

1 IN THE HOUSE

BY MR. BUCKALEW

2 HOUSE BILL NO. 143

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-THIRD SESSION

5 A BILL

6 For an Act entitled: "An Act to amend Sections 16-1-125, and
7 16-1-133, ACLA, 1949, and to repeal Sec-
8 tions 16-1-123, 16-1-124, 16-1-126,
9 16-1-127, 16-1-128, 16-1-129, 16-1-130,
10 and 16-1-131; and to substitute new pro-
11 visions in lieu thereof relating to tax
12 foreclosures, sales and redemptions of
13 tax foreclosed properties, and rights
14 of owners therein".

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

16 Section 1. That Section 16-1-125 be amended to read as
17 follows:

18 Section 16-1-125. Costs: Taxation, payment and appor-
19 tionment: Lien for. The costs of publication of (NOTICE
20 AND HEARING BEFORE THE COURT) foreclosure list and of
21 the tax foreclosure shall be taxed by the Clerk of the
22 Court and paid by the municipal corporation, but the
23 same shall be apportioned by the Clerk of the Court on
24 the duplicate delinquent tax roll to the several tracts
25 ordered sold proportionately to the number of tracts,
26 so that each tract will bear its proportionate share
27 of (THE) such costs (OF THE HEARING), and the same shall
28 thereafter be a charge against the tract to which it is
29 proportioned.

1 Section 2. That Section 16-1-133 be amended to read as
2 follows:

3 Section 16-1-133. Tax as embracing special assessment:
4 Inclusion of taxes and assessments in same delinquent tax
5 roll and in notices. The word tax as used in this article
6 shall apply to special assessments for improvements as
7 authorized by Article XI of this Act (Sections 16-1-81 - 16-
8 1-90 herein), and both such delinquent special assessments
9 as well as delinquent general taxes may be included in the
10 same delinquent tax roll and in the (NOTICES FOR APPLICATION
11 FOR JUDGMENT) foreclosure list, but when so included shall be
12 stated separately and the penalties and interest due on each
13 shall also be stated separately.

14 Section 3. That the following Sections be substituted for
15 and in lieu of Sections 16-1-123, 16-1-124, 16-1-125, 16-1-127,
16 16-1-128, 16-1-129, 16-1-130, and 16-1-131, AOLA, 1949:

17 1. INSTITUTING FORECLOSURE PROCEEDINGS. After
18 March 1 of each year, the clerk may institute proceedings to
19 foreclose the liens for all the delinquent taxes against each
20 of the several properties included in the foreclosure list.
21 One general proceeding shall be brought on the part of the
22 city to foreclose the tax liens against each of the prop-
23 erties included in the foreclosure list. The person whose name
24 appears in the latest tax roll as the owner of any property
25 therein described shall be considered and treated as the owner
26 of the property. Each such proceeding shall be a proceeding
27 in rem against the property itself. If in any tax roll it
28 appears that the owner of any property is unknown, then such
29 property shall be proceeded against as belonging to an unknown

1 owner. Tax foreclosure proceedings under this Act shall be
2 given priority over all other civil proceedings.

3 2. PETITION FOR JUDGMENT AND DECREE FORECLOSING
4 LIENS. On the day of the first publication of the foreclo-
5 sure list, the Clerk shall present to the Court of the divi-
6 sion wherein the city is situated a petition for judgment
7 and decree foreclosing tax liens, to which has been attached
8 a certified copy of the foreclosure list.

9 3. ANSWER AND DEFENSE BY PERSON INTERESTED; HEAR-
10 ING; EVIDENCE. Within 30 days after the filing of the peti-
11 tion any person owning or having any legal or equitable in-
12 terest in, or a lien upon any tract listed in said foreclo-
13 sure list, may file an answer and defense to the petition for
14 judgment and decree. Such answer shall be in writing and
15 specify the grounds of objection to the assessment or tax on
16 the particular tract represented in such answer and the court
17 in a summary manner will hear and determine such objection
18 and render such decision thereon as may be legal and just.
19 At such hearing, the foreclosure list shall be prima facie
20 evidence of the regularity and legality of the assessment and
21 levy of the tax and that the same is unpaid, and no objection
22 to the valuation of the property, the manner of the assess-
23 ment and levy of the tax, or any of the subsequent proceedings
24 shall be entertained by the Court which does not affect the
25 substantial rights of the party interposing the objection.

26 4. EFFECT AND CORRECTION OF IRREGULARITY, INFOR-
27 MATION, OMISSION OR OTHER ERROR. No assessment of property
28 or charge for taxes shall be considered invalid because of:
29 (a) An irregularity in an assessment roll; (b) an assessment

1 roll not having been made, completed or returned within the
2 time prescribed by law; (c) the property having been listed
3 or charged in an assessment or tax roll without any name, or
4 with a name other than that of the owner.

5 No error or informality on the part of any officer in
6 connection with assessment, equalization, levy or collection
7 shall vitiate or affect the assessment of the property or the
8 taxes thereon. Any such irregularity, informality, omission
9 or other error may, in the discretion of the court, be cor-
10 rected to conform to law.

11 5. JUDGMENT AND DECREE; LIEN; INTEREST. Not less
12 than thirty days after the filing of petition for judgment
13 and decree the Court shall give judgment and decree for the
14 delinquent taxes and interest appearing to be due on the sev-
15 eral parcels of real property described in the application; and
16 shall decree that the several liens of such taxes be fore-
17 closed. The judgment shall be a several judgment against and
18 a lien on each parcel of property included therein. The sev-
19 eral judgment shall bear interest at the legal rate from the
20 date of entry thereof.

21 6. ORDER FOR SALE OF PROPERTIES TO CITY; CERTIFIED
22 COPY OF JUDGMENT AND DECREE AS CERTIFICATE OF SALE. The Court
23 shall order that the several properties, against which the
24 judgment and decree is entered, shall be sold directly to the
25 city for the respective amounts of taxes and interest for which
26 the properties severally are liable. The Clerk of the Court
27 shall deliver to the city clerk a certified copy of the judg-
28 ment and decree, included in which shall be a list of the prop-
29 erties so ordered sold, with the several amounts due thereon.

1 The certified copy shall constitute a certificate of sale to
2 the city of the several properties described in the judgment
3 and decree and no other certificate need to issued.

4 7. PERIOD DURING WHICH PROPERTY HELD BY CITY; RE-
5 DEMPTION; ASSESSMENT DURING REDEMPTION PERIOD; REDEMPTION OF
6 PART OF PROPERTY. All real properties sold to the city pur-
7 suant to this Act shall be held by the city for the period
8 of one year from and after the date of the judgment and decree
9 of foreclosure, unless sooner redeemed. During the one-year
10 period, any person having an interest in the property at the
11 date of the judgment and decree of foreclosure, or any heir
12 or devisee of such person, or any person holding a lien of
13 record on the property, or any municipal corporation, Inde-
14 pendent School District or Public Utility District having a
15 lien on the property, may redeem the property by payment of
16 the full amount applicable to the property under the judgment
17 and decree, with interest thereon as provided by law, and the
18 costs charged against such property. Property so redeemed
19 shall be subject to assessment for taxation during the period
20 of redemption, as though it had continued in private owner-
21 ship. Any person holding a mortgage or other lien of record
22 covering a part only of a particular parcel of real property
23 included in the judgment and decree of foreclosure may redeem
24 such party by payment of the proportionate amount applicable
25 thereto under the judgment and decree.

26 8. RELEASE OF CLAIMS OF CITY BY REDEMPTION; ENTRIES
27 BY CLERK; CERTIFICATE OF REDEMPTION. The receipt of redemp-
28 tion money by the clerk shall operate to release all claims
29 of the city, under the judgment and decrees of foreclosure, to

1 the property so redeemed. The clerk, on receipt of the re-
2 demption money, immediately shall make the proper entries in
3 the records of his office showing that the delinquent taxes,
4 interest and penalty have been paid and that the property has
5 been redeemed from the sale to the city, and he shall deliver
6 to the person redeeming the property a certificate of redemp-
7 tion. The certificate shall contain a description of the
8 property so redeemed, the total amount of taxes, interest and
9 penalty paid, and the date of entry of the judgment and decree
10 of foreclosure. The certificate shall be signed by the Clerk
11 or his deputy and shall be filed by the redemptioner with the
12 U.S. Commissioner, and Ex Officio Recorder, who, on payment
13 of the recording fee, shall enter the certificate in the prop-
14 er records of his office. The Clerk of the Court then shall
15 file the certificate of redemption as part of the judgment
16 roll in the foreclosure proceeding. No fee shall be charged
17 for the issuance of a certificate of redemption.

18 9. NOTICE OF FORECLOSURE LIST TO LIENHOLDER. A
19 mortgagee or other holder of a recorded lien on real property
20 may file with the Clerk a request that notice of any foreclo-
21 sure list including such real property be given to such mort-
22 gagee or other lienholder. The request shall contain the name
23 and address of the person filing it, the description of the
24 property and the name of the owner or reputed owner thereof,
25 and the date of expiration of the mortgage or lien. Notice
26 need not be given after expiration of the mortgage or lien,
27 unless a further request therefor is filed. If the mortgagee
28 or lienholder furnishes a duplicate form of request for the
29 notice, the Clerk shall certify thereon to the filing and

1 return the duplicate to the person making the request. .When-
2 ever any property described in the request for notice is in-
3 cluded in a foreclosure list the clerk shall send by regis-
4 tered mail written notice thereof to the mortgagee or other
5 lienholder. At the time of mailing the notice, the clerk
6 shall note that fact in ink in the latest tax roll opposite
7 the description of the property. The notation in the tax roll
8 is prima facie evidence that the notice was mailed. Where the
9 same mortgagee or lienholder has filed requests for notices on
10 two or more properties included in a foreclosure list, one
11 general notice may be issued covering all such properties.

12 10. LIENHOLDER PAYING TAXES OR REDEEMING GETS ADDI-
13 TIONAL LIEN FOR AMOUNT PAID. Where any property included in a
14 foreclosure list or proceeding is removed therefrom by payment
15 of taxes or by redemption on the part of a mortgagee or other
16 lienholder of record, the official receipt for payment of such
17 taxes or redemption money shall constitute an additional lien
18 on the property to the amount specified in the receipt. The
19 amount so paid, with interest and other lawful charges thereon,
20 shall be collectible with and in the same manner as the amount
21 secured by the original mortgage or lien.

22 11. MUNICIPAL OR OTHER PUBLIC BODY REMOVING PROPER-
23 TY FROM FORECLOSURE LIST OR PROCEEDING OR REDEEMING; ADDITION-
24 AL LIEN. The governing body of any municipal or other public
25 corporation, Independent School District or Public Utility
26 District, having a lien on any real property included in a
27 foreclosure list or proceeding, may use its funds to remove
28 the property from the list or proceeding, or to redeem the
29 property after judgment and decree of foreclosure. Such cor-

1 corporation shall have the same right of redemption as the owner
2 of the property. Where any municipal or other public corpora-
3 tion, Independent School District or Public Utility District
4 so removes or redeems any real property on which it claims a
5 lien, or pays any taxes thereon, the corporation or District
6 may add to its lien the amount so disbursed and cause that
7 amount to be noted on its lien docket. The amount so dis-
8 burged shall be recoverable as part of the lien of the muni-
9 cipal or other public corporation. In case of foreclosure of
10 the original lien claimed by such corporation, the amount so
11 disbursed may be added to the original lien and recovered as
12 part thereof.

13 12. POSSESSION DURING REDEMPTION PERIOD; FORE-
14 FEITURE FOR WASTE. The sale of property to the city on fore-
15 closure for delinquent taxes does not affect the former own-
16 er's right to possession of the property during the period of
17 redemption. However, any waste of the property, committed by
18 the former owner or by anyone acting under his permission or
19 control, shall work a forfeiture to the city of the right to
20 such possession.

21 13. NOTICE OF EXPIRATION OF REDEMPTION PERIOD. Not
22 more than 45 days nor less than 30 days prior to the expira-
23 tion of the period of redemption of any real property ordered
24 sold to the city under a judgment and decree as provided here-
25 in, the clerk shall publish a general notice relative to the
26 expiration of the period of redemption. The notice shall con-
27 tain the date of the judgment and decree, the date of expira-
28 tion of the period of redemption, and warning to the effect
29 that all the properties ordered sold under the judgment and

1 decree, unless sooner redeemed, will be deeded to the city
2 immediately on expiration of the period of redemption and
3 that every right or interest of any person in the properties
4 will be forfeited forever to the city. The notice shall be
5 published in two weekly issues of a duly designated newspaper
6 of general circulation in the city within the period of 15
7 days as specified in this section. Proof of publication shall
8 be attached to and made a part of the deed issued to the city.
9 The published notice may be a general notice, and it shall not
10 be necessary to include therein descriptions of the several
11 properties or the names of the respective owners. If no news-
12 paper is published in the city, said notice shall be posted in
13 three public places within the city.

14 14. DEED TO CITY. The properties not redeemed
15 within the one-year period prescribed herein shall be deeded
16 to the city by the clerk. All rights of redemption, with re-
17 spect to the real properties therein described, shall termi-
18 nate on the execution of the deed to the city. No return or
19 confirmation of the sale or deed to the city is required or
20 necessary.

21 15. APPEAL. Appeal from any judgment and decree
22 hereunder, or from any final order in the proceeding, may be
23 taken by any person named in the foreclosure list in the manner
24 provided by the Federal Rules of Civil Procedure.

25 16. JUDGMENT AND DECREE AS EVIDENCE AND ESTOPPEL .
26 Any judgment and decree for the sale of real property to the
27 city, on foreclosure for delinquent taxes, is conclusive evi-
28 dence of its regularity and validity in all collateral pro-
29 ceedings, except where the taxes have been paid or the property

1 was not liable to assessment and taxation. The judgment and
2 decree is prima facie evidence that the taxes have not been
3 paid and that the property was subject to taxation at the time
4 it was assessed. The judgment and decree shall estop all per-
5 sons raising objections thereto, or to the title based there-
6 on, which existed at or before the date of the judgment and
7 decree and could have been presented as an objection or de-
8 fense to the application for the judgment and decree.

9 17. LIMITATIONS ON PROCEEDINGS AFFECTING FORECLO-
10 SURE SALE. Every action, suit or proceeding, commenced for
11 the purpose of determining the validity of a sale of real prop-
12 erty on foreclosure for delinquent taxes, or to quiet title.
13 against such sale, or to remove the cloud thereof, or to re-
14 cover possession of the property, shall be commenced within
15 two years from the date of the judgment and decree of fore-
16 closure and sale to the city, and not otherwise. In every
17 such action, suit or proceeding any person claiming to be the
18 owner of the property, as against the city, or any person hold-
19 ing title from the city, shall pay into court with the first
20 pleading the amount charged against the property in the judg-
21 ment and decree of foreclosure, together with interest there-
22 on at the rate of eight percent per year from the date of the
23 judgment and decree to the date of filing the pleading,

24 18. VACATION OF JUDGMENT; DETERMINING VALUE OF IM-
25 PROVEMENTS BY PURCHASER AND RENDERING JUDGMENT THEREFOR.

26 Whenever the court vacates or sets aside a judgment and decree
27 of foreclosure with respect to any particular property, the
28 court shall determine the value of any improvements placed on
29 the property by the city or by any purchaser from the city.

1 and shall give judgment therefor and collect the same from
2 the claimant before putting him in possession.

3 19. TITLE OF CITY PURCHASING PROPERTY; TITLE OF
4 PURCHASER ON RESALE. When a city acquires real property by
5 foreclosure for delinquent taxes, the conveyance vests in the
6 city title to the property, free from all liens and encum-
7 brances except unpaid taxes and assessments duly levied for
8 local improvements to the property, and liens of the United
9 States and the Territory.

10 20. EFFECT OF IRREGULARITIES AND OMISSIONS ON
11 SALES. No proceedings subsequent to a judgment or decree
12 foreclosing a tax lien or liens upon property purchased here-
13 under, whether by a private purchaser or by a municipal cor-
14 poration, shall be invalidated and no deed shall be declared
15 void or set aside for irregularities, omissions or defects,
16 unless the record owner of the property sold actually has been
17 misled by the irregularities, omissions or defects to his in-
18 jury.

19 21. PROVISIONS APPLICABLE TO INDEPENDENT SCHOOL
20 DISTRICTS AND PUBLIC UTILITY DISTRICTS. All the foregoing
21 provisions and procedures for assessment, collection and fore-
22 closure of taxes on real property and for conveyance and re-
23 demption of such property be and they are hereby made also
24 applicable to Independent School Districts and Public Utility
25 Districts, and to the taxes levied and assessed by such Dis-
26 tricts, and whenever in the foregoing acts the words "Councils
27 of the First Class Cities", "City", "Municipal Corporation", or
28 "Clerk" are used they will be understood as equally applicable
29 to Independent School Districts and Public Utility Districts

1 and to the boards or governing bodies of such Districts or
2 their tax collecting officers respectively.

3 22. SALE OF TAX FORECLOSED PROPERTIES. Tax fore-
4 closed properties which have been conveyed to municipal cor-
5 porations, Independent School Districts or Public Utility
6 Districts pursuant to tax foreclosure, decree and sale, as
7 herein provided, may be sold by such municipal corporations,
8 Independent School Districts or Public Utility Districts in
9 the manner and upon such notice as may be provided by general
10 ordinance of the municipal corporation or by resolution of
11 the School or Public Utility District respectively, provided,
12 however, that all such sales shall be subject to the approval
13 of the governing body of such corporation or District.

14 Section 4. Sections 16-1-123, 16-1-124, 16-1-126, 16-1-127,
15 16-1-128, 16-1-129, 16-1-130, and 16-1-131, ACLA, 1949, be and
16 they are hereby repealed.

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