

HB

40

<TARGET><BILL>HB 40</BILL><SUBJECT>HB
40</SUBJECT><COMM>HCRA28</COMM></TARGET>

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 16, 2013

FURTHER REFERRALS:

Date of Committee Action: 1/31/13

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HB 40

HOUSE BILL NO. 40

"An Act establishing a municipal tax exemption for certain farm structures."

HB 40-MUNICIPAL TAX EXEMPTION : FARM USE LAND

Recommends it be replaced with HCS or CS for HB 40 ()
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

- List of Abbrev for Depts.:
- ADM
 - CEC
 - COR
 - CRT
 - EED
 - DEC
 - DFG
 - GOV
 - DHS
 - LWF
 - LAW
 - LEG
 - MVA
 - DNR
 - DPS
 - REV
 - DOT
 - UA

<u>NEW FISCAL NOTES</u>				
*FN# is assigned by Chief Clerk's Office				
*FN#	List by Dept(s):	Fiscal	Indet.	Zero
	DCCCED			✓

<u>PREVIOUS FISCAL NOTES</u>				
FN#	List by Dept(s):	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>[Signature]</i>	Foster	✓			
<i>[Signature]</i>	Looney	✓			
<i>[Signature]</i>	NAGORAK	✓			
<i>[Signature]</i>	Reinbold	✓			
<i>[Signature]</i>	OLSON	✓			
<i>[Signature]</i>	Drummond	✓			
CO Chair:					
LE Chair:					

Kimberly Clark

From: Ginger Blaisdell
Sent: Tuesday, January 29, 2013 2:53 PM
To: Kimberly Clark; Dirk Moffatt
Subject: HB 40 (H)CRA Thursday

Alpheus Bullard will be available by phone in the event there are questions. He's not interested in testifying but can help interpret the bill if we get lots of scenarios of how the exemption may/may not work.
ginger

28-LS0229\N
Bullard
1/28/13

CS FOR HOUSE BILL NO. 40(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES HUGHES, Herron, Thompson, Isaacson, Olson

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a municipal tax exemption for certain farm structures."**

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

3 *** Section 1.** AS 29.45.050 is amended by adding new subsections to read:

4 (t) A municipality may by ordinance partially or totally exempt from taxation
5 a farm structure used exclusively for farming activity, or purposes directly related to
6 farming activity, if the farm structure is owned or leased by a person that is actively
7 engaged in farming and that derives at least 10 percent of the person's yearly gross
8 income from farming activity, and the structure is used for

9 (1) the growing, storage, or processing of grains, fruits, vegetables, or
10 other crops intended for human consumption and produced by the owner's or lessee's
11 farming activity;

12 (2) the storage or processing of

13 (A) feed for livestock, poultry, or other animals used in the
14 owner's or lessee's farming activity;

15 (B) milk or milk products produced by the owner's or lessee's

1 farming activity; or

2 (3) stabling or milking the owner's or lessee's dairy animals.

3 (u) In this section, "farming activity" means raising and harvesting crops;
4 feeding, breeding, and managing livestock; dairying; or any combination of those
5 activities.

28-LS0229\N
Bullard
1/28/13

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ALASKA STATE LEGISLATURE



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Representative Shelley Hughes
House District 8 ~ Greater Palmer

Honorable Representative Benjamin Nageak, Co-Chair
Honorable Representative Gabrielle LeDoux, Co-Chair
House Community and Regional Affairs
State Capitol
Juneau, AK 99801

HB40 Farm Food Storage Building Tax Exemption

Sponsor Statement

January 22, 2013

HB40 supports the agriculture economy in Alaska by allowing municipalities to exempt specific food storage and production buildings for those who derive at least 10% of their income from farming activities. My hope for reducing tax on certain buildings will encourage food storage and production of food products without diminishing a significant tax percentage for municipalities.

HB40 includes buildings that store food for human or animal consumption and includes food production equipment. The food production equipment is an integral component because it is typically the production process that allows the food product to be cleaned for proper storage, extends its shelf-life, or creates a food product that can be sold.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 40 (U)
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB040-DCCED-DCRA-01-25-13
Title: MUNICIPAL TAX EXEMPTION: FARM USE LAND
Sponsor: HUGHES
Requester: House Community and Regional Affairs

Department: Department of Commerce, Community and
Economic Development
Appropriation: Community and Regional Affairs
Allocation: Community and Regional Affairs
OMB Component Number: 2879

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates					
			FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Scott Ruby, Director
Division: Community and Regional Affairs
Approved By: JoEllen Hanrahan, Director
Administrative Services

Phone: (907)269-4569
Date: 01/25/2013 10:04 AM
Date: 01/25/13

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB 40

Analysis

This bill would amend existing statutes regarding permissive municipal tax exemptions. It would give municipalities the authority to partially or totally exempt certain farm structures owned or leased by an individual who is actively engaged in farming and who derives at least 10 percent of their gross yearly income from farming activity. Municipalities would need to adopt an ordinance that enacts the exemption and application procedures awarding exemptions.

Existing statutes require the state to reimburse a borough or city for the real property tax revenues lost to it by the implementation of tax exemptions. If passed, this additional exemption would also be reimbursable by the state. However, statutes provide that if appropriations are not sufficient to fully fund reimbursements, the amount available shall be distributed pro-rate among eligible municipalities. In the past, the state has not fully funded reimbursement for existing municipal tax exemptions.

There is no anticipated fiscal impact to the Division of Community and Regional Affairs from this bill.

**CSHB40(CRA) Work Draft 28-LS0229\N
Farm Food Storage Building Tax Exemption**

**Side by Side Comparison of Committee Substitute
January 31, 2013**

“An Act establishing a municipal tax exemption for certain farm structures.”

<p>*Section 1. AS 29.45.050 is amended by adding new subsections to read:</p>	<p>This legislation does not change the existing “farm bill” statutes.</p>
<p>(t) A municipality may by ordinance partially or total exempt from taxation a farm structure used exclusively for farming activity, or purposes directly related to farming activity, if the farm structure is owned or leased by a person that is actively engaged in farming and that derives at least 10 percent of the person’s yearly gross income from farming activity, and the structure is used for</p>	<p>A municipality may partially or fully exempt the property tax for a qualifying farm food storage or food processing structure/building. This bill does not mandate the tax exemption but would allow a municipality to consider the exemption and can determine the percentage of the value of the structure to be exempted from taxation.</p> <p>The farm structure must be used exclusively for farming activity or purposes directly related to farming activity. This identifies the purpose of the building to be considered for exemption.</p> <ul style="list-style-type: none"> • The original bill specified 50% of the structure to be used for food storage or processing purposes. This seemed to create additional work and potential interpretation on behalf of the municipal assessors. • By using the word “exclusively” it is clear that the intent of the structure is for farming and food, and the need for tape measures and guesswork would be eliminated. <p>The person who owns the structure must be actively engaged in farming and derive at least 10 percent of the person’s yearly gross income from farming activity. This section identifies a change to the original bill.</p> <ul style="list-style-type: none"> • The original word choice was “individual” but after speaking with others, it was evident that many farmers may have established themselves in a business structure such as an LLC. • The word “person” includes individuals as well as other business structures. It can include sole proprietorships, LLC, S-corps, corporations, trusts, etc.
<p>(1) The growing, storage, or processing of grains, fruits, vegetables, or other crops intended for human consumption and produced by the owner’s or lessee’s farming activity;</p>	<p>The structure must be used for growing, storage or processing of consumable food plants that are produced by the owner’s/lessee’s farming activity.</p> <p>The second change to the original bill is the inclusion of the task of growing food products. This change would allow greenhouses that are used to grow food to benefit from the tax exemption.</p>

<p>(2) The storage or processing of</p> <p>(A) Feed for livestock, poultry, or other animals used in the owner's or lessee's farming activity;</p> <p>(B) Milk or milk products produced by the owner's or lessee's farming activity; or</p>	<p>The structure may be used for storage or processing of feed for animals used in the farming activity.</p> <p>The structure may be used for storage or processing of milk products produced by the farming activity.</p>
<p>(3) Stabling or milking the owner's or lessee's dairy animals.</p>	<p>The structure may be used in stabling or milking dairy animals. This is specifically noted because a significant area of the facility may be used to manage cattle and the dairy equipment may constitute a smaller area of the structure.</p>
<p>(u) In this section, "farming activity" means raising and harvesting crops; feeding, breeding, and managing livestock; dairying; or any combination of those activities.</p>	<p>The definition of "farming activity" is important because it clarifies what it means to be farming. Assessors and farmers can have a better understanding of the qualifying provisions if they fit the definition.</p> <p>Some gentlemen or hobby farmers may not qualify for the exemption if they do not fit the purpose of the structure, derive at least 10% of their yearly gross income from farming, and are actively involved in a farming activity.</p>

Possible scenarios regarding the structure:

- 1) a **barn** used to store cattle feed may include a processing filter that separates some particles from the grain so that it does not mold quickly while in storage; the hay is stored in the structure through the winter and depletes as eaten; a tractor may be brought into the barn as space allows for general maintenance. This example would likely qualify for the exemption.
- 2) a **barn** used to store root vegetables includes some separating and cleaning equipment and has moveable bins for transporting the food; the barn is also includes a mother-in-law apartment for guests and when the food stores are low, the family car is parked indoors. This example would not likely qualify for the exemption.
- 3) a **greenhouse** that grows raspberries and stores jars of preserves and syrup would likely qualify for the exemption.
- 4) a **greenhouse** that grows one aisle of vegetables, one aisle of tulips and sells lawn mowers and fertilizer would not likely qualify for the exemption.
- 5) the **home kitchen** used for canning and preserving wild berries picked on their own land, storing the preserves in the pantry and selling the preserves at a farmer's market; the residence would likely not qualify as a food storage and processing structure.

Sec. 29.45.050. Optional exemptions and exclusions.

(a) A municipality may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at an election. An exclusion or exemption authorized by this subsection may be applied with respect to taxes levied in a service area to fund the special services. An exclusion or exemption authorized by this subsection may not exceed the assessed value of \$20,000 for any one residence.

(b) A municipality may by ordinance

(1) classify and exempt from taxation

(A) the property of an organization not organized for business or profit-making purposes and used exclusively for community purposes if the income derived from rental of that property does not exceed the actual cost to the owner of the use by the renter;

(B) historic sites, buildings, and monuments;

(C) land of a nonprofit organization used for agricultural purposes if rights to subdivide the land are conveyed to the state and the conveyance includes a covenant restricting use of the land to agricultural purposes only; rights conveyed to the state under this subparagraph may be conveyed by the state only in accordance with AS 38.05.069(c);

(D) all or any portion of private ownership interests in property that, based upon a written agreement with the University of Alaska, is used exclusively for student housing for the University of Alaska; property may be exempted from taxation under this subparagraph for no longer than 30 years unless the exemption is specifically extended by ordinance adopted within the six months before the expiration of that period;

(E) a residential renewable energy system that is used to develop means of energy production using energy sources other than fossil or nuclear fuel, including windmills and water and solar energy devices located in the municipality;

(2) classify as to type and exempt or partially exempt some or all types of personal property from ad valorem taxes.

(c) The provisions of (a) of this section notwithstanding,

(1) a borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of a city in the borough, including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period;

(2) a home rule or first class city has the same power to grant exemptions or exclude property from borough taxes that it has as to city taxes if

(A) the exemptions or exclusions have been adopted as to city taxes; and

(B) the city appropriates to the borough sufficient money to equal revenues lost by the borough because of the exemptions or exclusions, the amount to be determined annually by the assembly;

(3) a city in a borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of the borough, including but not limited to exempting or partially exempting property from taxation.

(d) Exemptions or exclusions from property tax that have been granted by a home rule municipality in addition to exemptions authorized or required by law, and that are in effect on September 10, 1972, and not later withdrawn, are not affected by this chapter.

(e) A municipality may by ordinance classify and exempt or partially exempt from taxation privately owned land, wet land and water areas for which a scenic, conservation, or public recreation use easement is granted to a governmental body. To be eligible for a tax exemption, or partial exemption, the easement must be in perpetuity. The easement is automatically terminated before an eminent domain taking of fee simple title or less than fee simple title to the property, so that the property owner is compensated at a rate that does not reflect the easement grant. The municipality may

provide by ordinance that, if the area subject to the easement is sold, leased, or otherwise disposed of for uses incompatible with the easement or if the easement is conveyed to the owner of the property, the owner must pay to the municipality all or a portion of the amount of the tax exempted, with interest.

(f) A municipality may by ordinance exempt from taxation all or part of the increase in assessed value of improvements to real property if an increase in assessed value is directly attributable to alteration of the natural features of the land, or new maintenance, repair, or renovation of an existing structure, and if the alteration, maintenance, repair, or renovation, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. An exemption may not be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use in the structure or for the alteration of land as a consequence of construction activity. An exemption provided in this subsection may continue for up to four years from the date the improvement is completed, or from the date of approval for the exemption by the local assessor, whichever is later.

(g) A municipality may by ordinance exempt from taxation all or part of the increase in assessed value of improvements to a single-family dwelling if the principal purpose of the improvement is to increase the amount of space for occupancy. An exemption provided in this subsection may continue for up to two years from the date the improvement is completed, or from the date of approval of an application for the exemption by the local assessor, whichever is later.

(h) A municipality may by ordinance partially or wholly exempt land from a tax for fire protection service and fire protection facilities and may levy the tax only on improvements, including personal property affixed to the improvements.

(i) A municipality may by ordinance approved by the voters exempt from taxation the assessed value that exceeds \$150,000 of real property owned and occupied as a permanent place of abode by a resident who is

(1) 65 years of age or older;

(2) a disabled veteran, including a person who was disabled in the line of duty while serving in the Alaska Territorial Guard; or

(3) at least 60 years old and a widow or widower of a person who qualified for an exemption under (1) or (2) of this subsection.

(j) A municipality may by ordinance approved by the voters exempt real or personal property in a taxing unit used in processing timber after it has been delivered to the processing site from up to 75 percent of the rate of taxes levied on other property in that taxing unit. An ordinance adopted under this subsection may not provide for an exemption that exceeds five years in duration. In this subsection, "taxing unit" means a municipality and includes

(1) a service area in a unified municipality or borough;

(2) the entire area outside cities in a borough; and

(3) a differential tax zone in a city.

(k) A municipality may by ordinance approved by the voters exempt from taxation pollution control facilities that meet requirements of the United States Environmental Protection Agency or the Department of Environmental Conservation. An ordinance adopted under this subsection may not provide for an exemption that exceeds five years in duration.

(l) A municipality may by ordinance exempt from taxation an interest, other than record ownership, in real property of an individual residing in the property if the property has been developed, improved, or acquired with federal funds for low-income housing and is owned or managed as low-income housing by the Alaska Housing Finance Corporation under AS 18.55.100 - 18.55.960 or by a regional housing authority formed under AS 18.55.996. However, the corporation may make payments to the municipality or political subdivision for improvements, services, and facilities furnished by it for

the benefit of a housing project, and this subsection does not prohibit a municipality from receiving those payments or any payments in lieu of taxes authorized under federal law.

(m) A municipality may by ordinance partially or totally exempt all or some types of economic development property from taxation for up to five years. The municipality may provide for renewal of the exemption under conditions established in the ordinance. However, under a renewal, a municipality that is a school district may only exempt all or a portion of the amount of taxes that exceeds the amount levied on other property for the school district. A municipality may by ordinance permit deferral of payment of taxes on all or some types of economic development property for up to five years. The municipality may provide for renewal of the deferral under conditions established in the ordinance. A municipality may adopt an ordinance under this subsection only if, before it is adopted, copies of the proposed ordinance made available at a public hearing on it contain written notice that the ordinance, if adopted, may be repealed by the voters through referendum. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral. In this subsection "economic development property" means real or personal property, including developed property conveyed under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act), that

- (1) has not previously been taxed as real or personal property by the municipality;
- (2) is used in a trade or business in a way that
 - (A) creates employment in the municipality;
 - (B) generates sales outside of the municipality of goods or services produced in the municipality;

or

- (C) materially reduces the importation of goods or services from outside the municipality; and
- (3) has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed; this paragraph does not apply if the property was used in the same trade or business in an area that has been annexed to the municipality within six months before the application for deferral or exemption is filed; this paragraph does not apply to inventories.

(n) A municipality may by ordinance classify as to type inventories intended for export outside the state and partially or totally exempt all or some types of those inventories from taxation. The ordinance may provide for different levels of exemption for different classifications of inventories. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application, which shall be a public document, for each exemption.

(o) A municipality may by ordinance partially or totally exempt all or some types of deteriorated property from taxation for up to 10 years beginning on or any time after the day substantial rehabilitation, renovation, demolition, removal, or replacement of any structure on the property begins. A municipality may by ordinance permit deferral of payment of taxes on all or some types of deteriorated property for up to five years beginning on or any time after the day substantial rehabilitation, renovation, demolition, removal, or replacement of any structure on the property begins. However, if the entire ownership of property for which a deferral has been granted is transferred, all tax payments deferred under this subsection are immediately due, and the deferral ends. Otherwise, deferred tax payments become due as specified by the municipality at the time the deferral is granted. The amount deferred each year is a lien on that property for that year. Only one exemption and only one deferral may be granted to the same property under this subsection, and, if an exemption and a deferral are granted to the same property, both may not be in effect on the same portion of the property during the same time. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral. An application for a deferral must specify when payment of taxes for each year of deferral will become due, together with an explanation of the reasons for each proposed date for consideration by the municipality. In this

subsection, "deteriorated property" means real property that is commercial property not used for residential purposes or that is multi-unit residential property with at least eight residential units, and that meets one of the following requirements:

(1) within the last five years, has been the subject of an order by a government agency requiring environmental remediation of the property or requiring the property to be vacated, condemned, or demolished by reason of noncompliance with laws, ordinances, or regulations;

(2) has a structure on it not less than 15 years of age that has undergone substantial rehabilitation, renovation, demolition, removal, or replacement, subject to any conditions prescribed in the ordinance; or

(3) is located in a deteriorating or deteriorated area with boundaries that have been determined by the municipality.

(p) A municipality may by ordinance partially or totally exempt from taxation a private leasehold, contract, or other interest held by or through an applicant or proposed applicant in any property, assets, project, or development project owned by the Alaska Industrial Development and Export Authority under AS 44.88. Nothing in this subsection prohibits a municipality from entering into an agreement and receiving payments in lieu of taxes authorized under AS 44.88.140(b).

(q) A municipality may by ordinance partially or totally exempt from taxation land from which timber is harvested that is infested by insects or at risk of being infested by insects due to an infestation in the area in which the land is located. A municipality may provide that an exemption for land under this subsection applies only to increases in assessed value that result from the timber harvest. A municipality may by ordinance partially or totally exempt from taxation improvements to real property, including personal property affixed to the improvements, if the improvements are

(1) located on land from which timber is harvested that is infested by insects or at risk of being infested by insects due to an infestation in the area in which the land is located; and

(2) used for or necessary to the harvest of the timber that is infested by insects or in danger of insect infestation.

(r) A municipality may by ordinance exempt from taxation an amount not to exceed \$10,000 of the assessed value of real property owned and occupied as a permanent place of abode by a resident who provides in the municipality volunteer (1) fire fighting services and is certified as a firefighter by the Department of Public Safety, or (2) emergency medical services and is certified under AS 18.08.082. If two or more individuals are eligible for an exemption for the same property, not more than two exemptions may be granted.

(s) A municipality may by ordinance partially or wholly exempt from taxation the real property owned and occupied as a permanent place of abode by a resident who is the widow or widower of a member of the armed forces of the United States injured serving on active duty while eligible for hostile fire or imminent danger pay who dies because of the injury or complications related to the injury or its treatment. The ordinance must include requirements for determining eligibility for the exemption and a procedure for applying for the exemption.