

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

IN THE SENATE

BY THE RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

SENATE BILL NO. 240

IN THE LEGISLATURE OF THE STATE OF ALASKA
FIRST LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the collection of real and personal property taxes accruing under Ch. 10, SLA 1949 as amended by Ch. 88, SLA 1949; and providing for an effective date."

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

Section 1. DECLARATION OF PURPOSE. The purpose of this Act is to establish the procedure for foreclosure upon real and personal property tax liens accruing under Ch. 10, SLA 1949 as amended by Ch. 88, SLA 1949, for the purpose of clarifying the procedure to be followed and for the purpose of giving affected parties more adequate notice of proceedings to foreclose such liens.

Sec. 2. DELINQUENT REAL PROPERTY TAX LISTS: FILING. The Commissioner of Revenue shall, with the assistance of the Attorney General, file in the office of the clerk of the superior court in the district where the real property is located, a list certified by the Commissioner of Revenue of all real property subject to liens arising from failure to pay real property taxes assessed under Ch. 10, SLA 1949 as amended by Ch. 88, SLA 1949. A copy of the list certified by the Commissioner of Revenue shall be posted in the commissioner's office.

Sec. 3. DELINQUENT REAL PROPERTY TAX LISTS: CONTENTS. The delinquent real property tax list shall contain the name of

1 the last known owner as disclosed on the return filed, or in the
2 event no return was filed, the name of the last known owner of
3 record. In addition the list shall contain a receipt or serial
4 number for the property of each such owner, a description of the
5 property, and the amount of taxes due for each of the years
6 involved. The description of the property as disclosed on the
7 property tax return filed shall be sufficient for the purposes
8 of this Act.

9 Sec. 4. DELINQUENT REAL PROPERTY TAX LISTS: CAPTION.

10 The delinquent real property tax list shall be known and desig-
11 nated as "List of Delinquent Property Taxes" and shall be cap-
12 tioned as an action in the appropriate district of the superior
13 court, entitled: "In the matter of foreclosure of liens arising
14 under Ch. 10, SLA 1949 as amended by Ch. 88, SLA 1949, for the
15 years 1949, 1950, 1951 and 1952."

16 Sec. 5. DELINQUENT REAL PROPERTY TAX LISTS: EFFECT.

17 The filing of the delinquent real property tax list in the office
18 of the clerk of the superior court of the district in which the
19 properties subject to such liens is located constitutes and has
20 the same force and effect as the filing and recording in the
21 clerk's office of an individual and separate complaint against
22 the real properties therein described to enforce the payment of
23 delinquent taxes and penalties which have become liens against
24 such real properties.

25 Sec. 6. EFFECT OF DELINQUENT REAL PROPERTY LISTS PREVIOUSLY
26 FILED. Any list of delinquent property taxes filed prior to the
27 effective date of this Act which was filed in accordance with
28 Sec. 22-2-8, ACLA 1949 as amended by Ch. 106, SLA 1949, shall be
29 sufficient and shall satisfy the requirements of Section 2 of

1 this Act.

2 Sec. 7. AMENDMENT OF LIST SUBSEQUENT TO FILING. Subsequent
3 to the filing of the list of delinquent property taxes the list
4 may be amended by either making an entry in the margin of the
5 list or by filing a supplemental list, or both. When amended by
6 an entry in the margin the entry is to contain the word "dis-
7 charged" and is to be initialed by the Commissioner of Revenue
8 or his authorized representative in the presence of the clerk of
9 the court or his authorized representative. This entry is to be
10 made beginning at the margin and directly under the name of the
11 owner and has the effect of striking such name and property from
12 the list.

13 Sec. 8. NOTICE TO REAL PROPERTY OWNERS. After filing the
14 list of real property as provided in Sections 2 and 6 of this
15 Act, the Commissioner of Revenue shall mail a notice of such
16 filing to the last known owner at his address as shown on the tax
17 return. If no tax return has been filed the notice shall be
18 mailed to the last known owner as appears in the records in the
19 recording office of the appropriate recording precinct at his
20 address as shown on such record.

21 Sec. 9. PUBLICATION OF NOTICE: INFORMATION REQUIRED:
22 NUMBER OF LIENS THAT MAY BE FORECLOSED AT ONE TIME. The Commis-
23 sioner of Revenue shall publish a notice of all liens to be
24 foreclosed at any one time in a paper of general circulation in
25 the judicial district where the property is located at least
26 once each week for four consecutive weeks. The notice shall
27 contain the following information as shown on the list of delin-
28 quent property taxes prepared under Section 3 of this Act:

29 (a) The name of the last known owner.

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

- (b) The serial or receipt number.
- (c) The description of property.
- (d) The amount of taxes due for each year involved.
- (e) A statement advising that the liens upon

the property shall be foreclosed unless either payment is made or an answer is filed pursuant to this Act.

Less than all of the liens may be foreclosed at any one time. The notice published under this section shall include information only as to the liens to be foreclosed at any one time.

Sec. 10. RIGHT TO REDEEM OR FILE ANSWER. Every person having any right, title, or interest in or lien upon any property described in such list of delinquent real property taxes may redeem the property by paying to the Department of Revenue all of the taxes mentioned in such list of delinquent real property taxes together with interest, penalties and costs of publication within 60 days from the date of the last publication made in accordance with Section 9 of this Act of the list of delinquent real property taxes or after the date of mailing the notice of foreclosure of lien, whichever is later, or may serve an answer upon the Attorney General, setting forth in detail the nature, character, and amount of his interest and any defense or objection to the foreclosure of the lien. The caption of such answer shall contain a reference to the serial number or receipt number of each parcel concerned. Such answer must be served on the Attorney General and filed in the office of the clerk of the superior court of the district within 20 days of the last day of redemption. If the property is redeemed by payment the amount of interest and penalty to be paid shall be as provided in Sec. 35, Ch. 10,

1 SLA 1949. The amount of this penalty and interest shall be
2 computed from the due date of the return.

3 Sec. 11. FAILURE TO REDEEM OR ANSWER. In the event any
4 person, having the right to redeem or answer fails to exercise
5 that right within the period mentioned, such person is in default
6 and shall be barred and forever foreclosed of all his right,
7 title, and interest in the parcels described in such list of
8 delinquent penalties, and a judgment of foreclosure may be taken
9 as provided in this Act subject to the provisions of Sections
10 21, 22 and 23 of this Act.

11 Sec. 12. REDEMPTION. Upon redemption as provided in
12 Section 10 of this Act, the person redeeming is entitled to a
13 certificate from the Commissioner of Revenue describing the
14 property in the same manner as it is described in such list of
15 delinquent real property taxes. Upon filing of such certificate
16 with the clerk of the court, the clerk shall note the word
17 "redeemed" and the date of such filing opposite the description
18 of said parcel on such list. Such certificate operates to cancel
19 the notice of pendency of action with respect to such parcel and
20 automatically releases any property tax lien of the State of
21 Alaska accruing under Ch. 10, SLA 1949 as amended by Ch. 88,
22 SLA 1949.

23 Sec. 13. HEARING AND DECISION: SEVERANCE OF ACTION. If a
24 duly verified answer is served upon the Attorney General within
25 the time specified in Section 10 of this Act, the court will,
26 as soon as is practicable, hear and determine the issues raised
27 by the complaint and answer in the same manner and under the same
28 rules as it hears and determines other actions, except as other-
29 wise provided in this Act. Upon such trial, proof that payment

1 has been made when due or that the payment together with interest
2 and penalty was made at any time constitutes a complete defense.
3 Whenever an answer is interposed as provided in this Act, the
4 defendant has an absolute right to the severance of the action as
5 to any parcel or parcels of land in which he has an interest,
6 upon written demand filed with or made a part of his answer.

7 Sec. 14. AFFIDAVITS IN FORECLOSURE ACTION; FILING; PART OF
8 JUDGMENT ROLL. All affidavits of filing, publication, posting,
9 mailing, or other acts required by this Act in connection with an
10 action to foreclose liens are to be filed in the office of the
11 clerk of the superior court for the district in which the property
12 subject to such lien is situated and, together with all documents
13 required by this Act to be filed in the office of such clerk,
14 constitute and become a part of the judgment roll in such fore-
15 closure action.

16 Sec. 15. PLEADING: PRESUMPTIONS AND PROOF: ACT APPLICABLE
17 TO ALL DEFENDANTS. It is not necessary for the plaintiff to
18 plead or prove the various steps, procedures, and notices for the
19 assessment of taxes, interest, penalties, or other lawful charges
20 against the properties set forth in the list of delinquent real
21 property taxes and all such taxes, penalties, or other lawful
22 charges and the lien thereof are presumed to be valid. A defen-
23 dant alleging any irregularity in the lien must particularly
24 specify in his answer such irregularity and must affirmatively
25 establish such defense. The provisions of this Act apply to and
26 are valid and effective with respect to all defendants even
27 though one or more of them may be infants, incompetents, absentees,
28 or nonresidents of the State of Alaska.

29 Sec. 16. POWER OF COURT TO DETERMINE AND ENFORCE PRIORITIES

1 AND RIGHTS, AND TO DIRECT SALE: JUDGMENT DIRECTING SALE: AUCTION
2 AND NOTICE THEREOF: DIRECTING CONVEYANCE BY COMMISSIONER OF
3 NATURAL RESOURCES. The court has full power to determine and
4 enforce in all respects the priorities, rights, claims, and
5 demands of the several parties to said action as they exist
6 according to law, including the priorities, rights, claims, and
7 demands of the defendants as between themselves and in a proper
8 case the court has power to direct a sale of such lands and the
9 distribution or other disposition of the proceeds of the sale.
10 Where an answer is interposed by a party as to any parcel included
11 in the list of delinquent real property taxes, if the court
12 determines that such party has any right, title, interest, claim,
13 lien, or equity of redemption in such parcel, the court shall make
14 a final judgment directing the sale of such parcel. Any sale
15 directed by the court shall be by public auction by the Commis-
16 sioner of Revenue. Public notice of the sale shall be given once
17 a week for at least four successive weeks in a newspaper of
18 general circulation published in the judicial district and shall
19 be posted in a conspicuous place at the United States Post Office
20 nearest the land to be sold. The description of the parcel
21 offered for sale in such notice shall be the same as the descrip-
22 tion contained in the list of delinquent real property taxes with
23 such other description, if any, as the court may direct. In
24 directing any conveyance pursuant to this Act, the judgment shall
25 direct the Commissioner of Natural Resources to prepare and
26 execute a quitclaim deed conveying title to the parcel or parcels
27 concerned. Upon the execution of such deed, the grantee is
28 seized of an estate in fee in such parcel and all persons,
29 including the State of Alaska, infants, incompetents, absentees,

1 and nonresidents who may have had any right, title, interest,
2 claim, lien, or equity of redemption in or upon such parcel are
3 barred and forever foreclosed of all such right, title, interest,
4 claim, lien, or equity of redemption.

5 Sec. 17. JUDGMENT AWARDING POSSESSION OF UNREDEEMED PARCELS
6 AND DIRECTING EXECUTION OF A DEED TO THE STATE: EFFECT OF DEED.

7 The court shall make a final judgment awarding to the State of
8 Alaska the possession of any parcel described in the list of
9 delinquent real property taxes not redeemed and to which no
10 answer is interposed as provided in this Act. In addition, such
11 judgment shall contain a direction to the clerk of the court
12 to prepare, execute, and cause to be recorded a deed conveying to
13 the state full and complete title to such lands. Upon the execu-
14 tion of such deeds, the state is seized of an estate in fee in
15 such land and all persons including infants, incompetents,
16 absentees, and nonresidents who may have had any right, title,
17 interest, claim, lien, or equity of redemption in or upon such
18 lands are barred and forever foreclosed of all such right, title,
19 interest, claim, lien, or equity of redemption.

20 Sec. 18. CONVEYANCE TO STATE IN LIEU OF FORECLOSURE. In
21 lieu of prosecuting an action to foreclose a lien on any parcel
22 pursuant to this Act, the state may accept a conveyance of the
23 interest of any person having any right, title, interest, claim,
24 lien, or equity of redemption in or to such parcel.

25 Sec. 19. POWER TO DISPOSE OF FORECLOSED LANDS. The
26 Commissioner of Natural Resources or the Director of the Division
27 of Lands of the Department of Natural Resources is authorized to
28 sell, lease, or otherwise administer all real property to which
29 the state may obtain title under the provisions of this Act in

1 the same manner as he is authorized to sell, lease or administer
2 other state land. Proceeds derived from such sales, leases, or
3 administration shall be remitted to the Department of Revenue and
4 deposited in the general fund of the state.

5 Sec. 20. RIGHT OF REDEMPTION: LEGISLATIVE INTENT. It is
6 the express intention of the legislature to provide in this Act
7 a true right of redemption in the owner and in any lien holder
8 or other person having any interest in property affected by this
9 Act.

10 Sec. 21. PROCEDURE FOR REDEMPTION: TIME. All property
11 subject to the provisions of this Act may be redeemed before or
12 after foreclosure by the owner of the property or by lien holder
13 or other person having any interest in the property by paying to
14 the Department of Revenue all taxes, interest, penalties and
15 costs due on the property:

16 (a) Before the entry of an order by the court
17 awarding possession of said property to the state and
18 directing the deeding of said property to the state, or

19 (b) Within one year after the entry by the court
20 of said order.

21 Sec. 22. REDEMPTION BEFORE JUDGMENT. Upon redemption of
22 property before the entry of an order by the court as provided
23 in Sec. 21(a) above, the Commissioner of Revenue shall execute a
24 Certificate of Redemption to the owner of the property, which
25 identifies the property redeemed and states that all taxes,
26 interest, penalties, and costs have been paid.

27 Sec. 23. REDEMPTION AFTER ORDER OF COURT. Upon redemption
28 of property after the entry of an order by the court but prior
29 to the expiration of the one year redemption period as provided

1 in Section 21(b) above, the Commissioner of Natural Resources or
2 the Director of Lands of the Department of Natural Resources
3 shall, on behalf of the state, execute and deliver a quitclaim
4 deed to the former owner of the property.

5 Sec. 24. VALUATION OF PROPERTY WHERE NO RETURN WAS FILED
6 PURSUANT TO CH. 10, SLA 1949 AS AMENDED BY CH. 88, SLA 1949. The
7 Commissioner of Revenue has the power to determine the value of
8 real and personal property in all cases where no property tax
9 return was filed pursuant to the provisions of Ch. 10, SLA 1949
10 as amended by Ch. 88, SLA 1949, and to levy the real and personal
11 property taxes on the basis of such valuation; provided, however,
12 such valuation must be taken as of the time such tax was to have
13 been levied and not the present valuation.

14 Sec. 25. FORECLOSURE OF PERSONAL PROPERTY LIENS. An action
15 to foreclose personal property liens arising pursuant to failure
16 to pay personal property taxes as assessed under Ch. 10, SLA 1949
17 as amended by Ch. 88, SLA 1949, may be filed in the superior court
18 of the State of Alaska in the same manner as any other civil suit
19 for the collection of taxes except as otherwise provided in this
20 Act. The Commissioner of Revenue shall have the option of fore-
21 closing upon part or all of the personal property subject to such
22 liens as a part of any foreclosure proceeding or proceedings upon
23 real property commenced or carried out under the provisions of
24 this Act. In such case the procedure for foreclosing personal
25 property liens shall be governed by the procedure prescribed in
26 this Act for the foreclosure of real property liens.

27 Sec. 26. ELECTION OF REMEDIES. For the purposes of
28 recovery of lien claims under this Act, there is no election of
29 remedies on the part of the State of Alaska until there is a

1 recovery of the full amount of the tax, penalty, and interest
2 owed or until the title of such property as described in said
3 lien has vested in the State of Alaska.

4 Sec. 27. PROCEDURE EXCLUSIVE. The procedure for foreclosure
5 of real and personal property tax liens accruing under Ch. 10,
6 SLA 1949 as amended by Ch. 88, SLA 1949, as prescribed in this
7 Act is exclusive of all other procedures for property tax lien
8 foreclosure including that procedure set forth in Sec. 42, Ch. 10,
9 SLA 1949.

10 Sec. 28. EFFECTIVE DATE. This Act takes effect on the day
11 after its passage and approval or on the day it becomes law with-
12 out such approval.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29