

Introduced: 3/4/77  
Referred: Community & Regional  
Affairs and Finance

1 IN THE SENATE

BY FERGUSON AND HUBER

2 SENATE BILL NO. 210

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act repealing the authority of municipalities to  
7 levy and collect property taxes; and providing for an  
8 effective date."

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

10 \* Section 1. AS 29.33.030 is amended to read:

11 Sec. 29.33.030. ASSESSMENT AND COLLECTION. Boroughs shall assess  
12 property and collect [PROPERTY,] sales [,] and use taxes levied within  
13 their boundaries, subject to ch. 53 of this title. Taxes levied by a  
14 city and collected by a borough are returned in full to the levying  
15 city.

16 \* Sec. 2. AS 29.41.010(a) is amended to read:

17 (a) A third class borough shall exercise the areawide powers of  
18 education, [AND TAX] assessment and tax collection in the manner pro-  
19 vided for second class boroughs. Provisions of law relative to first  
20 and second class organized boroughs apply with respect to third class  
21 boroughs only to the extent they are consistent with this chapter. A  
22 military reservation within an organized borough is not part of the  
23 borough school district until the military mission is terminated or  
24 until inclusion in the borough school district is approved by the  
25 Department of Education. However, operation of the military reservation  
26 schools by the borough school district may be required by the Department  
27 of Education under AS 14.14.110. If the military mission of a military  
28 reservation terminates or continued management and control by a regional  
29 educational attendance area is disapproved by the Department of

1 Education, operation, management and control of schools on military  
2 reservations transfers to the borough school district in which the  
3 military reservation is located.

4 \* Sec. 3. AS 29.43.020 is amended to read:

5 Sec. 29.43.020. ASSESSMENT AND TAX COLLECTION. Home rule and  
6 first class cities outside boroughs shall [MAY] assess property [, LEVY  
7 AND COLLECT A GENERAL PROPERTY TAX. A PROPERTY TAX IF LEVIED MUST BE  
8 ASSESSED, LEVIED AND COLLECTED] as provided by ch. 53 of this title for  
9 boroughs. Cities outside boroughs may levy and collect sales and use  
10 taxes as provided by ch. 53 of this title for boroughs.

11 \* Sec. 4. AS 29.48.010(7) is amended to read:

12 (7) to levy taxes, except property taxes, and special assess-  
13 ments;

14 \* Sec. 5. AS 29.53.035(a) is amended to read:

15 (a) Farm use lands included in a farm unit and not dedicated or  
16 being used for nonfarm purposes shall be assessed on the basis of full  
17 and true value for farm use, and shall not be assessed as if subdivided  
18 or used for some other nonfarm purpose. The assessor shall maintain  
19 records valuing the farm use land for both full and true value and farm  
20 use value. [SHOULD THE FARM USE LAND BE SOLD, LEASED, OR OTHERWISE  
21 DISPOSED OF FOR USES INCOMPATIBLE WITH FARM USE OR BE CONVERTED TO A USE  
22 INCOMPATIBLE WITH FARM USE BY THE OWNER, THE OWNER IS LIABLE TO PAY AN  
23 AMOUNT EQUAL TO THE ADDITIONAL TAX AT THE CURRENT MILL LEVY TOGETHER  
24 WITH EIGHT PER CENT INTEREST FOR THE PRECEDING SEVEN YEARS, AS THOUGH  
25 THE LAND HAD NOT BEEN ASSESSED FOR FARM USE PURPOSES. PAYMENT BY THE  
26 OWNER SHALL BE MADE TO THE STATE TO THE EXTENT OF ITS REIMBURSEMENT FOR  
27 REVENUE LOSS UNDER (e) OF THIS SECTION FOR THE PRECEDING SEVEN YEARS.  
28 THE BALANCE OF THE PAYMENT SHALL BE MADE TO THE CITY OR BOROUGH.]

29 \* Sec. 6. AS 29.53.040 is amended to read:

1           Sec. 29.53.040. MOBILE HOMES. Mobile homes, trailers, house  
2 trailers, trailer coaches and similar property used or intended to be  
3 used for residential, office or commercial purposes and attached to the  
4 land or connected to water, gas, electric or sewage facilities are  
5 classed as real property for assessment [TAX] purposes except where  
6 expressly classified as personal property by ordinance. This section  
7 does not apply to house trailers and mobile homes which are unoccupied  
8 and held for sale by persons engaged in the business of selling mobile  
9 homes.

10 \* Sec. 7. AS 29.53.200 is amended to read:

11           Sec. 29.53.200. VALIDITY. Certified assessment [AND TAX] rolls  
12 are valid and binding on all persons, notwithstanding any defect, error,  
13 omission or invalidity in the assessment rolls or proceedings pertaining  
14 to the assessment roll.

15 \* Sec. 8. AS 29.63.060(d) is amended to read:

16           (d) Assessments are liens upon the property assessed and are prior  
17 and paramount to all liens except municipal tax liens. They may be en-  
18 forced as provided in secs. 66 - 69 of this chapter [AS 29.53.200 -  
19 29.53.390] for enforcement of special assessment [PROPERTY TAX] liens.

20 \* Sec. 9. AS 29.63 is amended by adding new sections to read:

21           Sec. 29.63.066. ENFORCEMENT OF SPECIAL ASSESSMENT LIENS. (a) The  
22 borough may

23           (1) annually present a petition for judgment and a certified  
24 copy of the foreclosure list for the previous year's delinquent special  
25 assessments in the superior court for judgment;

26           (2) publish the foreclosure list for four consecutive weeks  
27 in a newspaper of general circulation distributed within the borough or,  
28 if there is no newspaper of general circulation distributed within the  
29 borough, post the list at three public places for at least 30 days;

1 (3) within 10 days after the first publication or posting,  
2 mail to the last known owner of each property as his name and address  
3 appear on the list a notice advising of the foreclosure proceeding in  
4 which a petition for judgment of foreclosure has been filed and describ-  
5 ing the property and the amount due as stated on the list.

6 (b) The list shall be arranged in alphabetical order as to the  
7 last name and shall include

8 (1) the last known owner;

9 (2) the property description as stated on the assessment  
10 roll;

11 (3) years and amounts of delinquency;

12 (4) penalty and interest due;

13 (5) a statement that the list is available for public inspec-  
14 tion at the clerk's office;

15 (6) a statement that the list has been presented to the  
16 superior court with a petition for judgment and decree.

17 (c) Completion of the requirements of (a) of this section consti-  
18 tutes and has the same force and effect as the filing of an individual  
19 and separate complaint and service of summons to foreclose a lien  
20 against each property described on the foreclosure list.

21 (d) During the publication or posting of the foreclosure list and  
22 up to the time of transfer to the borough a person may pay the special  
23 assessments, together with the penalty, interest and costs. The collec-  
24 tor shall note payment on the foreclosure list.

25 (e) A holder of a mortgage or other lien on real property may  
26 request the clerk to send by certified mail notice of a foreclosure list  
27 which includes such real property.

28 (f) The borough shall bring one general foreclosure proceeding in  
29 rem against the properties included in the list. If the owner is un-

1 known, the property is proceeded against as belonging to "unknown  
2 owner." Special assessment foreclosure proceedings have priority over  
3 all other civil proceedings except board of adjustment appeals as pro-  
4 vided in AS 29.33.130(e).

5 (g) A person having an interest in a tract on the foreclosure list  
6 may file an answer within 30 days of the date of last publication,  
7 specifying his objection. The court shall make its decision in summary  
8 proceedings. The foreclosure list is prima facie evidence that the  
9 assessment and levy are valid and that the special assessment is unpaid.

10 Sec. 29.63.067. JUDGMENT AND APPEAL. (a) The court shall in a  
11 proper case give judgment and decree that the liens be foreclosed. It  
12 is a several judgment against and a lien on each parcel.

13 (b) Foreclosed properties are transferred to the borough for the  
14 lien amount. When answers are filed the court may enter judgment  
15 against and order the transfer to the borough of all other properties on  
16 the list pending determination of the matters in controversy. The court  
17 shall hear and determine the issues raised by the complaint and answers  
18 in the same manner and under the same rules as it hears and determines  
19 other actions.

20 (c) The court clerk shall deliver a certified copy of the judgment  
21 and decree to the borough clerk. The certified judgment and decree  
22 constitutes a transfer to the borough.

23 (d) The judgment and decree stops objections to it which could  
24 have been presented before judgment and decree.

25 (e) Appeal from a judgment and decree of foreclosure, or from a  
26 final order in the proceeding, may be taken in the manner provided for  
27 appeals in civil actions.

28 Sec. 29.63.068. REDEMPTION. (a) Properties transferred to the  
29 borough are held by the borough for at least one year. During the re-

1 demption period a party having an interest in the property may redeem it  
2 by paying the lien amount plus penalties, interest and costs. Property  
3 redeemed is subject to all assessments, liens and claims as though  
4 it had continued in private ownership. Only the amount applicable under  
5 the judgment and decree must be paid in order to redeem the property.

6 (b) A person holding a mortgage or other lien of record covering  
7 a part only of a parcel of real property included in the judgment and  
8 decree of foreclosure may redeem that part by paying the proportionate  
9 amount applicable under the judgment and decree.

10 (c) Receipt of redemption money by the clerk releases all claims  
11 of the borough to the property. The clerk shall record the redemption  
12 and issue a certificate containing a property description, the redemp-  
13 tion amount, and the dates of judgment and decree of foreclosure. The  
14 clerk shall file the certificate with the recorder and collect the  
15 recording fee from the person redeeming at the time of redemption. The  
16 court clerk shall file the certificate as part of the judgment roll.

17 (d) If a property included in a foreclosure list is removed after  
18 payment of delinquencies or redemption by another lienholder, the pay-  
19 ment represented by receipt for payment constitutes an additional lien  
20 on the property, collectible by the lienholder in the same manner as the  
21 original lien.

22 (e) Foreclosure does not affect the former owner's right to pos-  
23 session during the redemption period. In the event that waste is  
24 committed by the former owner, or by anyone acting under his permission  
25 or control, the borough may declare an immediate forfeiture of the right  
26 to possession.

27 (f) Not earlier than 30 days before the expiration of the redemp-  
28 tion period the clerk shall publish a redemption period expiration  
29 notice. The notice shall contain the date of judgment, the date of

1 expiration of the period of redemption and a warning to the effect that  
2 all properties ordered sold under the judgment, unless redeemed, shall  
3 be deeded to the borough or city immediately on expiration of the period  
4 of redemption and that every right or interest of any person in the  
5 properties will be forfeited forever to the borough or city. The notice  
6 is published once a week for four consecutive weeks in a newspaper of  
7 general circulation distributed within the borough. If there is no  
8 newspaper of general circulation distributed within the borough, the  
9 notice is posted in three public places for at least four consecutive  
10 weeks. The clerk shall send a copy of the published notice by certified  
11 mail to each record owner of property against whom a judgment of fore-  
12 closure has been taken. The notice shall be mailed within five days of  
13 the first publication. The mailing shall be sufficient if mailed to  
14 the property owner at the last address of record. The right of redemp-  
15 tion shall expire 30 days after the date of the first publication  
16 notice.

17 Sec. 29.63.069. DISPOSITION. (a) Unredeemed properties in the  
18 area of the borough outside cities are deeded to the borough by the  
19 clerk of the court. Unredeemed properties within a city are deeded to  
20 the city subject to the payment by the city of unpaid borough taxes and  
21 costs of foreclosure levied against the property before foreclosure.  
22 The deeds shall be recorded in the recording district in which the  
23 property is located.

24 (b) Conveyance gives the borough or the city clear title except  
25 for prior recorded liens of the United States and the state.

26 (c) If unredeemed property lies within a city and if the city has  
27 no immediate public use for the property but the borough does have an  
28 immediate public use, the city shall deed the property to the borough.  
29 If unredeemed property lies within the borough outside a city and if

1 the borough does not have an immediate public use for the property but  
2 the city does have an immediate public use, the borough shall deed the  
3 property to the city.

4 (d) No deed is invalid for irregularities, omissions or defects,  
5 unless the former owner has been misled to his injury. After two years  
6 from the date of the deed, its validity is conclusively presumed and any  
7 claim of the former owner is forever barred.

8 (e) Properties conveyed to a borough or city by foreclosure may be  
9 sold. Before the sale of any property held for a public purpose, the  
10 assembly or council by ordinance shall determine that the public need no  
11 longer exists.

12 (f) The record owner at the time of foreclosure of property ac-  
13 quired by a borough or city, or his assigns, may, at any time before the  
14 sale or contract of sale of the property by the borough or city, re-  
15 purchase the property. The borough or city shall sell the property, for  
16 the full amount applicable to the property under the judgment and de-  
17 cree, with interest at the rate of eight per cent a year from the date  
18 of entry of the judgment of foreclosure to the date of repurchase.

19 (g) After termination of the right of redemption there is no  
20 right to repurchase property held for, or devoted to, a public purpose.

21 (h) Upon sale of foreclosed real or personal property the borough  
22 or city shall divide the proceeds less cost of collection, between the  
23 borough and the city having unpaid special assessments against the pro-  
24 perty. The division is in proportion to the respective municipal  
25 assessments against the property at the time of foreclosure.

26 (i) If a city or borough holds or takes title to foreclosed pro-  
27 perty for a public purpose, the city or borough shall satisfy unpaid  
28 assessments against the property held by other municipalities, with  
29 accrued interest but without penalty. If the amount required to satisfy

1 the unpaid assessments exceeds the assessed valuation of the property,  
2 the city or borough shall pay the other municipalities the assessed  
3 valuation, which shall be divided between the other municipalities in  
4 proportion to their respective assessments against the property at the  
5 time of foreclosure.

6 \* Sec. 10. AS 29.63.090(b) is amended to read:

7 (b) The assembly may levy or authorize the levying of taxes  
8 (except property taxes), charges, or assessments in service areas to  
9 finance the special services.

10 \* Sec. 11. AS 29.13.100(36) is repealed and re-enacted to read:

11 (36) AS 29.63.065 - 29.63.069 (special assessment foreclosure  
12 and exemptions)

13 \* Sec. 12. AS 28.10.255(f) is amended to read:

14 (f) Money received by an organized borough under this section  
15 shall be allocated by the borough for city, area outside city, and  
16 service area purposes within the borough in the proportion yielded by  
17 dividing the [BOROUGH POPULATION BY] the population of the respective  
18 taxing district by the borough population, and multiplying the result by  
19 the ratio which the district assessment [MILL LEVY] upon property for  
20 the assessment [FISCAL] year bears to the borough assessment [MILL LEVY]  
21 areawide upon property for that year. Population shall be established  
22 by the latest figures of the United States Bureau of the Census or other  
23 reliable data. Money received by a unified municipality established  
24 under AS 29.68.240 - 29.68.440 shall be used for areawide purposes after  
25 allocation is made for service area or other tax district purposes in  
26 the manner provided in this subsection.

27 \* Sec. 13. AS 43.18.030 is amended to read:

28 Sec. 43.18.030. LOCAL TAX LEVY REDUCTION. (a) The intent of this  
29 chapter in authorizing state aid for municipal purposes is that local

1 governments which levy [PROPERTY] taxes reduce those levies in reason-  
2 able proportion to the amount of state aid received by a local govern-  
3 ment for a given fiscal year.

4 (b) The governing body shall furnish the following notice with  
5 assessment [TAX] statements mailed for the fiscal year for which aid is  
6 received under this chapter:

7 "NOTICE TO PROPERTY OWNER [TAXPAYER]

8 For the current fiscal year the (city) (borough) has been  
9 allocated the following amount of state aid for school and  
10 municipal purposes under the Public School Foundation Program  
11 (Alaska Statutes 14.17) and the revenue-sharing provisions  
12 of Alaska Statutes 43.18:

13	SCHOOL AID	\$
14	AID BASED ON MUNICIPAL SERVICES FURNISHED	\$
15	(fire protection, police protection, air	
16	or water pollution control, land use	
17	planning, road maintenance, parks and	
18	recreation, transportation facilities and	
19	services, hospital operation)	
20	<u>AID BASED ON REIMBURSEMENT FOR PROPERTY</u>	<u>\$</u>
21	<u>TAX REVENUES</u>	

22 Total Aid \$

23 The millage equivalent of this state aid, based on the  
24 present dollar value of a mill in the municipality, is  
25 ..... mills."

26 \* Sec. 14. The following are repealed: AS 29.53.010 - 29.53.025, 29.53.-  
27 035(b) - (e), 29.53.045 - 29.53.055, 29.53.170 - 29.53.180, 29.53.210 -  
28 29.53.410; AS 29.73.060; AS 43.56.010(b) - (d), and 43.56.020(a).

29 \* Sec. 15. STATE REIMBURSEMENT. The state shall reimburse a municipality

1 for the property tax revenues lost to it by the operation of secs. 1 - 14 of  
2 this Act. Reimbursement will be made annually in an amount equal to the  
3 total of real and personal property taxes due and payable to the municipality  
4 for the last complete fiscal year of the municipality ending on or before  
5 December 31, 1978. The Department of Community and Regional Affairs shall  
6 adopt regulations to carry out the purposes of this section.

7 \* Sec. 16. PROCEEDINGS CONTINUED. Sections 1 - 14 of this Act do not  
8 preclude tax levy, collection and enforcement proceedings which arise out of  
9 assessment, levy and collection of property taxes by a municipality for a  
10 fiscal year preceding the effective date of this Act. These proceedings may  
11 be continued as if the provisions of law affected by this Act were not  
12 amended or repealed.

13 \* Sec. 17. This Act takes effect January 1, 1979.  
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