

"An Act relating to exemptions from municipal special assessments; effective date."

Finance
CS HB 587

COMMITTEE REPORT

3/9/76

HOUSE

Mr. Speaker:

Date 4-28-76
3-29-76

The Committee on FINANCE has had HB 587

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH ^{Finance} CS FOR HB 587 AND THAT

Finance CS FOR HB 587 DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u>Ward</u>	<u>Naughton</u>	<u>Malone</u>
<u>Hansen</u>	<u>Jensen</u>	
<u>Smalley</u>	<u>Thursholt</u>	

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Malone Chairman

Original sponsor: Rules Committee by
request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 587 (FINANCE)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

NINTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to exemptions from municipal special
7 assessments; and providing for an effective date."

8

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

9

* Section 1. AS 29.63.065 is repealed and re-enacted to read:

10

Sec. 29.63.065. EXEMPTION. (a) The real property owned and
11 occupied by a resident 65 years of age or over, or the spouse, widow,
12 widower, or minor heir of the original applicant, on which is located
13 only his permanent abode which is a single-family residence, is exempt
14 from (1) special sewer assessments levied by a home rule or general law
15 municipality after September 2, 1975 and (2) special water assessments
16 levied by a home rule or general law municipality after September 2,
17 1975. Only one exemption may be granted with respect to the same pro-
18 perty, and, if two or more persons are eligible for an exemption with
19 respect to the same property, the parties shall decide between or among
20 themselves which shall receive the benefit of the exemption. No real
21 property may be exempted under this subsection which the municipality
22 determines, after notice and hearing to the parties concerned, has been
23 conveyed to the applicant primarily for the purpose of obtaining the
24 exemption. The determination of the municipality is appealable under
25 AS 44.62.560 - 44.62.570.

26

(b) No exemption may be granted under this section except upon
27 written application for the exemption on a form prescribed by the state
28 assessor for use by local assessors and in accordance with the following
29 requirements:

1 (1) the claimant must file the initial application during the
2 period of time between the date the assessment roll is certified and the
3 time of payment fixed by the assembly or council. Within one year of
4 the date the assessment roll is certified the assembly or council for
5 good cause shown may waive the claimant's failure to make timely initial
6 application for the exemption and authorize the assessor to accept the
7 application as if timely filed.

8 (2) a claimant receiving the exemption must file by January 15
9 of each subsequent year a separate application proving eligibility as of
10 January 1 in order to retain the exemption. Within the same year the
11 assembly or council for good cause shown may waive the claimant's fail-
12 ure to make timely application and approve the application as if timely
13 filed.

14 (3) if an application is filed within the required time under
15 this subsection and is approved by the assembly or council, the exemp-
16 tion shall be allowed in accordance with the provisions of this section.
17 If a waiver under this subsection is granted and the application for
18 exemption approved, the amount of any assessment, penalty or interest
19 which the claimant may have already paid on the assessment shall be
20 refunded to him. The municipality may at any time require proof in the
21 form considered necessary of the right and amount of an exemption
22 claimed under this section.

23 (c) The state shall reimburse a home rule or general law munici-
24 pality for the sewer and water assessment revenues which it would
25 receive but for the operation of this section. Reimbursement under this
26 subsection is a lien in favor of the state against the property exempted
27 to the extent of the assessment against the property exempted. Upon
28 recordation in the recording office of the district in which the prop-
29 erty exempted is located the lien is prior and superior to other liens

1 against the property except for general taxes or other special assess-
2 ments and may be enforced by lien foreclosure as provided in AS 34.10.-
3 070 - 34.10.220. The lien becomes immediately due and payable

4 (1) upon sale or other transfer of the property except to a
5 widow, widower, or minor heir; however, if the property is transferred
6 to a minor heir the lien becomes due and payable on the date the minor
7 heir reaches the age of 25 years; or

8 (2) when property exempted under (a)(1) or (2) of this sec-
9 tion receives more than one sewer connection or more than one water
10 connection; or

11 (3) when the claimant fails to prove eligibility under (b)(2)
12 of this section.

13 (d) In this section

14 (1) "resident" means a person who for 12 consecutive months
15 has maintained his permanent place of abode in the state;

16 (2) "real property" includes, but is not limited to, mobile
17 homes, whether classified as real or personal property for municipal tax
18 purposes.

19 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
20 070(c).

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 31, 1976

SUBJECT: CS for HB No. 587 (Finance) relating to exemptions from municipal sewer and water assessments (attached)

TO: Representative Hugh Malone, Chairman, House Finance Committee

Attention: Jim Rhode, Administrative Assistant

FROM: Greg Machyowsky, Legislative Counsel

The Finance Committee substitute for HB 587 requested by the committee is attached. Before the committee concludes its consideration of the bill, the following aspects of the bill seem advisable to point out in case additional provisions are thought advisable:

Reimbursement to municipalities.

1. The bill (and present law) apparently contemplates only a full appropriation by the legislature of the total costs to reimburse municipalities. Should the legislature appropriate in any year less than the full amount required to reimburse all municipalities for lost revenues under the exemption, there is no specific provision for a pro rata or other allocation of the amount of a limited appropriation. Presumably, if less than a full appropriation is made, an amendment to the law would be made at the same time, but the committee may wish to provide for that contingency by additional provision in the law now.

2. If there is less than full reimbursement to a municipality, the bill does not authorize the municipality to collect the difference between the reimbursement and the amount of the assessment from the property owner, or apply a municipal lien for that purpose. In effect, the municipality stands the loss of less than full reimbursement. Should a different result be intended, specific provision to that effect should be made in the bill.

3. The bill (and present law) apparently contemplates that reimbursement by the state is to be made on a lump sum basis for the full assessment, irrespective of whether or

not the municipality requires payment of its assessment on a lump sum or installment payment basis. If it is intended that reimbursement should be made only of the amount of annual installments due the municipality (if the municipality sets payment on an installment basis), provision to that effect might be made in the bill.

Lien of state for reimbursement.

1. To receive an exemption, the bill (and present law) sets out certain eligibility requirements, relating to an applicant's age, residence, occupancy of property to be assessed, and application for assessment. Once the exemption is granted and reimbursement by the state is made, however, the state's lien for the reimbursement is apparently made due and payable only when different conditions occur, namely, certain transfers of the property or installation of more than one sewer or water connection on the property assessed. Neither the bill nor present law appears to provide that the lien becomes due and payable if the exemption holder ceases to occupy the property or does not remain a state resident. That may be the intent, however; if so, it should be expressly provided for in the bill.

2. Assuming the intent of the bill is that the lien of the state for reimbursement becomes due and payable if the exemption holder (1) ceases to be a resident, (2) ceases to occupy the property, (3) transfers the property to a person other than a surviving spouse or minor heir, or (4) fails to file an application, the committee may wish to evaluate the method established in the bill for determining whether those conditions have occurred, namely, yearly application to renew the exemption, (with failure to apply a condition itself of the lien's becoming due and payable). While effective to ascertain compliance with the conditions, the method in effect requires lifelong annual application by each initial exemption holder, and then lifelong application by the surviving spouse, or by a minor heir until age 25.

Perhaps tying the application requirement of the bill into the present requirement for annual application for senior citizen tax exemptions under AS 29.53.020(e) would accomplish the purpose of the yearly application provision and at the same time minimize the paperwork involved for applicants and municipalities. Since most persons eligible for exemptions of their property under the bill (and present law) would also be applying for senior citizen property tax exemptions, the state assessor, in preparing the application forms for the property tax exemptions for use by local assessors, as now required under AS 29.53.020(e) might be additionally authorized under the bill to provide on the tax

exemption form that those senior citizens holding assessment exemptions certify that they continue to meet the requirements under the bill for precluding enforcement of the state lien.

It might be noted also that if residency or occupancy are not construed under the bill as requirements to keep the state lien from becoming due and payable then, in place of yearly application, the following method would seem to be adequate: yearly survey by the state, itself or through arrangement with a title company, of transfers of property subject to the state lien within the recording district in which the property is located (and in which the lien is recorded), with noting of transfers which result in the lien's becoming due and payable; combined with arrangement for annual notification by local assessors to the state of the probably limited number of cases in which installation of additional water or sewer connections have been made on properties within the municipality subject to the lien. (If residency and occupancy are construed under the bill to preclude lien enforcement, the method noted would not determine those conditions, however.)

With the possible exception of the question whether state residency of the exemption holder and his occupancy of the property exempted are necessary to keep the state lien from becoming due and payable, none of the points noted above would seem indispensable to the legal adequacy or workability of the committee substitute as now drafted. However, should the committee wish to make specific provision as to any of the points noted, please let me know and I'll prepare the necessary revisions in the bill. Time permitting before the committee meeting today, I'll furnish a copy of this memorandum to the state assessor, Mr. Bob Dozier, on the thought that his prior review of these comments would save the committee time should the committee wish to consider with him further the matters discussed.

cc: Mr. Robert Dozier, State Assessor

GM:dd

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF LOCAL GOVERNMENT ASSISTANCE

JAY S. HAMMOND, Governor

POUCH B - JUNEAU 99811

March 15, 1976

The Honorable Hugh Malone
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Malone:

The Department of Community & Regional Affairs recommends enactment of CS for House Bill No. 587 with amendments as outlined below:

Page 1, Line 11; after, or the, add spouse

It has been pointed out that the spouse of a claimant receiving the exemption, who has not reached the age of 65 years would be ineligible and would be forced to pay the assessment should the claimant be transferred temporarily or permanently to a nursing home.

Page 1, Line 28; after assessors, add (1)

This amendment separates instructions for filing the initial application from those on page 2 (2) for filing application for reestablishing eligibility in subsequent years.

Page 2, Line 5; after filed, add (2) and the following language:

(2) A Claimant receiving the exemption must file (A SEPARATE APPLICATION) by January 15 of each subsequent year a separate application proving eligibility as of January 1 in order to retain the exemption. Within the same year the assembly or council for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

This amendment provides a one year good cause extended filing period after which the claimant forfeits the benefits of this act.

March 15, 1976

Page 2, Line 25-26; delete (AS 09.55.170-09.55.220) and add AS 34.10.070-34.10.220.

The deleted statutory situation relates to divorce and annulment and is apparently a typographical error.

Page 3, Line 2; amend language to read as follows:

(2) When property exempted under (a)(1) or (2) of this section receives more than one sewer (,) connection or more than one water connection; or (3) when the claimant fails to prove eligibility under (b)(2) of this section.

(c)(2) makes it clear that the claimant may connect both sewer and water to the single family residence and retain his exempt status.


(c)(3) is constructive notice to the claimant that eligibility must be annually proved or the lien becomes due and payable. It has been pointed out that without this provision, the claimant subsequent to receiving the initial exemption, could move his residence to another state and continue his exempt status. Additionally, by renting the property, it would be possible for the claimant over a period of years to establish eligibility and receive the exemption on several different properties in the state.

In our opinion this bill is necessary for proper administration of AS 29.63.065. Committee action is recommended as soon as possible.

We will be pleased to provide any additional data or explanation of the suggested amendments as requested.

Very truly yours,

Lee McAnerney
Commissioner


By: S. Robert Dozier
State Assessor

LMcA:SRD:nc

HB
HB 587

The Honorable Mike Bradner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

In accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to exemptions for resident property owners, age 65 and older, from municipal special assessments for water and sewer connections.

The first amendment removes an internal inconsistency. The phrase "effective date of this Act" in AS 29.63.065(a) means September 2, 1975--the effective date of ch. 114 SLA 1975. The reference to January 1, 1975 at the beginning of the subsection appears to confuse a tax exemption with a special assessment exemption; the former must be related to a tax year whereas a special assessment may be levied at any time. Thus, the January 1, 1975 reference is meaningless here and is proposed for deletion in this bill. The amendments in this bill are given an immediate effective date.

The second change clarifies the exemption section in keeping with apparent legislative intent that the exemption from special sewer and water assessments pass to the surviving spouse or minor heirs of the original eligible applicant. Thus, the lien created by the reimbursement of the municipality by the State for lost revenues becomes due and payable upon a transfer to a non-eligible grantee.

Another amendment would require an annual application for the exemption; this is proposed so that the State will have current information on the continuing eligibility of the owner of the property. Also, the sentence defining "resident" is deleted since eligibility under this section is already tied into AS 29.53.020(e)-(i) by the existing language of the law.

In addition, this bill provides that the special assessment exemption will cease and the lien created under the section will become due and payable when the property receives more

than one sewer or water connection. This approach is consistent with the determination that only the single family residence of the applicant be eligible for the exemption.

Sincerely,

Jay S. Hammond
Governor

Original sponsor: Rules Committee by
request of the Governor

Offered: 3/9/76
Referred: Finance

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 587

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to exemptions from municipal special
7 assessments; and providing for an effective date."

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

9 * Section 1. AS 29.63.065 is repealed and re-enacted to read:

10 Sec. 29.63.065. EXEMPTION. (a) The real property owned and
11 occupied by a resident 65 years of age or over, or the widow, widower,
12 or minor heir of the original applicant, on which is located only his
13 permanent abode which is a single-family residence, is exempt from (1)
14 special sewer assessments levied by a home rule or general law munici-
15 pality after September 2, 1975 and (2) special water assessments levied
16 by a home rule or general law municipality after September 2, 1975.
17 Only one exemption may be granted with respect to the same property,
18 and, if two or more persons are eligible for an exemption with respect
19 to the same property, the parties shall decide between or among them-
20 selves which shall receive the benefit of the exemption. No real
21 property may be exempted under this subsection which the municipality
22 determines, after notice and hearing to the parties concerned, has been
23 conveyed to the applicant primarily for the purpose of obtaining the
24 exemption. The determination of the municipality is appealable under
25 AS 44.62.560 - 44.62.570.

26 (b) No exemption may be granted under this section except upon
27 written application for the exemption on a form prescribed by the state
28 assessor for use by local assessors. The claimant must file the initial
29 application during the period of time between the date the assessment

roll is certified and the time of payment fixed by the assembly or council. Within one year of the date the assessment roll is certified the assembly or council for good cause shown may waive the claimant's failure to make timely initial application for the exemption and authorize the assessor to accept the application as if timely filed. A claimant receiving the exemption must file a separate application by January 15 of each subsequent year in order to retain the exemption. If an application is filed within the required time under this subsection and is approved by the assembly or council, the exemption shall be allowed in accordance with the provisions of this section. If a waiver under this subsection is granted and the application for exemption approved, the amount of any assessment, penalty or interest which the claimant may have already paid on the assessment shall be refunded to him. The municipality may at any time require proof in the form considered necessary of the right and amount of an exemption claimed under this section.

(c) The state shall reimburse a home rule or general law municipality for the sewer and water assessment revenues which it would receive but for the operation of this section. Reimbursement under this subsection is a lien in favor of the state against the property exempted to the extent of the assessment against the property exempted. Upon recordation in the recording office of the district in which the property exempted is located the lien is prior and superior to other liens against the property except for general taxes or other special assessments and may be enforced by lien foreclosure as provided in AS 09.55.-170 - 09.55.220. The lien becomes immediately due and payable

(1) upon sale or other transfer of the property except to a widow, widower, or minor heir; however, if the property is transferred to a minor heir the lien becomes due and payable on the date the minor

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heir reaches the age of 25 years; or

(2) when property exempted under (a)(1) or (2) of this section receives more than one sewer or water connection.

(d) In this section

(1) "resident" means a person who for 12 consecutive months has maintained his permanent place of abode in the state;

(2) "real property" includes, but is not limited to, mobile homes, whether classified as real or personal property for municipal tax purposes.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

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Introduced: 1/16/76
Referred: Community & Regional
Affairs and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 587

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to exemptions from municipal special
7 assessments; and providing for an effective date."

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

9 * Section 1. AS 29.63.065(a) is amended to read:

10 (a) The [AFTER JANUARY 1, 1975, THE] real property owned and
11 occupied by a resident 65 years of age or over, or the widow, widower,
12 or minor heir of the original applicant, on which is located only his
13 permanent abode which is a single family residence, is exempt from (1)
14 special sewer assessment levied by a home rule or general law munici-
15 pality after the effective date of this Act; and (2) special water
16 assessment levied by a home rule or general law municipality after the
17 effective date of this Act [IF NO WATER CONNECTION IS MADE]. The
18 eligibility, appeal, annual application, reimbursement and other
19 provisions of AS 29.53.020(e) -- (1) relating to the general exemption
20 from real property tax for residents 65 years of age or over apply to
21 the exemption granted under this section. A reimbursement under this
22 section is a lien in favor of the state for the amount reimbursed.
23 The lien is prior to other liens except for general taxes or other
24 special assessment. Upon sale or other transfer of the property,
25 except to a widow, widower [SPOUSE] or minor heir [HEIRS], or when
26 property exempted under (1) or (2) of this subsection receives more
27 than one sewer or water connection, the lien becomes immediately due
28 and payable. If property is transferred to a minor heir the lien
29 becomes due and payable on the date the minor heir reaches the age of

1 25 years. When property exempted under (2) of this section receives
2 water connection, the lien arising from the exemption becomes due and
3 payable. Notice of the lien shall be given by notation on the official
4 assessment roll of the municipality that the assessment, or install-
5 ments of the assessment, was exempted under this section. However,
6 failure to give notice does not invalidate the lien. [IN THIS SECTION
7 "RESIDENT" MEANS A PERSON WHO FOR 12 CONSECUTIVE MONTHS HAS MAINTAINED
8 A PERMANENT PLACE OF ABODE IN THE STATE AND WHO HAS CONTINUOUSLY
9 MAINTAINED HIS VOTING RESIDENCE IN THE STATE.]

10 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
11 10.070(c).
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LEGISLATION OF THE GOVERNMENT OF CALIFORNIA FOR THE FISCAL YEAR
ENDING JUNE 30, 1977
THIS BILL IS ONE OF THE BILLS INTRODUCED AT THE REGULAR SESSION OF 1976

I. REQUEST
Bill No. _____
Title: "An act relating to exemption from municipal special assessments"
Requested by: Governor's Office Date: 1/5/76
Return Date Requested: 1/9/76
Agency: Community & Regional Affairs Program: Social Services

II. FISCAL DETAIL
Budget Request Unit(s) Affected: Senior Citizens Property Tax Exemption Program
A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-				

B. FUNDING: (Thousands of dollars)

GENERAL FUND	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
FEDERAL FUNDS						
OTHER						

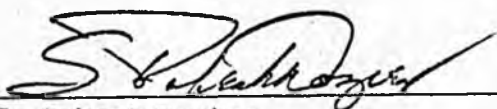
C. POSITIONS:

PERMANENT/TEMPORARY	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
MAN MONTHS (P./T.)	/	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The fiscal year 1977 Budget Request included \$150,000 for the application of senior citizens for deferred payment of municipal special assessments. These proposed amendments will not result in any additional costs.

IV. ATTACHMENTS

V. DATE: 1/14/76 PREPARED BY: 

S. Robert Dozier
State Assessor

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)