Introduced: 3/21/77
Referred: Community & Regional Affairs and Finance

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IN THE HOUSE

HOUSE BILL NO. 376

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for property tax relief to homeowners and renters."

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

* Section 1. AS 43 is amended by adding a new chapter to read:

CHAPTER 21. HOMEOWNERS AND RENTERS REFUND PROGRAM.

Sec. 43.21.010. HOMESTEAD REFUND. (a) A resident who, on December 31, occupies a homestead which he owns is entitled to a homestead refund equal to the property taxes levied against the homestead in that calendar year or the maximum refundable owner property tax stated in the table in (g) of this section for his household income, whichever is less.

(b) A resident who rents and occupies a homestead or a succession of homesteads at any time during a calendar year and who does not, on December 31, occupy a homestead which he owns is entitled to a homestead refund equal to the rent constituting property tax paid for the homestead or homesteads during that part of the calendar year in which he was in occupancy or the maximum refundable rent constituting property tax stated in the table in (g) of this section for his household income, whichever is less.

(c) A resident who, on December 31, owns the land upon which his principal dwelling is situated but pays rent for the dwelling or who, on December 31, owns his principal dwelling but pays rent for the land on which it is situated, is entitled to a homestead refund equal to the lesser of

(1) the rent constituting property tax, paid during that part of the calendar year in which he was in occupancy, for that part of the dwelling or land which is rented plus the property taxes levied in that calendar year against that part of the dwelling or land which is owned; or

(2) the maximum refundable owner property tax stated in the table in (g) of this section for his household income.

(d) To be eligible for a homestead refund under (c) of this section, the resident must occupy the principal dwelling on December 31 of the calendar year for which refund is claimed. A resident who is eligible for a homestead refund under (c) of this section is ineligible for a homestead refund under (a) or (b) of this section. The combination of land and dwelling referred to in (c) of this section is a homestead for purposes of this chapter.

(e) It is not necessary that a resident have been or be liable for any amount of property taxes or any amount of tax under the Alaska Net Income Tax Act (AS 43.20) in order to be entitled to a homestead refund.

(f) The homestead refund is subject to the limitations set out in this chapter and to limitations in departmental regulations implementing this chapter.

(g) The table referred to in this section is:

Household Income	Maximum Refundable Owner Property Tax	Maximum Refundable Rent Constituting Property Tax
$ 0 - 4,999	$500	$300
5,000 - 9,999	480	288
10,000 - 11,999	460	276
12,000 - 13,999	440	264

14,000 - 15,999	420	252
16,000 - 17,999	400	240
18,000 - 19,999	380	228
20,000 - 20,999	360	216
21,000 - 21,999	340	204
22,000 - 22,999	320	192
23,000 - 23,999	300	180
24,000 - 24,999	280	168
25,000 - 25,999	260	156
26,000 - 26,999	240	144
27,000 - 27,999	220	132
28,000 - 28,999	200	120
29,000 - 29,999	180	108
30,000 - 30,999	160	96
31,000 - 31,999	140	84
32,000 - 32,999	120	72
33,000 - 33,999	100	60
34,000 - 34,999	80	48
35,000 - 35,999	60	36
36,000 - 36,999	40	24
37,000 - 37,999	20	12
38,000 +	0	0

Sec. 43.21.020. OWNER-OCCUPIED RENTAL UNITS. If a homeowner has one or more tenants who rent part of his principal dwelling, the department shall segregate the value of the tenant's dwelling area from the total property value to determine the homestead of the owner-occupant. Only the property taxes attributable to the homestead of the owner-occupant are refundable to him under sec. 10(a) of this chapter. The dwelling area occupied by the tenant qualifies as a separate homestead

for purposes of this chapter.

Sec. 43.21.030. SUBLEASED DWELLINGS. If a renter subleases part of his principal dwelling to another person, he shall reduce the total rent paid by the amount of rent received from the sublessee in determining his net rent. The part of the dwelling occupied by the sublessee qualifies as a separate homestead for purposes of this chapter.

Sec. 43.21.040. HOMESTEADS USED AS BUSINESSES. If a homestead is used partly as a business, the department may, for purposes of calculating the homestead refund, recompute the property taxes or rent constituting property tax to an amount which reflects the value of the homestead solely as a dwelling.

Sec. 43.21.050. LIMITATIONS ON REFUND. (a) If a homestead refund is less than $5, no refund may be granted.

(b) No more than one resident may be granted a homestead refund in respect to the same homestead for the same period of time. If more than one resident is eligible for a homestead refund in respect to the same homestead for the same period of time, the residents shall decide among themselves who the claimant shall be. If they are unable to agree, the department shall decide the matter.

(c) No homestead refund may be granted to a renter whose claim for the refund is based on occupancy of a homestead which is partly or wholly excluded or exempted from taxation by a municipality unless the sum of property taxes paid on behalf of the homestead, if any, and any payments in lieu of property taxes made on behalf of the homestead exceed 10 per cent of the annual net rent. For purposes of this subsection, it is immaterial whether the exemption or exclusion from municipal taxation results from action of the municipality or is required by state law.

(d) No homestead refund may be granted for a calendar year to a resident or his spouse if either applies for property tax equivalency payments under AS 29.73.060 for that calendar year, but this limitation does not apply if the claim under AS 29.73.060 is wholly denied.

(e) No homestead refund may be granted in respect to a homestead which is situated outside the state of Alaska.

Sec. 43.21.060. SUBMISSION OF CLAIM; DETERMINATION AND PAYMENT OF REFUND. (a) To claim a homestead refund, a resident shall submit a claim to the department on or before April 15 following the calendar year for which refund is claimed, together with a copy of the property tax statement or the statement of net rent for which refund is claimed and such other information and substantiation as the department may require. The claim shall be submitted on a form furnished by the department.

(b) The department shall examine the claim and shall adjust the claim upward or downward or deny it entirely. If the claim is substantiated by a statement of net rent and the department considers that the net rent charged was excessive, the department may adjust the net rent to a reasonable amount for purposes of calculating the homestead refund. The department shall notify the claimant by first class mail of any adjustment to or denial of the claim.

(c) The claimant need not record on his claim the amount claimed by him. If the claimant does not record the amount of his claim, it shall be computed by the department. The department shall notify the claimant by first class mail of the amount of the allowable claim, if any.

(d) If the homestead refund exceeds the income tax liability, the department shall refund the difference to the resident.

Sec. 43.21.070. EXTENSION OF TIME FOR FILING REFUND CLAIM. In cases of sickness, disability, absence from the state, or other good cause, the department may extend for up to three years beyond the due date the time for filing a claim for the homestead refund. The department may not grant a homestead refund to a person who fails to file a claim for it within three years after the due date.

Sec. 43.21.080. CLAIMANT'S REMEDIES. The remedies granted in AS 43.20.280 are available to a claimant aggrieved by an action of the department under this chapter, regardless of whether the claimant is liable for any amount of tax under AS 43.20.

Sec. 43.21.090. ADMINISTRATION. (a) The department shall administer this chapter and may adopt regulations implementing, interpreting, clarifying, and making specific the provisions of this chapter.

(b) The department shall design a form to be used for claiming a homestead refund. The form shall be enclosed with the personal income tax forms which are distributed under the Alaska Net Income Tax Act (AS 43.20).

Sec. 43.21.100. DEFINITIONS. As used in this chapter, unless otherwise specified or unless the context clearly requires otherwise,

(1) "domicile" means the place where a natural person has his true, fixed, permanent home and to which he has the intention of returning whenever he is absent for a temporary or transitory purpose;

(2) "homestead" means the principal dwelling of a resident, whether owned or rented, and so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home; "homestead" includes a part of a multi-dwelling or multipurpose building and a part of the land upon which it is situated; "homestead" includes a mobile home; if the mobile home is assessed for property tax purposes as real property, the homestead includes the land upon which it is situated and improvements to the same extent as if it were a conventional home; if the mobile home is assessed for property

tax purposes as personal property, only the mobile home itself is a homestead; "homestead" does not include a boat or vessel;

(3) "homestead refund" means the refund referred to in sec. 10 of this chapter;

(4) "household income" means the sum of

(A) the income of the claimant received during the calendar year for which a claim is filed under this chapter; and

(B) the income of the spouse of the claimant received while residing with the claimant during the calendar year for which a claim is filed under this chapter;

(5) "income" means "adjusted gross income" as defined in sec. 62 of the Internal Revenue Code (26 U.S.C. sec. 62) without the deduction for long-term capital gains provided by sec. 1202 of the Internal Revenue Code (26 U.S.C. sec. 1202), plus the sum of the items listed in (A) - (G) of this paragraph to the extent that they are not already included within "adjusted gross income", but "income" does not include any governmental grant which must be used by the person receiving the grant to rehabilitate his homestead;

(A) cost-of-living allowance;

(B) gross amount of any pension less return of investment, if any;

(C) old age and survivorship payments received under the federal Social Security Act;

(D) welfare payments;

(E) unemployment benefits;

(F) dividends;

(G) interest;

(6) "mobile home" means a mobile home, trailer, trailer home, house trailer, trailer coach, or similar property used by a resident as

his principal dwelling, whether or not the dwelling is attached to the land;

(7) "net rent" means the amount of rent paid solely for the right of occupancy of a homestead, including the right to use the personal property in the homestead and including any utilities which are covered by the rent and for which the tenant is not charged separately; "net rent" does not include a deposit for damage, cleaning, keys, or other reason but does include advance rental payments in the period when they are actually used;

(8) "own" includes having a life estate or purchasing under an instrument of sale;

(9) "property taxes" does not include special assessments, delinquent interest, penalties, or charges for service; if a homestead is owned by two or more persons and one or more of these persons is not the spouse of the claimant "property taxes" means that part of the property taxes levied on the homestead which reflects the ownership interest of the claimant and his spouse;

(10) "rent constituting property tax" means 17 per cent of net rent;

(11) "resident" means a natural person who has his domicile in Alaska on December 31 of the calendar year for which refund is claimed under this chapter;

(12) "statement of net rent for which refund is claimed" means a statement by the claimant of the net rent paid during the calendar year for which refund is claimed under this chapter and a declaration by the claimant, under penalty of perjury, that the amount of net rent designated is the actual amount both incurred and paid during the calendar year for which refund is claimed; advance rental payments are considered paid in the calendar year in which they are actually used.

* Sec. 2. This Act is retroactive to the extent that a refund may be claimed under it for calendar years beginning after December 31, 1976.