such certificate shall be  
24 counted or otherwise considered which shall have been  
25 affixed more than 180 days prior to the filing of such  
26 certificate. Provided, that any unsubdivided homestead, or  
27 parcel of land used or suitable primarily for agriculture  
28 and embracing not less than 40 acres, shall be excluded  
29 upon application of the owner thereof.

1 (Third:) INCLUSION OF TERRITORY. Whenever a majority  
2 of the property owners, as hereinafter defined, residing  
3 or owning property in any territory or area contiguous to  
4 a city or to any area proposed to be annexed under the pro-  
5 visions of this Act, shall file, not later than 3 days  
6 prior to the date of the annexation hearing, a certificate  
7 over their individually dated signatures and sworn to by  
8 at least one of the subscribers thereto, that they deem it  
9 in the best interest of the area affected to have such area  
10 included into the territory sought to be annexed, the court  
11 may order its inclusion therein in the same manner and upon  
12 meeting the same conditions and qualifications hereinabove  
13 provided in Subsection Second for the Elimination of Terri-  
14 tory, and such area shall thereafter be considered as part  
15 and parcel of the area proposed to be annexed, for all  
16 purposes.

17 (Fourth:) QUALIFICATIONS OF PETITIONERS AND ELECTORS.

18 (a) The term "Property owner" as used in this Act shall  
19 mean any person owning or having a substantial legal or  
20 equitable interest in lands or tidelands or in improvements  
21 permanently attached to lands or tidelands. "Substantial  
22 legal or equitable interest" shall include, but shall not  
23 be limited to, fee ownership, leaseholds of five years or  
24 more, equities created by contracts of purchase and sale,  
25 or by mortgages, mining locations and rights of adverse  
26 possession to either lands or tidelands as well as to improve-  
27 ments permanently attached to either lands or tidelands,  
28 except where such improvements are held by lease for a  
29 term of less than five years. Provided, however, that  
30

1 these persons whose interest appears of record on the  
2 official land records of the Recording Precinct or Pre-  
3 cincts in which such property is located, or on the real  
4 property tax rolls of any duly constituted taxing authority  
5 having jurisdiction thereof, shall be presumed to be all  
6 the property owners in any given area for the purpose of  
7 compliance with the provisions of this Act, except that such  
8 presumption may be rebutted by competent evidence to the  
9 contrary. (b) In order to qualify for the purpose of  
10 signing a petition for annexation or a certificate of  
11 elimination or inclusion, as hereinabove provided, as well  
12 as for the purpose of being a proper party to the annexa-  
13 tion proceeding and of voting in the area to be annexed, a  
14 person shall be:

15 (i) Of the age of twenty-one years or more and a  
16 resident of Alaska for not less than one year and a resi-  
17 dent or property owner of such area for not less than thirty  
18 days prior to the election or the filing of the petition or  
19 certificate, as the case may be.

20 (ii) A "property owner" of a "substantial legal or  
21 equitable interest", as these terms are defined hereinabove,  
22 in property located within such area. (c) To vote in the  
23 city in any such annexation election, a person shall have  
24 the qualifications of an elector in a general municipal  
25 election and must be a taxpayer whose name is on the real  
26 property tax rolls of the city. Any such person may appear  
27 as a proper party in the annexation proceeding.

28 (Fifth:) JUDICIAL DETERMINATION. At the time set for  
29 the hearing the district judge residing in the judicial

1 division in which the city is located, or such other judge  
2 as the parties to such proceeding may by stipulation agree,  
3 shall act, shall make diligent inquiry into the merits of  
4 the annexation proposal and shall require the proponents  
5 of such annexation to prove by a preponderance of the com-  
6 petent evidence. (a) That the provisions of this Act have  
7 been fully complied with, provided that where failure to  
8 comply with any requirement of a procedural nature can be  
9 promptly cured, the court shall grant a reasonable time,  
10 not to exceed ten days, in which to comply with such re-  
11 quirement. (b) That the substantive relief sought by the  
12 annexation resolution or petition is reasonable and just  
13 and that no public or private rights of anyone, either in  
14 the city or the area to be annexed, will be injured by the  
15 granting thereof, nor any property, rights, revenues or  
16 benefits taken without just compensation. (c) That the  
17 city is ready, willing and able to extend without delay,  
18 adequate fire, police and health protection to the area  
19 proposed to be annexed, and that such fire, police and  
20 health protection is at least of the same quality and  
21 quantity, or better, than that available to such area  
22 without annexation. (d) That the city (is ready, willing  
23 and able to extend all other municipal services, such as  
24 water, sewers, and other utilities, as well as paving of  
25 main thoroughfares) to the area proposed to be annexed  
26 within not more than three years from the date of filing of  
27 the resolution or petition for annexation; that in the mean-  
28 time there will be no decrease in the quality or quantity  
29 of any such services which may be available to such area

1 prior to annexation; and that the city has made fair and  
2 reasonable provisions for the financing of such municipal  
3 services. (c) That no decrease in municipal services  
4 within the city will result from extension of such services  
5 or improvements to the area proposed to be annexed.

6 If, after a full and complete hearing, and after  
7 opportunity to all parties in interest or record or who  
8 shall appear at the hearing to be heard and offer testi-  
9 mony, the court shall be satisfied that all the foregoing  
10 conditions have been met and that the requirements of this  
11 Act have been complied with in every respect, it shall  
12 order an election. Such order shall be considered a final  
13 order from which an appeal may be taken."

14 18-1-23. ELECTION; NOTICE; BALLOTS; ELECTION JUDGES  
15 AND CLERKS; CANVASS; CERTIFICATE.

16 (First:) The council of such city shall thereupon  
17 submit the question to the electors of such city, and  
18 separately, to the electors residing in the territory pro-<sup>N</sup>  
19 posed to be annexed to such city. Such question shall be  
20 submitted at a special election to be held for that pur-  
21 pose, and such council shall give notice thereof, by pub-  
22 lication in a newspaper of general circulation in such  
23 city and in such territory so proposed to be annexed or  
24 nearest thereto, for a period of 30 days prior to such  
25 election; and also by posting notice thereof in the three  
26 most public places within such city and the three most  
27 public places in such territory for a like period.

28 (Second:) Such notices shall be posted and the first  
29 publication of such notice in the newspaper shall be at

1 least 30 days before the election. Such notice and pub-  
2 lication shall distinctly state the proposition to be so  
3 submitted and shall designate specifically the boundaries  
4 of the territory so proposed to be annexed, both by metes  
5 and bounds and by means of an adequate map, and the  
6 electors shall be invited thereby to vote upon such pro-  
7 position by placing upon the ballots the words "for annex-  
8 ation to the city of \_\_\_\_\_" or "against annexation to the  
9 city of \_\_\_\_\_" or words equivalent thereto, and in the  
10 case of a proposed annexation of any territory heretofore  
11 incorporated in whole or in part, as provided in Section 1  
12 of this Act, the electors shall also be invited thereby to  
13 vote upon such proposition by placing upon the ballots the  
14 words "for dissolution of the above described portion of  
15 the \_\_\_\_\_ public utility district" or "against dissolu-  
16 tion of the above described portion of the \_\_\_\_\_ public  
17 utility district", or words equivalent thereto. The latter  
18 proposition shall be submitted to the voters and shall  
19 require approval in the same manner as provided by law in  
20 case of exclusion of territory from a city, as hereinafter  
21 provided.

22 (third:) Such council shall also designate the time  
23 and place or places at which the polls may be open within  
24 such city and in such territory so proposed to be annexed,  
25 which place or places shall be those usually used for that  
26 purpose within such city and also within such territory, if  
27 any such there be; and the council shall also appoint and  
28 designate in such notice the names of the judges and clerks  
29 of election. Provided, however, that in case of the pro-

1 posed annexation of any territory heretofore incorporated  
2 in whole or in part, as provided in Section 1 of this Act,  
3 the board of directors or other governing body of the  
4 public utility district or other government unit having  
5 jurisdiction thereof shall be authorized to designate the  
6 polling places to be used, as well as the names of the  
7 judges and clerks of election to serve in such territory  
8 and district, except that the expense of providing for all  
9 necessary polling places and for the remuneration of the  
10 judges and clerks of any such election shall be borne by  
11 the city proposing such annexation.

12 (Fourth:) The judges and clerks before entering upon  
13 the discharge of their duties at such election shall each  
14 take and subscribe before an officer authorized to adminis-  
15 ter the same, an oath for the honest and faithful discharge  
16 of his or her duties as such judge or clerk. In case of the  
17 absence or inability of any judge or clerk appointed to  
18 act at such election, the qualified electors present at  
19 the polls, before proceeding to vote, may choose an  
20 elector to act in his or her place from among their number,  
21 who shall duly qualify as aforesaid before entering upon  
22 the discharge of his or her duties as judge or clerk at  
23 such election.

24 (Fifth:) Such council, in case of the proposed  
25 annexation of any territory heretofore incorporated in  
26 whole or in part, as provided in Section 1 of this Act, to-  
27 gether with the governing body of the governmental unit  
28 or units having jurisdiction thereof, shall meet on the  
29 Monday next succeeding the day of such election at one

1 o'clock p.m. and canvas the votes cast thereat, and for  
2 this purpose such council and, whenever applicable, such  
3 council jointly with such governing body, shall constitute  
4 the canvassing board. Such canvassing board shall issue  
5 under their hands and the seal of the city, and, whenever  
6 applicable, the seal or seals of the governmental unit or  
7 units involved, a certificate showing the number of votes  
8 cast in favor of annexation and the number of votes cast  
9 against annexation, separately stating the number of votes  
10 for or against in the city and in the territory sought to  
11 be annexed; and, whenever applicable, showing also the  
12 number of votes cast in favor of dissolution and the number  
13 of votes cast against dissolution of the portion of the  
14 governmental unit involved. Such certificate, together  
15 with all the ballots cast and the oaths of the judges and  
16 clerks of election, shall immediately be filed with the  
17 clerk of the district court in the proceedings authorizing  
18 such election."

19 16-1-24. DECLARATION OF ANNEXATION. If it shall  
20 appear to the district court or to judge thereof from the  
21 certificate of election filed with the district court as  
22 aforesaid that at least 60 per centum of the votes cast in  
23 the said election in the territory sought to be annexed  
24 were in favor of annexation; and at least a majority of the  
25 votes cast in the city were also in favor of the annexation;  
26 and, in addition thereto, in case of the proposed annexation  
27 of territory heretofore incorporated, in whole or in part,  
28 as provided in Section 1 of this Act, that at least a major-  
29 ity of the votes cast in the dissolution election held, as

1 provided by law, in and by the public utility district or  
2 other government unit involved, were in favor of dissolution  
3 of such portion of such government unit; and if it shall  
4 further appear to such court or the judge thereof that all  
5 provisions of this Act relating to annexation and dissolu-  
6 tion, wherever applicable, have been substantially complied  
7 with, and that, in cases of annexation of a portion of a  
8 public utility district or other local government unit, the  
9 city has made adequate provisions to assume and secure a  
10 portion of any outstanding indebtedness of such district or  
11 unit in the same proportion as the assessed taxable valuation  
12 of the properties located in the area so annexed bears to  
13 the total assessed taxable valuation of all properties in  
14 such district or unit prior to such annexation, and that the  
15 city has made further provision to pay for the equity of  
16 such district or unit in any permanent public improvements  
17 located in the area so annexed, at a price which shall be  
18 fair and compensatory to such district or unit, the district  
19 judge shall, by an order in writing entered into the records  
20 of the court, duly adjudge and declare such annexation and  
21 the said territory shall thenceforth, be a part of the city;  
22 provided, however, that upon application by any party in  
23 interest, or on its own motion, and for good cause shown or  
24 appearing in the record of the proceedings, the court may  
25 in such declaration of annexation provide that such  
26 territory shall be a part of the city at such time, not  
27 later than one year after the date of the election, as the  
28 court may provide in such order of annexation. All pro-  
29 perties located within the territory so annexed shall

1 remain liable for, and subject to the lien of all outstand-  
2 ing public indebtedness, assessments, and accrued taxes.

3 16-1-25. FEES; SUBPOENAS; PROCEDURES. In proceedings  
4 under this Act, the court, marshal and witnesses shall be  
5 entitled to the same fees as are allowed in the trial of  
6 civil actions in the district court and subpoenas may be  
7 issued and the procedure provided for in civil actions shall  
8 be followed, except where clearly inconsistent with the  
9 specific provisions of this Act.

10 16-1-26. PROCEEDINGS FOR EXCLUSION OF TERRITORY.  
11 Territory may be excluded from any city in the same manner  
12 and following the same procedure as in the case of annexa-  
13 tion, except that if territory is to be excluded, no  
14 certification, approval or resolution of the city council  
15 shall be required; except that such city council shall have  
16 the right to concur in or object to the exclusion of such  
17 territory in the same manner as provided for in the case of  
18 other governmental units in Section 1 of this Act, pertain-  
19 ing to annexation of heretofore incorporated territory, and  
20 if at the hearing thereof the district judge be satisfied  
21 that the boundaries of the proposed exclusion area are  
22 reasonable and that the formal requirements of this Act  
23 pertaining to the contents of such petitions have been  
24 complied with, he shall order an election. At such election,  
25 which shall be conducted by the city council, the electors  
26 shall be invited to vote upon such proposition by placing  
27 upon their ballots the words: "For exclusion from the city  
28 of \_\_\_\_\_", or "against exclusion from the city of  
29 \_\_\_\_\_", or words equivalent thereto, and the election

1 shall be held in the territory so sought to be excluded, as  
2 well as separately in the city, and the votes shall be can-  
3 vassed, the results of the election certified and all other  
4 steps taken in like manner as in this Act provided relative  
5 to annexation, except that the petitioners shall have the  
6 right to designate, in their petition, at least one each of  
7 the judges and clerks of election and to have one or more  
8 representatives present as observers at the canvassing and  
9 certification of the vote.

10 16-1-27. FILING OF COPY OF ORDER OF ANNEXATION;  
11 PARTIAL DISSOLUTION OR EXCLUSION. Whenever the district  
12 court shall, by order issued under the provisions of this  
13 Act, annex any territory to a city, exclude any portion of a  
14 public utility district or other governmental unit for the  
15 purpose of annexing such portion to a city, a certified copy  
16 thereof shall be filed in the office of the Auditor of the  
17 Territory, another in the office of the Commissioner of  
18 each precinct in which the city or public utility district  
19 or other governmental unit, if any, is situated, and another  
20 in the office of the city clerk of the city to which the  
21 territory has been annexed or from which the territory has  
22 been excluded, and another in the office of each public  
23 utility district or other governmental unit, if any, of  
24 which any portion has been dissolved.

25 16-1-28. APPLICABILITY OF THIS ACT. All annexation,  
26 exclusion, or, when applicable, partial dissolution pro-  
27 ceedings commenced or pending on or after the effective  
28 date of this Act shall thereafter comply, or be conformed  
29 with, all the requirements set forth in this Act and no

1 order or declaration of annexation or exclusion made on  
2 or after such date shall have any force or effect unless  
3 the provisions of this Act shall have been fully complied  
4 with.

5 Section 2. If any portion or provision of this Act shall  
6 hereafter be held invalid, such invalidity shall not affect any  
7 other portion or provision of this Act and such portions and  
8 provisions are hereby expressly declared to be severable.

9 Section 3. An emergency is hereby declared to exist and  
10 this Act shall take effect immediately upon its passage and  
11 approval.