

**SB**

**100**

**<TARGET><BILL>SB 100</BILL><SUBJECT>SB  
100</SUBJECT><COMM>HRLS30</COMM></TARGET>**

30-LS0709\O  
Shutts  
5/9/17

**HOUSE CS FOR SENATE BILL NO. 100( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**THIRTIETH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR EGAN BY REQUEST**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to municipal liens; relating to service areas in second class boroughs;**  
2 **relating to a municipal tax exemption or deferral for economic development property;**  
3 **relating to a municipal tax exemption for a fire protection system; and providing for an**  
4 **effective date."**

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

6 **\* Section 1.** AS 09.45.169(2) is amended to read:

7 (2) "nonconsensual common law lien" means a lien on real or personal  
8 property that

9 (A) is not provided for by a specific state or federal statute or  
10 **municipal ordinance**;

11 (B) does not depend on the consent of the owner of the  
12 property affected for its existence; and

13 (C) is not an equitable, constructive, or other lien imposed by a  
14 court recognized under state or federal law;

1 \* **Sec. 2.** AS 11.46.560(a) is amended to read:

2 (a) A person commits the crime of offering a false instrument for recording in  
3 the second degree if

4 (1) under AS 40.17, the person presents a lien to the recorder for  
5 registration, filing, or recording with reckless disregard that the lien is not

6 (A) provided for by a specific state or federal statute or  
7 **municipal ordinance**; or

8 (B) a lien imposed or authorized by a court recognized under  
9 state or federal law;

10 (2) under a law authorizing the receipt and filing of a document, the  
11 person presents a lien to a department or person having responsibility to accept a lien  
12 for filing with reckless disregard that the lien is not

13 (A) provided for by a specific state or federal statute or  
14 **municipal ordinance**; or

15 (B) a lien imposed or authorized by a court recognized under  
16 state or federal law; or

17 (3) the person presents to the recorder a notice of the pendency of an  
18 action affecting title to real property or the right to possession of real property with  
19 reckless disregard of the fact that the action specified does not concern the title to or  
20 right to possession of the real property referred to in the notice, or with reckless  
21 disregard of the fact that there is no pending action concerning the title to or right to  
22 possession of the real property referred to in the notice.

23 \* **Sec. 3.** AS 29.35.010 is amended to read:

24 **Sec. 29.35.010. General powers.** All municipalities have the following  
25 general powers, subject to other provisions of law:

26 (1) to establish and prescribe a salary for an elected or appointed  
27 municipal official or employee;

28 (2) to combine two or more appointive or administrative offices;

29 (3) to establish and prescribe the functions of a municipal department,  
30 office, or agency;

31 (4) to require periodic and special reports from a municipal department

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- to be submitted through the mayor;
- (5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;
- (6) to levy a tax or special assessment, and impose a lien for its enforcement;
- (7) to enforce an ordinance and to prescribe a penalty for violation of an ordinance;
- (8) to acquire, manage, control, use, and dispose of real and personal property, whether the property is situated inside or outside the municipal boundaries; this power includes the power of a borough to expend, for any purpose authorized by law, money received from the disposal of land in a service area established under AS 29.35.450;
- (9) to expend money for a community purpose, facility, or service for the good of the municipality to the extent the municipality is otherwise authorized by law to exercise the power necessary to accomplish the purpose or provide the facility or service;
- (10) to regulate the operation and use of a municipal right-of-way, facility, or service;
- (11) to borrow money and issue evidences of indebtedness;
- (12) to acquire membership in an organization that promotes legislation for the good of the municipality;
- (13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;
- (14) to sue and be sued;
- (15) to provide facilities or services for the confinement and care of prisoners and enter into agreements with the state, another municipality, or any person relating to the confinement and care of prisoners;
- (16) to receive grants from and contract with the Department of Public Safety under AS 18.65.670;
- (17) to provide by ordinance for the creation, recording, and**

1 notice of a lien on real or personal property to secure payment of past due utility  
2 fees, costs incurred by the municipality in the abatement of an unsafe or  
3 dangerous building, and other fees and charges provided for by ordinance;  
4 except as otherwise provided by state law, when recorded, a municipal lien under  
5 this paragraph has priority over all other liens except

6 (A) liens for property taxes, special assessments, and sales  
7 and use taxes;

8 (B) liens that were perfected before the recording of the lien  
9 under this paragraph;

10 (C) liens that, under state law, are prior, paramount, and  
11 superior to all other liens; and

12 (D) mechanics' and materialmen's liens for which claims of  
13 lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have  
14 been recorded before the recording of the lien under this paragraph.

15 \* **Sec. 4.** AS 29.35.490 is amended by adding a new subsection to read:

16 (d) A second class borough may establish a service area for the provision of  
17 emergency services within a state highway corridor if no voters reside in the service  
18 area. A second class borough may provide emergency services in a service area  
19 established under this subsection by ordinance. Notwithstanding any other provision  
20 of law, a second class borough may not authorize or levy a property tax for the  
21 provision of emergency services in a service area established under this subsection.  
22 The boundaries of a service area established under this subsection may only include  
23 the highway corridor and publicly owned property adjacent to the highway corridor  
24 necessary to house emergency response equipment and personnel for the service area.

25 \* **Sec. 5.** AS 29.45.050(m) is amended to read:

26 (m) A municipality may by ordinance partially or totally exempt all or some  
27 types of economic development property from taxation for a designated period.  
28 Except as otherwise provided by an ordinance enacted by the municipality before  
29 January 1, 2017 [UP TO FIVE YEARS. THE MUNICIPALITY MAY PROVIDE  
30 FOR RENEWAL OF THE EXEMPTION UNDER CONDITIONS ESTABLISHED  
31 IN THE ORDINANCE. HOWEVER, UNDER A RENEWAL], a municipality that is

1 a school district may only exempt all or a portion of the amount of taxes that exceeds  
 2 the amount levied on other property for the school district's required local  
 3 contribution under AS 14.17.410(b)(2) [DISTRICT]. A municipality may by  
 4 ordinance permit deferral of payment of taxes on all or some types of economic  
 5 development property for a designated period. A municipality may not apply an  
 6 exemption or deferral under this subsection to taxes levied for special services in  
 7 a service area that is supervised by a board under AS 29.35.460 [UP TO FIVE  
 8 YEARS. THE MUNICIPALITY MAY PROVIDE FOR RENEWAL OF THE  
 9 DEFERRAL UNDER CONDITIONS ESTABLISHED IN THE ORDINANCE]. A  
 10 municipality may adopt an ordinance under this subsection only if, before it is  
 11 adopted, copies of the proposed ordinance made available at a public hearing on it  
 12 contain written notice that the ordinance, if adopted, may be repealed by the voters  
 13 through referendum. An ordinance adopted under this subsection must include specific  
 14 eligibility requirements and require a written application for each exemption or  
 15 deferral. In this subsection, "economic development property" means real or personal  
 16 property, including developed property conveyed under 43 U.S.C. 1601 et seq.  
 17 (Alaska Native Claims Settlement Act) [, THAT]

18 (1) to which one or more of the following applies:

19 (A) the property has not previously been taxed as real or  
 20 personal property by the municipality;

21 (B) the property [(2)] is used in a trade or business in a way  
 22 that

23 (i) [(A)] creates employment in the municipality;

24 (ii) [(B)] generates sales outside of the municipality of  
 25 goods or services produced in the municipality; or

26 (iii) [(C)] materially reduces the importation of goods or  
 27 services from outside the municipality;

28 (C) an exemption or deferral on the property enables a  
 29 significant capital investment in physical infrastructure that

30 (i) expands the tax base of the municipality; and

31 (ii) will generate property tax revenue after the

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**exemption expires; or**

**(2) that** [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.

\* **Sec. 6.** AS 29.45.050 is amended by adding a new subsection to read:

(y) A municipality may by ordinance exempt from taxation up to two percent of the assessed value of a structure if the structure contains a fire protection system that is approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. An exemption under this subsection is limited to an amount that does not exceed two percent of the value of the structure based on the assessment

(1) for 1981, if the fire protection system was a fixture of the structure on January 1, 1981; or

(2) as of January 1 of the year immediately following the installation of the fire protection system, if the fire protection system became a fixture of the structure after January 1, 1981.

\* **Sec. 7.** AS 34.35.950(d)(2) is amended to read:

(2) "nonconsensual common law lien" means a lien on real or personal property that

(A) is not provided for by a specific state or federal statute **or**  
**municipal ordinance;**

(B) does not depend on the consent of the owner of the property affected for its existence; and

(C) is not an equitable, constructive, or other lien imposed by a court recognized under state or federal law;

\* **Sec. 8.** AS 29.45.030(I) is repealed.

\* **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).

30-LS0709U  
Shutts  
5/11/17

**HOUSE CS FOR SENATE BILL NO. 100(RLS)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**THIRTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE RULES COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR EGAN BY REQUEST**

**A BILL**

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- (5) to investigate an affair of the municipality and make inquiries into the conduct of a municipal department;
- (6) to levy a tax or special assessment, and impose a lien for its enforcement;
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1 a school district may only exempt all or a portion of the amount of taxes that exceeds  
 2 the amount levied on other property for the school **district's required local**  
 3 **contribution under AS 14.17.410(b)(2)** [DISTRICT]. A municipality may by  
 4 ordinance permit deferral of payment of taxes on all or some types of economic  
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 16 property, including developed property conveyed under 43 U.S.C. 1601 et seq.  
 17 (Alaska Native Claims Settlement Act) [, THAT]

18 (1) **to which one or more of the following applies:**

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23 (i) [(A)] creates employment in the municipality;

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 25 goods or services produced in the municipality; or

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 27 services from outside the municipality;

28 (C) **an exemption or deferral on the property enables a**  
 29 **significant capital investment in physical infrastructure that**

30 (i) **expands the tax base of the municipality; and**

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**exemption expires; or**

**(2) that** [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.

\* **Sec. 6.** AS 29.45.050 is amended by adding a new subsection to read:

(y) A municipality may by ordinance exempt from taxation up to two percent of the assessed value of a structure if the structure contains a fire protection system that is approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. An exemption under this subsection is limited to an amount that does not exceed two percent of the value of the structure based on the assessment

(1) for 1981, if the fire protection system was a fixture of the structure on January 1, 1981; or

(2) as of January 1 of the year immediately following the installation of the fire protection system, if the fire protection system became a fixture of the structure after January 1, 1981.

\* **Sec. 7.** AS 34.35.950(d)(2) is amended to read:

(2) "nonconsensual common law lien" means a lien on real or personal property that

(A) is not provided for by a specific state or federal statute **or**  
**municipal ordinance;**

(B) does not depend on the consent of the owner of the property affected for its existence; and

(C) is not an equitable, constructive, or other lien imposed by a court recognized under state or federal law;

\* **Sec. 8.** AS 29.45.030(*l*) is repealed.

\* **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).

# Alaska State Legislature



## House Rules Committee

State Capitol Room 216, Juneau, AK 99801-1182 (907) 465-4998  
1500 W. Benson Blvd. Anchorage, AK 99501 Phone: (907) 269-0216

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### *Sectional Analysis for the HCS (RLS) to Senate Bill 100 – Municipal Powers*

**Section 1** amends AS 09.45.169(2), the Code of Civil Procedure, to exclude liens authorized by municipal code from the definition of “nonconsensual common law lien.”

**Section 2** amends AS 11.46.560(a), the crime of “offering a false instrument for recording in the second degree.” Currently, it is a crime to present a lien to the recorder’s office for recording, filing or registering if the lien was not one authorized by state or federal statute, or if it had not been imposed or authorized by a court of law. This bill section would allow a person to legally record, file or register a municipal lien.

**Section 3** amends AS 29.35.010, the law listing the general powers of municipalities, by adding a new paragraph to let municipalities adopt ordinances authorizing liens securing payment for utility bills, abatement costs, and other fees and charges. This section also establishes the priority these liens have for payment, in relation to other liens authorized by law.

**Section 4** adds a new subsection (d) to AS 29.35.490, allowing a second class borough to establish an emergency service area encompassing a state highway corridor and publicly-owned property along it.

**Section 5** amends AS 29.45.050(m) by broadening the language of the optional municipal property tax exemption for economic development property.

- It allows a municipality to provide a property tax incentive for a specified period, rather than 5 years at a time; and
- It broadens the property that can get a tax incentive from having to meet all of three factors currently in the statute to any of four much broader factors.
- In municipalities that are school districts, instead of letting an incentive take the property tax rate to zero, it protects their ability to raise school funding by setting a floor at the 2.65 mills spelled out in the education funding formula;
- It grandfathers ordinances in effect before January 1, 2017, which are limited to five years under existing law; and
- It would not let a municipality exempt economic development property from the tax rate applied for a service area controlled by a board, who set their own rates.

**Section 6** adds a new subsection (y) to AS 29.45.050 that, along with a the **Section 8** repeal, changes the property tax exemption for sprinkler systems from mandatory to optional. The mandatory exemption was passed before building codes required sprinklers in certain buildings.

**Section 7** amends the definition of “nonconsensual common law lien” in AS 34.35.950(d) (2), to conform to Section 1.

**Section 8** repeals AS 29.45.030(1), the mandatory sprinkler exemption.

**Section 9** provides for an immediate effective date. This is needed for the emergency service area sections, so the Kenai Peninsula Borough can begin ambulance service this summer.

# Alaska State Legislature



## House Rules Committee

State Capitol Room 216, Juneau, AK 99801-1182 (907) 465-4998  
1500 W. Benson Blvd. Anchorage, AK 99501 Phone: (907) 269-0216

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### *Explanation of Changes for the HCS (RLS) to Senate Bill 100 – Municipal Liens, Second Class Boroughs, and Municipal Property Tax Exemptions Version O*

The Rules Committee substitute for SB 100, Municipal Liens, further empowers municipalities by allowing second class boroughs to establish emergency service areas and incentivize economic development within their borders.

The committee substitute makes the following changes to the original bill:

- Allows a second class borough to establish an emergency service area encompassing a state highway corridor and publicly-owned property along it;
- Allows a municipality to provide a property tax exemption for a specified period, rather than 5 years at a time and broadens the criteria for property that can get a tax exemption; and
- Changes the property tax exemption for sprinkler systems from mandatory to optional.

NEW  
AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE EASTMAN

TO: HCS SB 100(RLS), Draft Version "U"

- 1 Page 4, line 2, following "fees":
- 2       Insert "if the fees were accrued after the municipality provided opportunity to opt
- 3 out of the utility service"

30-LS0709J.1  
Shutts  
4/24/17

AMENDMENT #1

by Representative  
Eastman

OFFERED IN THE HOUSE  
TO: SB 100

- 1 Page 3, line 29, following "fees":
- 2 Insert "if the fees were accrued after the municipality provided opportunity to opt
- 3 out of the utility service"