

HOUSE BILL NO. 73

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE MACLEAN

Introduced: 1/18/93

Referred: Community & Regional Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to state and local taxation and other state regulation as affected
2 by the Alaska Native Claims Settlement Act, as amended, and related federal
3 statutes; and 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 property, including property held by a public corporation
8 of a municipality, or state property, except that

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

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

1 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
2 granted to the university by the state to replace land that had been granted
3 under AS 14.40.380 or 14.40.390;

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

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

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

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

16 (5) money on deposit;

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

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

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

25 (9) natural resources in place including coal, ore bodies, mineral
26 deposits, and other proven and unproven deposits of valuable materials laid down by
27 natural processes, unharvested aquatic plants and animals, and timber.

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

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

1 (1) "developed" means that a purposeful modification of land, or an
2 interest in land, [THE PROPERTY] from its original state that effectuates a condition
3 of gainful and productive present use without further substantial modification has been
4 made; surveying, construction of roads, providing utilities or other similar actions
5 normally considered to be component parts of the development process, but that do not
6 create the condition described in this paragraph, do not constitute a developed state
7 within the meaning of this paragraph; developed land, or an interest in developed
8 land [PROPERTY], in order to remove the exemption, must be developed for purposes
9 other than exploration, and be limited to the smallest practicable tract of the tract
10 [PROPERTY] actually used in the developed state;

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

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

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

19 Sec. 43.80.015. TAXATION UNDER ALASKA NATIVE CLAIMS
20 SETTLEMENT ACT, AS AMENDED [P.L. 92-203]. (a) The receipt of [THE
21 ORIGINAL ISSUE OF] shares of stock in a corporation organized under state
22 [ALASKA] law pursuant to 43 U.S.C. 1601 - 1641, as amended, [THE FEDERAL
23 ALASKA NATIVE CLAIMS SETTLEMENT ACT (P.L. 92-203; 85 STAT. 688; 43
24 U.S.C. 1601 ET SEQ.)] by or on behalf of a Native, as defined in 43 U.S.C. 1602(b),
25 or by or on behalf of a descendant of a Native, as defined in 43 U.S.C. 1602(r),
26 [(AS DEFINED IN THE FEDERAL ACT)] is not subject to any form of state or local
27 taxation.

28 (b) The receipt of land or an interest in it under 43 U.S.C. 1601 - 1641, as
29 amended, [THE FEDERAL ACT] or of cash in order to equalize the values of
30 property exchanged under 43 U.S.C. 1621(f), as amended, [SEC. 22(f) OF THAT
31 ACT] or AS 38.50 is not subject to any form of state or local taxation. The basis for

1 computing gain or loss on subsequent sale or other disposition of this land or interest
2 in land for purposes of a state or local tax imposed on or measured by income shall
3 be determined under 43 U.S.C. 1620(c), as amended [IS THE FAIR VALUE OF
4 THE LAND OR INTEREST IN LAND AT THE TIME OF RECEIPT].

5 (c) A real property interest conveyed under 43 U.S.C. 1601 - 1641, as
6 amended, [THE FEDERAL ACT], AS 38.50, or AS 38.95.050, including land
7 received in an exchange under 43 U.S.C. 1621(f), as amended, [SEC. 22(f) OF THE
8 FEDERAL ACT] or AS 38.50, to a Native, as defined in 43 U.S.C. 1602(b),
9 [INDIVIDUAL] or to a Native corporation incorporated under state [ALASKA] law
10 pursuant to 43 U.S.C. 1601 - 1641, as amended [THE FEDERAL ACT], which
11 interest is not developed or leased to third parties, is exempt from state and local real
12 property taxes and local assessments to the extent provided in 43 U.S.C. 1620(d), as
13 amended, and 43 U.S.C. 1636(d), as amended [UNTIL DECEMBER 18, 1991].
14 However, municipal taxes, local real property taxes, or local assessments may, under
15 the laws of the state, be imposed upon leased or developed real property within the
16 jurisdiction of any governmental unit organized under the laws of the state. Easements,
17 rights-of-way, leaseholds, and similar interests in real property may be taxed in
18 accordance with state or local law. All rents, royalties, profits, and other revenues or
19 proceeds derived from property interests are taxable to the same extent as these
20 revenues or proceeds are taxable when received by a non-Native individual or
21 corporation. In 43 U.S.C. 1620(d), as amended, and 43 U.S.C. 1636(d), as amended
22 [SEC. 21(d) OF THE FEDERAL ACT], the exemption of real property interests from
23 local real property taxes includes exemption from local assessments and extends to
24 land received in an exchange under 43 U.S.C. 1621(f), as amended, [SEC. 22(f) OF
25 THE FEDERAL ACT] or AS 38.50.

26 (d) Use of the terms "corporate funds" and "dividends" [,] in 43 U.S.C. 1606(j)
27 and (m), as amended, [SEC. 7(j) AND (m) OF THE FEDERAL ACT,] does not
28 determine whether the money is a dividend, distribution to shareholders, or funds that
29 [WHICH] are property, surplus, or capital of a regional corporation for the purposes
30 of this title, [OR] AS 10.06, or other applicable state law, the provisions of sec. 8, ch.
31 70, SLA 1972 notwithstanding.

- 1 * Sec. 4. AS 43.80.015 is amended by adding a new subsection to read:
- 2 (e) In this section, reference to 43 U.S.C. 1601 - 1641, as amended, or to any
- 3 of those sections includes the amendments and additions to any of those sections that
- 4 are made by
- 5 (1) P.L. 96-487 (Alaska National Interest Lands Conservation Act);
- 6 (2) P.L. 100-241 (Alaska Native Claims Settlement Act Amendments
- 7 of 1987); and
- 8 (3) amendments to 43 U.S.C. 1601 - 1641 (Alaska Native Claims
- 9 Settlement Act, as amended) after December 17, 1991.
- 10 * Sec. 5. The amendments made to AS 29.45.030(a)(7), amended by sec. 1 of this Act,
- 11 AS 29.45.030(m), amended by sec. 2 of this Act, AS 43.80.015, amended by sec. 3 of this
- 12 Act, and AS 43.80.015(e), added by sec. 4 of this Act, are retroactive to December 18, 1991.
- 13 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).