

SENATE BILL NO. 393

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

BY SENATOR ADAMS

Introduced: 2/10/92
Referred: CRA, Finance

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to state and local taxation and to other state regulation under the
2 Alaska Native Claims Settlement Act, as amended, and related federal statutes; and
3 providing for an effective date."

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

5 * Section 1. AS 29.45.030(a) is amended to read:

6 (a) The following property is exempt from general taxation:

7 (1) municipal or state property, except that

8 (A) a private leasehold, contract, or other interest in the property is taxable
9 to the extent of the interest;

10 (B) notwithstanding any other provision of law, property acquired by an
11 agency, corporation, or other entity of the state through foreclosure or deed in lieu of
12 foreclosure and retained as an investment of a state entity is taxable; this subparagraph
13 does not apply to federal land granted to the University of Alaska under AS 14.40.380
14 or 14.40.390, or to other land granted to the university by the state to replace land that

1 had been granted under AS 14.40.380 or 14.40.390;

2 (C) an ownership interest of a municipality in real property located outside
3 the municipality acquired after December 31, 1990, is taxable by another municipality;
4 however, a borough may not tax an interest in real property located in the borough and
5 owned by a city in that borough;

6 (2) household furniture and personal effects of members of a household;

7 (3) property used exclusively for nonprofit religious, charitable, cemetery,
8 hospital, or educational purposes;

9 (4) property of a nonbusiness organization composed entirely of persons with 90
10 days or more of active service in the armed forces of the United States whose conditions of
11 service and separation were other than dishonorable, or the property of an auxiliary of that
12 organization;

13 (5) money on deposit;

14 (6) the real property of certain residents of the state to the extent and subject to
15 the conditions provided in (e) of this section;

16 (7) real property or an interest in real property that is exempt from taxation under
17 43 U.S.C. 1620(d), as amended, and 43 U.S.C. 1636(d), as amended;

18 (8) property of a political subdivision, agency, corporation, or other entity of the
19 United States to the extent required by federal law; except that a private leasehold, contract, or
20 other interest in the property is taxable to the extent of that interest.

21 * Sec. 2. AS 29.45.030(m) is amended to read:

22 (m) For the purpose of determining property exempt under (a)(7) of this section, the
23 following definitions apply to terms used in 43 U.S.C. 1636(d), as amended, [43 U.S.C. 1620(d)]
24 unless superseded by applicable federal law:

25 (1) "developed" means that a purposeful modification of land, or an interest in
26 land, [THE PROPERTY] from its original state that effectuates a condition of gainful and
27 productive present use without further substantial modification has been made; surveying,
28 construction of roads, providing utilities or other similar actions normally considered to be
29 component parts of the development process, but that do not create the condition described in
30 this paragraph, do not constitute a developed state within the meaning of this paragraph;
31 developed land, or an interest in developed land [PROPERTY], in order to remove the

1 exemption, must be developed for purposes other than exploration, and be limited to the smallest
2 practicable tract of the tract [PROPERTY] actually used in the developed state;

3 (2) "exploration" means the examination and investigation of undeveloped land
4 to determine the existence of subsurface nonrenewable resources;

5 (3) "leased" ["LEASE"] means that a grant of primary possession entered into
6 for gainful purposes with a determinable fee remaining in the hands of the grantor has been
7 made; with respect to a lease that conveys rights of exploration and development, this exemption
8 shall continue with respect to that portion of the leased tract that is used solely for the purpose
9 of exploration.

10 * **Sec. 3.** AS 43.80.015 is amended to read:

11 Sec. 43.80.015. TAXATION UNDER ALASKA NATIVE CLAIMS SETTLEMENT
12 ACT, AS AMENDED [P.L. 92-203]. (a) The receipt of [THE ORIGINAL ISSUE OF] shares
13 of stock in a corporation organized under state [ALASKA] law pursuant to 43 U.S.C. 1601 -
14 1642, as amended, [THE FEDERAL ALASKA NATIVE CLAIMS SETTLEMENT ACT (P.L.
15 92-203; 85 STAT. 688; 43 U.S.C. 1601 ET SEQ.)] by or on behalf of a person [NATIVE (AS
16 DEFINED IN THE FEDERAL ACT)] is not subject to any form of state or local taxation.

17 (b) The receipt of land or an interest in it under 43 U.S.C. 1601 - 1642, as amended,
18 [THE FEDERAL ACT] or of cash in order to equalize the values of property exchanged under
19 43 U.S.C. 1621(f), as amended, [SEC. 22(f) OF THAT ACT] or AS 38.50 is not subject to any
20 form of state or local taxation. The basis for computing gain or loss on subsequent sale or other
21 disposition of this land or interest in land for purposes of a state or local tax imposed on or
22 measured by income shall be determined under 43 U.S.C. 1601 - 1642, as amended [IS THE
23 FAIR VALUE OF THE LAND OR INTEREST IN LAND AT THE TIME OF RECEIPT].

24 (c) A real property interest conveyed under 43 U.S.C. 1601 - 1642, as amended, [THE
25 FEDERAL ACT], AS 38.50, or AS 38.95.050, including land received in an exchange under
26 43 U.S.C. 1621(f), as amended, [SEC. 22(f) OF THE FEDERAL ACT] or AS 38.50, to a Native
27 individual or to a corporation incorporated under state [ALASKA] law pursuant to 43 U.S.C.
28 1601 - 1642, as amended [THE FEDERAL ACT], which interest is not developed or leased to
29 third parties, is exempt from state and local real property taxes and local assessments to the
30 extent provided in AS 43 U.S.C. 1620(d), as amended, and AS 43 U.S.C. 1636(d), as
31 amended [UNTIL DECEMBER 18, 1991]. However, municipal taxes, local real property taxes,

1 or local assessments may, under the laws of the state, be imposed upon leased or developed real
2 property within the jurisdiction of any governmental unit organized under the laws of the state.
3 Easements, rights-of-way, leaseholds, and similar interests in real property may be taxed in
4 accordance with state or local law. All rents, royalties, profits, and other revenues or proceeds
5 derived from property interests are taxable to the same extent as these revenues or proceeds are
6 taxable when received by a non-Native individual or corporation. In 43 U.S.C. 1620(d), as
7 amended, and 43 U.S.C. 1636(d), as amended [SEC. 21(d) OF THE FEDERAL ACT], the
8 exemption of real property interests from local real property taxes includes exemption from local
9 assessments and extends to land received in an exchange under 43 U.S.C. 1621(f), as amended,
10 [SEC. 22(f) OF THE FEDERAL ACT] or AS 38.50.

11 (d) Use of the terms "corporate funds" and "dividends" [,] in 43 U.S.C. 1606(j) and (m),
12 as amended, [SEC. 7(j) AND (m) OF THE FEDERAL ACT,] does not determine whether the
13 money is a dividend, distribution to shareholders, or funds that [WHICH] are property, surplus,
14 or capital of a regional corporation for the purposes of this title, [OR] AS 10.06, or other
15 applicable state law, the provisions of sec. 8, ch. 70, SLA 1972 notwithstanding.

16 * Sec. 4. AS 43.80.015 is amended by adding a new subsection to read:

17 (e) In this section, reference to 43 U.S.C. 1601 - 1642, as amended, or to any of those
18 sections includes the amendments and additions to that are made by

19 (1) P.L. 96-487 (Alaska National Interest Lands Conservation Act);

20 (2) P.L. 100-241 (Alaska Native Claims Settlement Act Amendments of 1987);

21 and

22 (3) amendments to 43 U.S.C. 1601 - 1642 (Alaska Native Claims Settlement Act,
23 as amended) after December 17, 1991.

24 * Sec. 5. The amendments made to AS 29.45.030(a)(7), amended by sec. 1 of this Act,
25 AS 29.45.030(m), amended by sec. 2 of this Act, AS 43.80.015, amended by sec. 3 of this Act, and
26 AS 43.80.015(e), added by sec. 4 of this Act, are retroactive to December 18, 1991.

27 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).