

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 240

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

19 Sec. 2. DELINQUENT REAL PROPERTY TAX LISTS: FILING. The
20 Commissioner of Revenue shall, with the assistance of the Attorney
21 General, file in the office of the clerk of the superior court in
22 the judicial district where the real property is located, a list
23 certified by the Commissioner of Revenue of all real property
24 subject to liens arising from failure to pay real property taxes
25 assessed under Ch. 10, SLA 1949 as amended by Ch. 88, SLA 1949.

26 A copy of the list certified by the Commissioner of Revenue shall
27 be posted in the commissioner's office.

28 Sec. 3. DELINQUENT REAL PROPERTY TAX LISTS: CONTENTS.

29 The delinquent real property tax list shall contain the name of

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

16 Sec. 5. DELINQUENT REAL PROPERTY TAX LISTS EFFECT. The
17 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 are located constitutes and has
20 the same force and effect as the filing in the clerk's office of
21 an individual and separate complaint against each parcel of the
22 real properties therein described to enforce the payment of de-
23 linquent taxes and penalties which have become liens against
24 each parcel of real property.

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 this
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1 Act insofar as that section requires filing of such list.

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 each affected delinquent taxpayer. Such notice mailed
17 to the last address as shown on the property tax rolls for the
18 years 1949, 1950, 1951 and 1952, as amended from time to time,
19 shall constitute the notice necessary for the purposes of this
20 section.

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

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

- 1 (b) The serial or receipt number.
2 (c) The description of property.
3 (d) The amount of taxes due for each year involved.
4 (e) A statement advising that the liens upon the
5 property shall be foreclosed unless either payment is made
6 or an answer is filed pursuant to this Act.

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

10 Sec. 10. RIGHT TO REDEEM OR FILE ANSWER. Every person
11 having any right, title, or interest in or lien upon any property
12 described in such list of delinquent real property taxes may
13 redeem the property by paying to the Department of Revenue all of
14 the taxes mentioned in such list of delinquent real property
15 taxes together with interest, penalties and costs of publication
16 whichever is later, or may serve an answer upon the Attorney
17 General, setting forth in detail the nature, character, and amount
18 of his interest and any defense or objection to the foreclosure
19 of the lien. The caption of such answer shall contain a reference
20 to the serial number or receipt number of each parcel concerned.
21 Such answer must be served on the Attorney General and filed in
22 the office of the clerk of the superior court of the district
23 within 60 days from the date of the last publication made in
24 accordance with Section 9 of this Act of the list of delinquent
25 real property taxes or after the date of mailing the notice of
26 foreclosure of lien, whichever is later. If the property is re-
27 deemed by payment the amount of interest and penalty to be paid
28 shall be as provided in Sec. 35, Ch. 10, SLA 1949. The amount
29 of this penalty and interest shall be computed from the due date

1 of the property tax.

2 Sec. 11. FAILURE TO REDEEM OR ANSWER. In the event
3 any person, having the right to redeem or answer fails
4 to exercise that right within the period mentioned, such
5 person is in default and a judgment of foreclosure deeding
6 the property to the state shall be taken subject to the
7 provisions of Sections 20, 21 and 22 of this Act.

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

21 Sec. 13. HEARING AND DECISION: SEVERANCE OF ACTION. If a
22 duly verified answer is served upon the Attorney General within
23 the time specified in Section 10 of this Act, the court will,
24 as soon as is practicable, hear and determine the issues raised
25 by the complaint and answer in the same manner and under the same
26 rules as it hears and determines other actions, except as other-
27 wise provided in this Act. Upon such trial, proof that payment
28 has been made when due or that the payment together with interest
29 and penalty was made at any time constitutes a complete defense.

1 Whenever an answer is interposed as provided in this Act, the
2 defendant has an absolute right to the severance of the action as
3 to any parcel or parcels of land in which he has an interest,
4 upon written demand filed with or made a part of his answer.

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

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

27 Sec. 16. JUDGMENT AWARDING POSSESSION OF UNREDEEMED PARCELS
28 AND DIRECTING EXECUTION OF A DEED TO THE STATE: EFFECT OF DEED.

29 The court shall make a final judgment awarding to the State of

1 Alaska the possession of any parcel described in the list of
2 delinquent real property taxes not redeemed and to which no
3 answer is interposed as provided in this Act. In addition, such
4 judgment shall contain a direction to the clerk of the court to
5 prepare, execute, and cause to be recorded in the recording
6 district where the property is located, a deed conveying to the
7 state title to such lands subject, however, to redemption as
8 provided in Sections 20 through 22 of this Act.

9 Sec. 17. CONVEYANCE TO STATE IN LIEU OF FORECLOSURE. In
10 lieu of prosecuting an action to foreclose a lien on any parcel
11 pursuant to this Act, the state may accept a conveyance of the
12 interest of any person having any right, title, interest, claim,
13 lien, or equity of redemption in or to such parcel.

14 Sec. 18. POWER TO DISPOSE OF FORECLOSED LANDS. The
15 Commissioner of Natural Resources or the Director of the Division
16 of Lands of the Department of Natural Resources may sell, lease,
17 or otherwise administer as authorized by law all real property to
18 which the state may obtain title under the provisions of this Act.
19 Proceeds derived from such sales, leases, or administration shall
20 be remitted to the Department of Revenue and deposited in the
21 general fund of the state.

22 Sec. 19. RIGHT OF REDEMPTION: LEGISLATIVE INTENT. It is
23 the express intention of the legislature to provide in this Act
24 a true right of redemption in the owner and in any lien holder
25 or other person having any interest in property affected by this
26 Act.

27 Sec. 20. PROCEDURE FOR REDEMPTION: TIME. All property
28 subject to the provisions of this Act may be redeemed before or
29 after foreclosure by the owner of the property or by lien holder
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1 or other person having any interest in the property by paying to
2 the Department of Revenue all taxes, interest, penalties and
3 costs due on the property:

4 (a) Before the entry of an order by the court
5 awarding possession of said property to the state and
6 directing the deeding of said property to the state, or

7 (b) Within one year after the entry by the
8 court of said order.

9 Sec. 21. REDEMPTION BEFORE JUDGMENT. Upon redemption of
10 property before the entry of an order by the court as provided
11 in Sec. 20(a) above, the Commissioner of Revenue shall execute
12 a Certificate of Redemption to the owner of the property, which
13 identifies the property redeemed and states that all taxes,
14 interest, penalties, and costs have been paid.

15 Sec. 22. REDEMPTION AFTER ORDER OF COURT. Upon redemption
16 of property after the entry of an order by the court but prior
17 to the expiration of the one year redemption period as provided
18 in Section 20(b) above, the Commissioner of Natural Resources or
19 the Director of Lands of the Department of Natural Resources
20 shall, on behalf of the state, execute and deliver a quitclaim
21 deed to the former owner of the property.

22 Sec. 23. VALUATION OF PROPERTY WHERE NO RETURN WAS FILED
23 PURSUANT TO CH. 10, SLA 1949 AS AMENDED BY CH. 88, SLA 1949. The
24 Commissioner of Revenue has the power to determine the value of
25 real and personal property in all cases where no property tax
26 return was filed pursuant to the provisions of Ch. 10, SLA 1949
27 as amended by Ch. 88, SLA 1949, and to levy the real and personal
28 property taxes on the basis of such valuation; provided, however,
29 such valuation must be taken as of the time such tax was to have
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1 been levied and not the present valuation.

2 Sec. 24. FORECLOSURE OF PERSONAL PROPERTY LIENS. An action
3 to foreclose personal property liens arising pursuant to failure
4 to pay personal property taxes as assessed under Ch. 10, SLA 1949
5 as amended by Ch. 88, SLA 1949, may be filed in the superior court
6 of the State of Alaska in the same manner as any other civil suit
7 for the collection of taxes except as otherwise provided in this
8 Act. The Commissioner of Revenue shall have the option of fore-
9 closing upon part or all of the personal property subject to such
10 liens as a part of any foreclosure proceeding or proceedings upon
11 real property commenced or carried out under the provisions of
12 this Act. In such case the procedure for foreclosing personal
13 property liens shall be governed by the procedure prescribed in
14 this Act for the foreclosure of real property liens.

15 Sec. 25. ELECTION OF REMEDIES. For the purposes of
16 recovery of lien claims under this Act, there is no election of
17 remedies on the part of the State of Alaska until there is a
18 recovery of the full amount of the tax, penalty, and interest
19 owed or until the title of such property as described in said
20 lien has vested in the State of Alaska.

21 Sec. 26. PROCEDURE EXCLUSIVE. The procedure for foreclosure
22 of real and personal property tax liens accruing under Ch. 10,
23 SLA 1949 as amended by Ch. 88, SLA 1949, as prescribed in this Act
24 is exclusive of all other procedures for property tax lien fore-
25 closure including that procedure set forth in Sec. 42, Ch. 10,
26 SLA 1949.

27 Sec. 27. EFFECTIVE DATE. This Act takes effect on the day
28 after its passage and approval or on the day it becomes law with-
29 out such approval.