

1 IN THE SENATE

BY SENATOR OWEN

2

SENATE BILL NO. 278

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SECOND LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act levying a tax on certain property in
7 Alaska; providing for collection thereof,
8 and allowing certain exemptions; defining
9 offenses and prescribing penalties; and
10 providing for an effective date."

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

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Section 1. TITLE. This Act may be cited as the "Alaska

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Property Tax Act".

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Sec. 2. DEFINITIONS. As used in this Act, the following

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words and terms shall have the meanings ascribed to them in this

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section unless the context clearly indicates a different meaning:

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(1) the word "assessor" means the authorized repre-

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sentative of the Board of Assessment and Equalization to perform

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the duties of making appraisements and assessments;

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(2) the word "board" means the Board of Assessment and

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Equalization;

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(3) the word "commissioner" means the commissioner of

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revenue or his authorized representative, employee or agent

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designated by him;

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(4) the word "district" means one of the four major

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election districts set forth in Sec. 2, Art. XIV of the state

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constitution, being the Southeastern, Southcentral, Central and

28

Northwestern Districts;

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(5) the word "improvements" includes all buildings,

1 structures, fences and additions erected upon or affixed to the
2 land, whether or not the title of the land has been acquired by
3 any particular person;

4 (6) the word "include", when used in a definition
5 contained in this Act, shall not be deemed to exclude other things
6 otherwise within the meaning of the term defined;

7 (7) the term "organized boroughs or other incorporated
8 political subdivisions" includes organized boroughs, municipal
9 corporations, independent school districts, incorporated school
10 districts, public utility districts and any other public corpora-
11 tions authorized by law to levy real and personal property taxes;

12 (8) the word "person" means and includes any individ-
13 ual, trustee, receiver, firm, partnership, joint venture,
14 syndicate, association, corporation, trust, or any other group
15 acting as a unit;

16 (9) the word "personalty" or "personal property" shall
17 mean all machinery, equipment, household goods, and other
18 tangible personal property which is located on or used in connec-
19 tion with particular land, or owned, possessed or used inde-
20 pendently of any particular land, other than fixtures;

21 (10) the word "property" means and includes real
22 property, improvements, and personalty, as herein defined;

23 (11) the words "real property" or "land" mean any
24 estate or interest therein, including permit or license rights,
25 improvements and fixtures thereon, and possessory rights, and
26 shall include all timber on patented lands;

27 (12) the word "state" means the State of Alaska;

28 (13) the words "tax lien" embrace liens for penalties,
29 interest and costs as well as for unpaid taxes.

1 Sec. 3. LEVY OF TAX. a. For the calendar year of 1963
2 and each calendar year thereafter, there is hereby levied, and
3 there shall be assessed and collected, a tax upon all real
4 property and improvements and personal property located outside
5 of organized boroughs or other incorporated subdivisions of
6 the state at the rate of four mills per dollar of assessed
7 valuation.

8 b. For the purposes of this section the value of unimproved,
9 unpatented mining claims which are not producing, and nonproduc-
10 ing patented mining claims upon which the improvements originally
11 required for patent have become useless through deterioration,
12 removal or otherwise, is hereby fixed at \$200 per each 20 acres
13 or fraction of each such claim, except that if the surface
14 ground of any such claim is used for other than mining purposes
15 and has a separate and independent value for such other purposes,
16 the valuation as pertains to such nonmining uses and of improve-
17 ments incidental to such uses shall be according to the true
18 and full value thereof.

19 c. With respect to any boat or vessel engaged in marine
20 service on a commercial basis and subject to the provisions of
21 this Act, the owner of said boat or vessel may elect:

22 (1) to pay the tax levied hereunder on such boat or
23 vessel on the basis of the value thereof as defined herein;

24 or

25 (2) to pay \$4 per net ton of such vessel's registered
26 tonnage, but in any event the amount payable hereunder, for
27 each such boat or vessel, shall not be less than \$20 per
28 annum.

29 Sec. 4. EXEMPTIONS. The following property is exempt under

1 the provisions of this Act:

2 (1) property used exclusively for nonprofit educational,
3 religious, charitable or cemetery purposes;

4 (2) property of the United States, of the State of
5 Alaska and of any organized borough or other incorporated politi-
6 cal subdivision;

7 (3) household furniture of the head of a family or a
8 householder;

9 (4) the property of any organization not organized
10 for business purposes, whose membership is composed entirely of
11 the veterans of any wars of the United States, or the property of
12 the auxiliary of any such organization, and all monies on deposit
13 belonging to said organization shall be exempt hereunder, except
14 any property which produces rentals or profits for that organi-
15 zation;

16 (5) property exempt under law from levy and sale on
17 execution shall not apply to taxes levied hereunder, or to the
18 collection thereof;

19 (6) new industrial, commercial and business construction
20 during the period of construction and until the plants or build-
21 ings are occupied or operated. This exemption shall not exceed
22 three taxable years from the time of beginning of construction.
23 Modifications and repairs to existing structures shall not be
24 considered new construction under this provision;

25 (7) all homesteads upon which entry has been made in
26 accordance with the land laws of the United States from the date
27 of entry until one year after the date upon which patent shall
28 have been granted and final title acquired. This type of exemp-
29 tion shall include all improvements upon such homesteads pertain-

1 ing to residential or agricultural purposes. In the case of a
2 homestead on which the patent shall have been granted and final
3 title acquired, and where such homestead is the domicile of the
4 actual record holder, said homestead shall be assessed for
5 taxation the same as other real property coming under this Act,
6 except that each such homestead shall be exempt from the tax
7 levied by this Act to the extent of \$2,500 of the assessed
8 valuation thereof;

9 (8) any property which has been or is hereafter,
10 granted any exemption, as an industrial incentive under the laws
11 of the state or any political subdivision thereof, shall be
12 exempt hereunder to the extent of such exemption;

13 (9) any property from which resources are regularly or
14 seasonally extracted and upon which such resources a severance
15 tax is paid, shall be exempt under the provisions of this Act;

16 (10) any property used exclusively as the abode of
17 any person, who has attained retirement age and receives benefits
18 under the federal Social Security program or a similar program,
19 or who has attained age 65 and who receives some form of
20 public assistance; provided that such benefits of assistance
21 constitutes at least 75 per cent of the income of such person
22 and his or her spouse.

23 Sec. 5. RETURNS. a. On or before the 15th day of July,
24 1963, and on or before the 15th day of March in each year
25 thereafter, every person shall submit in duplicate to the
26 assessor, a return of his property, and of the property held
27 or controlled by him in a representative capacity, based on
28 values existing as of January 1 in the same year.

29 b. The person making the return in every case shall state

1 an address to which all notices required to be given to him
2 under this Act may be mailed or delivered.

3 c. The return shall show the nature, quantity, amount
4 and value of the property, the place where the property is
5 situated, and said return shall be in such form as the commission
6 may prescribe, and shall be signed and verified by the person
7 liable or his or its authorized agent or representative.

8 Sec. 6. ADDITIONAL RETURNS. The assessor may, by notice
9 in writing to any person by whom a return has been made,
10 require from him a further return containing additional details
11 and more explicit particulars, and upon receipt of the notice,
12 that person shall comply fully with its requirements within 30
13 days.

14 Sec. 7. POWER TO MAKE EXAMINATIONS. a. The assessor
15 shall not be bound to accept as correct the return made by any
16 person, but if he thinks it necessary or expedient, or if he
17 suspects that a person who has not made a return is liable to
18 assessment, he shall make an independent investigation as to
19 the property of that person, and may make his own valuation
20 and assessment of the taxable amount thereof, which will be
21 prima facie good and sufficient for all legal purposes.

22 b. For the purpose of such examination, the assessor,
23 personally, or by any deputy designated by him, may enter upon
24 any premises and examine any property thereon, and shall have
25 access to and may examine all property records involved, and
26 any person shall, upon request, furnish to the assessor or
27 deputy every facility and assistance for the purposes of such
28 examination.

29 c. The assessor may in any case examine a person on oath

1 or otherwise, and upon request of the assessor, the person shall
2 attend and submit himself to examination.

3 Sec. 8. INSPECTION OF RETURN. No return made by any
4 person under this Act shall be open for inspection by any person
5 except officers authorized by law to administer this Act, or
6 upon an official investigation or proceeding in court, and any
7 state employee who violates said restriction by communicating
8 any information obtained under the provisions of this Act,
9 except such information as is required by law to be shown of the
10 assessment rolls, or allows any person not legally entitled
11 thereto to inspect or have access to any return made under the
12 provisions of this Act shall be guilty of a misdemeanor punish-
13 able under the penalty clause of this Act, and shall be dis-
14 charged from his office or employment and be ineligible to hold
15 any public office or employment for the state for a period of
16 two years thereafter.

17 Sec. 9. VALUATION. Property shall be assessed at its
18 full and true value in money, as of January 1 of the assessment
19 year. In determining the full and true value of property in
20 money, the person making the return, or the assessor, as the case
21 may be, shall not adopt a lower or different standard of value
22 because the same is to serve as a basis of taxation, nor shall he
23 adopt as a criterion of value the price for which the property
24 would sell at auction, or at a forced sale, either separately or
25 in the aggregate with all of the property in the taxing district,
26 but he shall value the property at such sum as he believes the
27 same to be fairly worth in money at the time of assessment.
28 The true value of the property shall be that value at which the
29 property would generally be taken in payment of a just debt from

1 a solvent debtor.

2 Sec. 10. ASSESSMENT. Every person owning or claiming
3 property under the provisions of this Act shall be assessed and
4 taxed annually on his property and where any parcel of land is
5 situated partly in one district and partly in another the assess-
6 ment in respect of that parcel shall be made in the district
7 within which the greater part of the property is situated. Real
8 property and personalty shall be separately assessed.

9 Sec. 11. TO WHOM ASSESSED. a. Subject to subsections
10 b. and c. of this section property shall be assessed and
11 taxed in the name of the owner or claimant, and where the
12 property is owned, occupied or claimed by two or more persons,
13 it shall be assessed and taxed in the names of the owners,
14 occupiers or claimants jointly.

15 b. Where a verified statement is furnished showing that
16 property has become the subject of a contract of sale or has
17 been leased by the owner to another person, the name of the
18 other person shall be noted on the assessment roll and like
19 notice of the assessment shall be sent to him as to the owner,
20 in which case the taxes assessed in respect of the property may
21 be received either from the owner or from the purchaser or tenant
22 or from any optionee, prospective distributee, purchaser or
23 encumbrancer who desires to safeguard the title to the property.

24 c. Land of the United States or the state which is held
25 under any private leasehold, license, agreement for sale,
26 accepted application for purchase, mining location, or otherwise,
27 (but not including any oil or gas interest, lease or other right
28 to explore or drill for or produce oil and/or gas or the rights
29 attached thereto or inherent therein) shall be assessed and taxed

1 in the name of the occupier according to the value of his interest
2 therein (except as above modified in this Act with respect to
3 certain mining claims); but no assessment or taxation in respect
4 of land so held or occupied shall in any way affect the rights
5 of the United States or the state in the land.

6 d. Where the property assessed is owned by two or
7 more persons in undivided shares, each owner shall be assessed
8 on the undivided interest at the proportion of the appraised
9 value of the property that his undivided interest bears to the
10 whole.

11 Sec. 12. CONTENT OF ASSESSMENT ROLL. a. The assessor
12 shall prepare an annual assessment roll in duplicate, for each
13 district covering property outside of organized boroughs or
14 other incorporated political subdivisions, after consideration
15 of all returns made to him pursuant to this Act, and after care-
16 ful inquiry from such sources as he may deem reliable. On the
17 roll he shall enter the following particulars:

18 (1) the names and last known addresses of all persons
19 with property liable to assessment and taxation;

20 (2) a description of all taxable property;

21 (3) the assessed value, quantity, or amount of said
22 property and the taxes thereon;

23 (4) the arrears of taxes owing by any persons; and,

24 (5) any other information that may be required by the
25 commissioner.

26 b. It shall be a sufficient description of any property
27 for the purposes of this Act, if there is entered on the assess-
28 ment roll the best available short description which identifies
29 the property.

1 Sec. 13. ASSESSMENT NOTICE. a. The assessor shall give
2 to every person named on the assessment roll a notice of
3 assessment, showing the appraised value, assessment of his
4 property and the amount of taxes thereon, in such form as the
5 commissioner may prescribe. At least 60 days must be allowed
6 from the date of such mailing within which to appeal to the
7 board against the assessment. He shall enter on the roll
8 opposite the name of each person the date of giving the assess-
9 ment notice which entry shall be prima facie evidence of the
10 giving of the notice. On the back of each assessment notice
11 shall be printed a brief summary for the information of the tax-
12 payer, of the dates when the taxes are payable, delinquent, and
13 subject to interest, dates when the board will sit for equali-
14 zation purposes, and any other particular specified by the
15 commissioner.

16 b. The assessment notice shall be directed to the person
17 to whom it is to be given, and shall be sufficiently given
18 if it is mailed by first class mail addressed to, or is delivered
19 at, his address as last known to the assessor; or, if the address
20 is not known to the assessor, the notice may be mailed addressed
21 to the person at the post office nearest to the place where the
22 property is situated. The date on which the notice is so mailed
23 or is so delivered for all purposes of this Act shall be deemed
24 to be the date on which the notice is given.

25 Sec. 14. COMPLETION OF ASSESSMENT ROLL. The assessor shall
26 complete the annual assessment roll for the year 1963 on or
27 before the 1st day of September and for each year thereafter on
28 or before the 1st day of July of that year, which shall be based
29 on values of January 1, immediately preceding, and shall certify

1 the same by attaching thereto a certificate in a form to be
2 prescribed by the commissioner. Such supplementary assessment
3 rolls shall be prepared and certified as may be deemed necessary
4 or expedient.

5 Sec. 15. EFFECT OF ASSESSMENT ROLL. All taxes to be levied
6 or collected under this Act shall, except as otherwise provided,
7 be calculated, levied and collected upon the appraisements
8 entered in the assessment roll and certified by the assessor as
9 correct, subject to the taxpayers' rights of appeal and to the
10 corrections and amendments made in the rolls pursuant to this Act.

11 Sec. 16. PROVISIONS APPLICABLE TO SUPPLEMENTARY ROLLS. All
12 the duties imposed upon the assessor with respect to the annual
13 assessment roll and all the provisions of this Act relating to
14 assessment rolls shall, so far as applicable, apply to
15 supplementary assessment rolls.

16 Sec. 17. CORRECTION OF ERRORS BY ASSESSOR. The assessor
17 may correct any error, omission or invalidity made or arising
18 in the preparation of the assessment roll at any time before the
19 sitting of the board. It shall be the duty of every person
20 receiving a notice of assessment to advise the assessor of any
21 error, omission or invalidity he may have observed in the assess-
22 ment of his property, in order that the assessor may correct
23 the same.

24 Sec. 18. TRANSMISSION OF ROLL TO THE COLLECTOR. a. The
25 assessment roll in duplicate shall be certified and transmitted
26 to the commissioner not later than one month after the
27 completion of same unless the time for transmission is extended
28 by the commissioner.

29 b. All corrections and amendments made in the roll pursuant

1 to this Act or to the decisions of the board or the courts,
2 and which are not shown on the assessment roll deposited with
3 the commissioner, shall be forthwith reported to the commissioner
4 by the assessor.

5 Sec. 19. VALIDITY OF ASSESSMENT ROLLS. Every assessment
6 roll as completed and certified by the assessor, and as corrected
7 and amended by him from time to time in conformity with this Act
8 and the decisions of the board shall, except insofar as the same
9 may be further amended as a result or an appeal to the court, be
10 valid and binding on all persons, notwithstanding any defect,
11 error, omission or invalidity existing in the assessment roll
12 or any part thereof, and notwithstanding any proceedings pertain-
13 ing thereto.

14 Sec. 20. DEPOSIT OF ROLL WITH COMMISSIONER. Upon a
15 completed assessment roll being amended by the assessor in con-
16 formity with the decisions of the board, the assessor shall
17 deliver the roll to the commissioner and roll shall be open during
18 office hours to the inspection of all taxpayers. The duplicate
19 assessment roll for each district shall be forwarded to the par-
20 ticular district for retention in the district to which it applies

21 Sec. 21. SITTINGS AND RECORDS OF BOARD. For the purpose
22 of scrutinizing the assessment roll and its supplements, and
23 taking corrective action thereon, or for hearing appeals in
24 regard to any assessment roll, or from any assessment made under
25 this Act, the board shall sit and adjourn from time to time as
26 its business may require, and shall record its proceedings and
27 decisions. During all periods when the board is not in session,
28 its records and decisions shall be kept by the assessor.

29 Sec. 22. NOTICES BY BOARD. a. Where the name of any

1 person is ordered by the board to be entered on the assessment
2 roll, by way of addition or substitution, for the purpose of
3 assessment, the board shall cause notice thereof to be mailed
4 by the assessor to that person or his agent in like manner
5 as provided in Sec. 13, giving him at least 60 days from
6 the date of such mailing within which to appeal to the board
7 against the assessment.

8 b. Whenever it appears to the board that there are over-
9 charges or errors or invalidities in the assessment roll, or
10 in any of the proceedings leading up to or subsequent to the
11 completion of the roll, and there is no appeal before the board
12 in which the same may be dealt with, the board may notify parties
13 affected with the view of hearing them.

14 Sec. 23. APPEAL BY PERSON ASSESSED. a. Any person
15 whose name appears on the assessment roll may appeal to the
16 board with respect to any alleged error in the appraisal,
17 overcharge, error, omission or neglect of the assessor.

18 b. Notice of appeal, in writing, specifying the grounds
19 for the appeal, shall be filed with the board within 60 days
20 after the date on which the assessor's notice of assessment was
21 given to the person appealing. Such notice must contain a
22 certification that a true copy thereof was mailed or delivered
23 to the assessor. If notice of appeal is not given within that
24 period, right of appeal shall cease, unless it is shown to the
25 satisfaction of the board that the taxpayer was unable to
26 appeal within the time so limited.

27 c. A copy of the notice of appeal must be sent to the
28 assessor as above indicated.

29 Sec. 24. APPEAL RECORD. Upon receipt of the notice of

1 appeal, the assessor shall make a record in such form as the
2 commissioner may direct, which shall contain all the informa-
3 tion shown on the assessment roll in respect of the subject
4 matter of the appeal, and the assessor shall place the same
5 before the board from time to time as may be required by the
6 board.

7 Sec. 25. NOTICE OF HEARING. Not less than 30 days before
8 the sittings at which the appeal is to be heard, the board shall
9 cause a notice to be mailed by the assessor to the person by
10 whom the notice of appeal was given, and to every other person in
11 respect of whom the appeal is taken, to their respective addresses
12 as last known to the assessor. The form of such notice shall
13 be prescribed by the commissioner.

14 Sec. 26. HEARING OF APPEAL. a. At the time appointed for
15 the hearing of the appeal or as soon thereafter as the appeal
16 may be heard, the board shall hear the appellant, the assessor,
17 other parties to the appeal and their witnesses, and consider
18 the testimony and evidence adduced, and shall determine the
19 matters in question on the merits and render its decision
20 accordingly.

21 b. If any party to whom notice was mailed as above set
22 forth fails to appear, the board may proceed with the hearing
23 in his absence.

24 c. The burden of proof in all cases shall be upon the party
25 appealing.

26 Sec. 27. ENTRY OF DECISIONS. The board shall from time to
27 time enter in the appeal record its decision upon appeals brought
28 before it, and shall certify to the same. The assessor, upon
29 receipt of the appeal record, and subject in every case to any

1 appeal taken to the courts, shall enter in the assessment roll
2 such amendments as may be necessary to give effect to the
3 decisions of the board.

4 Sec. 28. COLLECTION UNAFFECTED BY APPEAL. Neither the
5 giving of a notice of appeal by any taxpayer, nor any delay in
6 the hearing of the appeal by the board shall in any way affect
7 the due date, the delinquency date, the interest, or any
8 liability for payment provided by this Act in respect of any tax
9 which is the subject matter of the appeal. In the event of the
10 tax being set aside or reduced by the board on appeal, the
11 commissioner shall authorize the refund to the taxpayer the
12 amount of the tax or excess tax paid by him, and of any interest
13 imposed and paid on any such tax or excess.

14 Sec. 29. APPEAL TO COURT. Any person feeling aggrieved
15 by any order of the board shall have the right of appeal on a
16 de novo basis to the court having jurisdiction in the district
17 in which the said individual's property is located. Such appeal
18 shall be pursued as nearly as may be in accordance with the
19 procedure prescribed in Sections 68-9-4 to 68-9-14 inclusive,
20 Alaska Compiled Laws Annotated 1949, governing appeals from a
21 justices' court in civil cases and the commissioner shall
22 promulgate uniform regulations adapting the above referenced
23 procedure for perfecting such appeals.

24 Sec. 30. TIME OF PAYMENT. Taxes for a calendar year shall
25 be due and payable annually the 1st day of February of the
26 ensuing year. Failure to pay on said date shall cause the tax
27 to become delinquent and shall subject the property assessed to
28 the interest and penalty additions hereinafter provided. Pay-
29 ments of taxes may be made at any time before their due date,

1 but no discount shall be allowed for such early payment.

2 Sec. 31. MODE OF PAYMENT. All taxes payable under this
3 Act shall be paid in lawful money of the United States or its
4 equivalent, at the office of the commissioner in the district
5 in which same are due.

6 Sec. 32. LIEN. a. The taxes assessed upon property, to-
7 gether with the interest, shall be a lien thereon from and
8 after September 1, 1963 and July 1 of each year thereafter
9 until paid, and no sale or transfer of such property shall in
10 any way affect the lien of such taxes.

11 b. Liens for taxes hereunder shall be first liens and
12 paramount to all prior and subsequent encumbrances, alienations
13 and descents of the property.

14 Sec. 33. INTEREST. a. For failure to pay taxes when due,
15 interest at the rate of one per cent per month shall be added
16 on the first of each month until the tax is paid or the property
17 sold hereunder, but not to exceed the legal rate of interest in
18 the aggregate.

19 b. Where a tax becomes payable in respect to property
20 assessed on a supplementary assessment roll, the like interest
21 shall be added to and recovered as part of the tax as might
22 have been imposed if the return and the assessment had been
23 made at the time prescribed by this Act and the tax had been
24 duly assessed and had not been paid.

25 Sec. 34. FAILURE OR REFUSAL TO COMPLY WITH ACT. Every
26 person who, without reasonable excuse, in violation of any
27 provision of this Act or of the regulations made thereunder:

28 (1) refuses or fails to make any return required to
29 be made; or,

1 (2) in the making of any return, or otherwise, will-
2 fully withholds any information necessary for ascertaining the
3 true taxable amount of any property; or,

4 (3) refuses or fails to furnish to the assessor or
5 his employee or agent any access, facility, or assistance
6 required for the purpose of an entry on or examination of
7 property or records; or,

8 (4) refuses or fails to attend or submit himself to
9 examination on oath or otherwise by the assessor, the board or
10 the commissioner when duly cited so to do; shall, in addition to
11 penalties otherwise prescribed herein, be guilty of an offense
12 against this Act.

13 Sec. 35. FALSE RETURNS AND RECORDS. Every person who know-
14 ingly and willfully makes any false or deceptive statement in
15 any return required to be made under this Act, or fraudulently
16 omits to give therein a full and correct statement of the
17 property of the taxpayer, or makes or keeps any false entry
18 or record in any book of account or record required to be kept
19 under this Act, shall be liable, on conviction, to a fine of
20 not less than \$100 and not more than \$1,000, such fine to be
21 covered into the general fund of the state.

22 Sec. 36. DEFACING POSTED NOTICES. Every person who, with-
23 out reasonable excuse, tears down, injures or defaces any
24 advertisement, notice or document which is posted in a public
25 place, under authority of this Act or the regulations made there-
26 under, shall be guilty of an offense against this Act.

27 Sec. 37. PENALTY FOR OFFENSES. Every person guilty of
28 an offense against this Act for which no other penalty is
29 specifically provided, shall be liable, on conviction, for a

1 first offense to a fine not exceeding \$500, and for a second
2 or subsequent offense to a fine of not less than \$100 and not
3 more than \$1,000, such fine to be covered into the general fund
4 of the state.

5 Sec. 38. LIABILITY OF CORPORATE OFFICERS, ETC. Every
6 director, manager, secretary or other officer of a corporation
7 or association, and every member of a partnership or syndicate,
8 who knowingly and willfully authorizes or permits any act,
9 default, or refusal which would subject the organization to
10 criminal liability hereunder, shall be likewise personally
11 guilty of such offense.

12 Sec. 39. PROSECUTIONS. Prosecutions hereunder for impos-
13 ing of fines shall be at the instance of the commissioner and
14 be brought in the name of the state.

15 Sec. 40. PENALTIES. Five per cent per month shall be
16 added to the tax after the due date not to exceed 25 per
17 cent.

18 Sec. 41. DELINQUENT TAX ROLL: PREPARATION AND CONTENTS:
19 NOTICE AND PUBLICATION OF THE FORECLOSURE LIST: PAYMENT PRIOR TO
20 SALE. a. The commissioner shall on or after the 1st day of
21 April of any year, cause to be made a roll in duplicate, the
22 original shall be known as the delinquent tax roll and the dupli-
23 cate shall be known as the state foreclosure list, listing the
24 property situated within each district, of all real property then
25 subject to foreclosure. The names of persons appearing in the
26 latest tax roll as the respective owners of the tax delinquent
27 properties, a description of each such property as it appears on
28 said roll, the year or years for which taxes are delinquent, the
29 amount of delinquent taxes for each year with interest and

1 penalty thereon and the date when said taxes became delinquent,
2 and the aggregate of the whole thereof. And thereon shall be
3 endorsed under the hand of the commissioner and bear the seal of
4 the Department of Revenue, a certificate to the effect that said
5 roll is a true and correct roll of the delinquent taxes due the
6 state for the years there shown. The taxes for more than any one
7 year may be included in said roll. Said roll so made up shall
8 be identified by district and shall be known as the state fore-
9 closure list for the year in which the same is made up. The
10 delinquent tax roll shall be filed in the Department of Revenue
11 and the foreclosure list for a particular district shall be filed
12 in the district office of the Department of Revenue and remain
13 open to inspection by the public. After the completion of the
14 foreclosure list, the commissioner shall, under the direction of
15 the board, cause to be published within each district in a news-
16 paper of general circulation, to be designated by the board, a
17 notice under the hand of the commissioner, setting forth that the
18 foreclosure list, listing the property within that particular
19 district, identifying the district for the year, has been
20 completed and is open during business hours for public inspection
21 at the district office of the Department of Revenue giving the
22 address of the same and that on a certain day not less than
23 30 days after the publication of such notice, the said list
24 will be presented to the court within the district having
25 jurisdiction for judgment and order of sale.

26 b. On the day designated in the publication, a certified
27 copy of the foreclosure list, together with a petition for judg-
28 ment, shall be presented to the court. Notice of such foreclosure
29 proceeding shall be given by four weekly publications of the

1 foreclosure list in a newspaper of general circulation within
2 each district, to be designated by the board, the first such
3 publication to commence on the day of the filing of the list
4 and petition. The publication of the foreclosure list shall be
5 sufficient service on each person interested in any of the
6 properties, and it shall not be necessary to mail a copy of any
7 notice to the owner or to any other person interested in the
8 property.

9 c. All persons owning or claiming to own, or having or claim-
10 ing to have, any interest in any property, included in the fore-
11 closure list, are charged with notice of such proceeding and of
12 all steps thereunder.

13 d. During the time of the publication of the foreclosure
14 list and up to the time of sale any person may make payment of
15 the taxes on any piece or tract set forth therein, together with
16 the penalty and interest, and proportionate share of the costs of
17 publication and foreclosure; and the commissioner shall make
18 proper notation of such payment on both the original delinquent
19 tax roll and foreclosure list.

20 e. On receipt of the delinquent tax payments as to a
21 particular property any time one week prior to the filing of
22 the foreclosure list and petition, the commissioner shall remove
23 the property from both the list and the roll.

24 Sec. 42. NOTICE OF FORECLOSURE LIST TO LIENHOLDER. A
25 mortgagee or other holder of a recorded lien on real property
26 may file with the commissioner a request that notice of any fore-
27 closure list including such real property to be given to such
28 mortgagee or other lienholder. The request shall contain the
29 name and address of the person filing it, the description of the

1 property and the name of the owner or reputed owner thereof, and
2 the date of the expiration of the mortgage or lien. Notice need
3 not be given after expiration of the mortgage or lien, unless a
4 further request therefor is filed. If the mortgagee or lienholder
5 furnishes a duplicate form of request for the notice, the commis-
6 sioner shall certify thereon to the filing and return the dupli-
7 cate to the person making the request. Whenever any property
8 described in the request for notice is included in a foreclosure
9 list the commissioner shall send by certified mail written notice
10 thereof to the mortgagee or other lienholder. At the time of mail-
11 ing the notice, the commissioner shall note that fact in ink in
12 the latest tax roll opposite the description of the property. The
13 notation in the tax roll is prima facie evidence that the notice
14 was mailed. Where the same mortgagee or lienholder has filed re-
15 quests for notices on two or more properties included in a foreclo-
16 sure list, one notice may be issued covering all such properties.

17 Sec. 43. COSTS: TAXATION, PAYMENT AND APPORTIONMENT: LIEN
18 FOR. The cost of publication of the foreclosure list and of the
19 tax foreclosure proceedings shall be taxed by the clerk of the
20 court and paid by the state, but the same shall be apportioned
21 by the clerk of the court to the several tracts ordered sold so
22 that each such tract will bear its proportionate share of such
23 costs, and the same shall thereafter be a charge against the
24 tract to which it is proportioned.

25 Sec. 44. FORECLOSURE PROCEEDINGS: GENERAL. One general
26 proceeding shall be brought on the part of the state, to fore-
27 close the tax liens against each of the properties included in
28 the foreclosure list within each district. The person whose name
29 appears in the latest tax roll as the owner of any property

1 therein described shall be considered and treated as the owner of
2 the property. Each such proceeding shall be a proceeding in rem
3 against the property itself. If in any tax roll it appears that
4 the owner of any property is unknown, then such property shall be
5 proceeded against as belonging to an unknown owner. Tax fore-
6 closure proceedings under this Act shall be given priority over
7 all other civil proceedings.

8 Sec. 45. PETITION FOR JUDGMENT AND DECREE FORECLOSING LIENS.

9 On the day of the first publication, a certified copy of the
10 foreclosure list shall be presented to the court of the district
11 wherein the property is situated, together with a petition pray-
12 ing for a judgment and decree foreclosing the tax liens.

13 Sec. 46. ANSWER AND DEFENSE BY PERSON INTERESTED: HEARING:

14 EVIDENCE. Within 30 days after the filing of the petition any
15 person owning or having any legal or equitable interest in, or
16 a lien upon any tract listed in said foreclosure list, may file
17 an answer and defense to the petition for judgment and decree.
18 Such answer shall be in writing and specify the grounds of
19 objection to the assessment or tax on the particular tract
20 described in such answer and the court in a summary manner will
21 hear and determine such objection and render such decision thereon
22 as may be legal and just. At such hearing, the foreclosure list
23 shall be prima facie evidence of the regularity and legality of
24 the assessment and levy of the tax and that the same is unpaid,
25 and no objection to the manner of the assessment and levy of the
26 tax, or any of the subsequent proceedings shall be entertained
27 by the court which does not affect the substantial rights of the
28 party interposing the objection.

29 Sec. 47. EFFECT AND CORRECTION OF IRREGULARITY, INFORMALITY,

1 OMISSION OR OTHER ERROR. a. No assessment of property or charge
2 for taxes shall be considered invalid because of: (1) an
3 irregularity in an assessment roll; (2) an assessment roll not
4 having been made, completed or returned within the time prescribed
5 by law; (3) the property having been listed or charged in an
6 assessment or tax roll without any name, or with a name other
7 than that of the owner.

8 b. No error or informality on the part of any officer in
9 connection with assessment, equalization, levy or collection shall
10 vitiate or affect the assessment of the property or the taxes
11 thereon. Any such irregularity, informality, omission or other
12 error may, in the discretion of the court, be corrected to
13 conform to the law.

14 Sec. 48. JUDGMENT AND DECREE: LIEN: INTEREST. Not less
15 than 30 days after the filing of a petition for judgment and
16 decree the court shall give judgment and decree for the
17 delinquent taxes, penalty and interest appearing to be due on the
18 several parcels of real property described in the petition;
19 and shall decree that the several liens of such taxes be fore-
20 closed. The judgment shall be a several judgment against and a
21 lien on each parcel of property included therein. The several
22 judgment shall bear interest at the rate of 15 per cent from
23 the date of entry thereof.

24 Sec. 49. ORDER FOR SALE OF PROPERTIES TO STATE: CERTIFIED
25 COPY OF JUDGMENT AND DECREE AS CERTIFICATE OF SALE. a. The court
26 shall order that the several properties, against which the
27 judgment and decree is entered, be sold directly to the state
28 for the respective amounts of taxes and interest for which the
29 properties severally are liable. In the event answers have been

1 filed, the court may enter judgment against and order the sale
2 of all other properties pending the determination of the subjects
3 in controversy. The clerk of the court shall deliver to the
4 commissioner a certified copy of the judgment and decree, included
5 in which shall be a list of the properties so ordered sold, with
6 the several amounts due thereon.

7 b. The certified copy of the judgment shall constitute a
8 certificate of sale to the state of the several properties
9 described in the judgment and decree and no other certificate
10 need to be issued.

11 Sec. 50. JUDGMENT AND DECREE AS EVIDENCE AND ESTOPPEL.
12 Any judgment and decree for the sale of real property to the
13 state, on foreclosure for delinquent taxes, is conclusive
14 evidence of its regularity and validity in all collateral
15 proceedings, except where the taxes have been paid or the property
16 was not liable to assessment and taxation. The judgment and
17 decree is prima facie evidence that the taxes have not been paid
18 and that the property was subject to taxation at the time it was
19 assessed. The judgment and decree shall estop all persons
20 raising objections thereto, or to the title based thereon, which
21 existed at or before the date of the judgment and decree and
22 could have been presented as an objection or defense to the
23 application for the judgment and decree.

24 Sec. 51. LIMITATIONS ON PROCEEDINGS AFFECTING FORECLOSURE
25 SALE: DEPOSIT OF JUDGMENT AND INTEREST BY CLAIMANT. Every action,
26 suit or proceeding, commenced for the purpose of determining the
27 validity of a sale of real property on foreclosure for delin-
28 quent taxes, or to quiet title against such sale, or to remove
29 the cloud thereof, or to recover possession of the property,

1 shall be commenced within two years from the date of the judgment
2 and decree of foreclosure and sale to the state and not other-
3 wise. In every such action, suit or proceeding any person claim-
4 ing to be the owner of the property, as against the state or any
5 person holding title from the state, shall pay into court with
6 the first pleading the amount charged against the property in the
7 judgment and decree of foreclosure, together with interest
8 thereon at the rate of 15 per cent per year from the date of the
9 judgment and decree to the date of filing the pleading.

10 Sec. 52. VACATION OF JUDGMENT: DETERMINING VALUE OF
11 IMPROVEMENTS BY PURCHASER AND RENDERING JUDGMENT THEREFOR. When-
12 ever the court vacates or sets aside a judgment and decree of
13 foreclosure with respect to any particular property, the court
14 shall determine the value of any improvements placed on the
15 property by the state or by any purchaser from the state, and
16 shall give judgment therefor and collect the same from the
17 claimant before putting him in possession.

18 Sec. 53. APPEAL. Appeal from any judgment and decree here-
19 under, or from any final order in the proceeding, may be taken
20 in the manner provided by law for appeal from the court rendering
21 such judgment, decree or order.

22 Sec. 54. PERIOD DURING WHICH PROPERTY HELD BY STATE: REDEMP-
23 TION: ASSESSMENT DURING REDEMPTION PERIOD: REDEMPTION OF PART OF
24 PROPERTY. All real properties sold to the state pursuant to this
25 Act shall be held by the state for a period of one year from and
26 after the date of the judgment and decree of foreclosure unless
27 sooner redeemed. During the one-year period, any person having
28 an interest in the property at the date of the judgment and
29 decree of foreclosure, or any heir or devisee of such person, or

1 any person holding a lien of record on the property, may redeem
2 the property by payment of the full amount applicable to the prop-
3 erty under the judgment and decree, with interest thereon as
4 provided by law, and the costs charged against such property.
5 Property so redeemed shall be subject to assessment for taxation
6 during the period of redemption, as though it had continued in
7 private ownership. Any person holding a mortgage or other lien
8 of record covering a part only of a particular parcel of real
9 property included in the judgment and decree of foreclosure may
10 redeem such part by payment of the proportionate amount appli-
11 cable thereto under the judgment and decree.

12 Sec. 55. RELEASE OF CLAIMS OF STATE BY REDEMPTION: ENTRIES
13 BY COMMISSIONER: CERTIFICATE OF REDEMPTION. The receipt of
14 redemption money by the commissioner shall operate to release all
15 claims of the state, under the judgment and decree of fore-
16 closure, to the property so redeemed. The commissioner, on
17 receipt of redemption money, shall immediately make the proper
18 entries in the records of his office showing that the property
19 has been redeemed from the sale to the state, and he shall deliver
20 to the person redeeming the property a certificate of redemption.
21 The certificate shall contain a description of the property so
22 redeemed, the total amount paid, and the date of entry of the
23 judgment and decree of foreclosure and sale. The certificate
24 shall be signed by the commissioner or his deputy and shall be
25 filed by the redemptioner with the recorder of the district, who,
26 on payment of the recording fee, shall enter the certificate in
27 the proper records of his office. The clerk of the court shall
28 then file the certificate of redemption as part of the judgment
29 roll in the foreclosure proceeding. No fee shall be charged for

1 the issuance of a certificate of redemption.

2 Sec. 56. ADDITIONAL LIEN OF LIENHOLDER PAYING TAXES OR
3 REDEEMING. Where any property included in a foreclosure list or
4 proceeding is removed therefrom by payment of taxes or by redemp-
5 tion on the part of a mortgagee or other lienholder of record,
6 the official receipt for payment of such taxes or redemption money
7 shall constitute an additional lien on the property to the amount
8 specified in the receipt. The amount so paid, with interest and
9 other lawful charges thereon, shall be collectible with and in
10 the same manner as the amount secured by the original mortgage
11 or lien.

12 Sec. 57. POSSESSION DURING REDEMPTION PERIOD: FORFEITURE
13 FOR WASTE. The sale of property to the state on foreclosure
14 for delinquent taxes does not affect the former owner's right to
15 possession of the property during the period of redemption.
16 However, any waste of the property, committed by the former owner
17 by anyone acting under his permission or control, shall work an
18 immediate forfeiture by the former owner to the state of the right
19 to such possession.

20 Sec. 58. NOTICE OF EXPIRATION OF REDEMPTION PERIOD. Not
21 more than 45 days nor less than 30 days prior to the expiration
22 of the period of redemption of any real property ordered sold
23 to the state under a judgment and decree, as provided herein, the
24 commissioner shall publish a general notice relative to the ex-
25 piration of the period of redemption. The notice shall contain
26 the date of the judgment and decree, the date of expiration of the
27 period of redemption, and warning to the effect that all the
28 properties ordered sold under the judgment and decree, unless
29 sooner redeemed, will be deeded to the state immediately on

1 expiration of the period of redemption and that every right or
2 interest of any person in the properties will be forfeited for-
3 ever to the state. The notice shall be published in two weekly
4 issues of a duly designated newspaper of general circulation
5 within each district within the period of 15 days as specified in
6 this section. The published notice may be a general notice, and
7 it shall not be necessary to include therein descriptions of the
8 several properties or the names of the respective owners.

9 Sec. 59. DEED TO STATE. Upon filing proof of publication
10 of notice of expiration of redemption period as a part of the
11 foreclosure proceedings, the properties not redeemed within the
12 one-year period prescribed herein shall be deeded to the state
13 by the clerk of the court. All rights of redemption, with
14 respect to the real properties therein described, shall terminate
15 on the execution of the deed to the state. No return or confirma-
16 tion of the sale or deed to the state is required or necessary.

17 Sec. 60. TITLE OF STATE: TITLE OF PURCHASER ON RESALE.
18 When the state acquires real property under foreclosure procedures
19 the conveyance vests in the state title to the property, free
20 from all liens and encumbrances except liens of the United States.

21 Sec. 61. SALE AFTER JUDGMENT. No purchase, subsequent to a
22 judgment or decree foreclosing a tax lien or liens upon property,
23 shall be invalidated and no deed shall be declared void or set
24 aside for irregularities, omissions or defects, unless the
25 record owner of the property sold actually has been misled by the
26 irregularities, omissions or defects to his injury.

27 Sec. 62. PERSONAL LIABILITY FOR TAX ON PERSONALTY: ENFORCE-
28 MENT BY ACTION. The owner of personal property assessed shall be
29 personally liable for the amount of taxes assessed against his

1 personal property, and such tax, together with penalty and
2 interest, may be collected after the same becomes due in a per-
3 sonal action brought in the name of the state against such owner
4 in the courts of the state.

5 Sec. 63. ENFORCEMENT BY DISTRAINT. The provisions of Ch.
6 43, SLA 1955 as applying to the remedy of distraint on personal
7 property and as hereafter amended shall be applicable to the tax
8 levied by this Act.

9 Sec. 64. BOARD OF ASSESSMENT AND EQUALIZATION. a. There
10 is hereby created and established a Board of Assessment and
11 Equalization.

12 b. The board shall consist of the commissioner and three
13 members appointed by the governor for overlapping three-year
14 terms. The commissioner shall serve as ex officio chairman.

15 c. The board shall have the following rights, duties and
16 powers to:

17 (1) exercise general supervision and direct the acti-
18 vities of appraisement, assessment and equalization of property
19 taxes;

20 (2) select an employee or enter into a contract with
21 a qualified person to perform the functions of assessor; provided,
22 that the individual so appointed shall have the technical quali-
23 fications prescribed by the commissioner;

24 (3) keep an accurate and complete record of all board
25 business, orders and processes, which records shall be open to
26 public inspection at all times;

27 (4) hold hearings and conduct investigations required
28 in the administration of appraisement and assessment provisions
29 of this Act and hear and determine appeals involving appraisement

1 and assessment of property, at such points in the state as will
2 serve the general convenience of the public; provided, that written
3 minutes may be kept of the testimony of witnesses without making
4 a word by word record thereof;

5 (5) such district hearing boards, as are necessary
6 within each district, consisting of three members, may be desig-
7 nated, each member of the board, other than the chairman, shall
8 appoint one member of the district hearing board, said board may
9 hear any appeal, make findings and submit recommendations to the
10 board. The compensation of each member of each district hearing
11 board shall be \$20 for each day actually spent in the performance
12 of his duties, including all the time away from his place of
13 residence in connection therewith, together with per diem and
14 travel expenses payable in accordance with vouchers issued by
15 the commissioner;

16 (6) require attendance of witnesses and production
17 of all necessary evidence at any hearings and administer oaths
18 in the course of investigations conducted or hearings held pur-
19 suant to the provisions of this Act;

20 (7) require such searches and appraisements by the
21 assessor as the board sees fit;

22 (8) establish and maintain uniformity of assessment
23 within the state in respect to the appraisal and fixing of
24 property values;

25 (9) issue regulations, bulletins and instructions
26 to secure uniformity in the system of appraisement, assessment
27 and collection of taxes.

28 Sec. 65. COMMISSIONER OF REVENUE. The commissioner of
29 revenue shall be collector of taxes levied under this Act and

1 enforce collections with the aid of such district collectors or
2 other deputy collectors and personnel as the board may see fit
3 to authorize. He shall administer all provisions of this Act.
4 The commissioner shall also prescribe and furnish all necessary
5 forms and promulgate and publish all needful rules and regulations
6 under the direction of the board conformable herewith for the
7 appraisal, assessment and collection of any tax herein imposed;
8 and shall voucher for expenditures according to law.

9 Sec. 66. SALE OF FORECLOSED PROPERTIES. Tax foreclosed
10 properties which have been conveyed to the state pursuant to tax
11 foreclosure, decree and sale, as herein provided may be retained,
12 leased or sold by the state in such manner as may be provided by
13 the board.

14 Sec. 67. SEVERABILITY CLAUSE. If any provision of this
15 Act, or the application thereof to any person or circumstances is
16 held invalid, the remainder of the Act and such application to
17 other persons or circumstances shall not be affected thereby.

18 Sec. 68. EFFECTIVE DATE. This Act shall take effect on
19 January 1, 1963.
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