

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

780 SCOM423: TITLE 29 POLICY REVISION ADVISORY COMM. 1980

Sec. 29.45.250. TAX LEVY AND RATE. (a) The power granted to the assembly to assess, levy and collect a general property tax shall be exercised by means of a general ordinance. ~~but~~ The rate of levy, the date of equalization and the date when taxes become delinquent shall be fixed by ordinance or resolution. X

(b) ^{No change} ~~The~~ assembly shall annually determine the rate of levy on or before June 15. By July 1 the tax collected shall mail tax statements setting out the levy, dates when taxes are payable and delinquent, and penalties and interest.

EXPLANATION: Allows rate of levy, date of equalization, date of delinquency to be fixed by ordinance as well as resolution

Sec. 29.45.260. RATES OF PENALTY AND INTEREST. (a) If the taxpayer is required to pay the entire tax on the due date set by the assembly, a penalty ~~not~~ to exceed 20 percent may be added to all delinquent taxes, and interest at the rate of 15 percent a year shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full. If the taxpayer is given the right to pay the tax in two installments penalty and interest on an unpaid installment accrues from the date the installment becomes due.

(b) *No changes.*

(c) *Repeal.*

EXPLANATION: The penalty and interest rates are raised, so that people will not deliberately avoid paying taxes due to the high cost of borrowing from other sources. Penalty and interest on an unpaid installment accrues only from the date the installment is due. (c) is repealed as redundant. Since (a) provides for interest and penalty on all types of taxes, there is no need for special treatment of property taxes.

Sec. 29.45.210. BOARD OF EQUALIZATION. (a) The assembly sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who may be members of the assembly or other municipal residents. The assembly shall by ordinance establish the qualifications for membership.

(b) The board is governed in its proceedings by rules adopted by ordinance which are consistent with general rules of administrative procedure. The board may alter an assessment of a lot or parcel only pursuant to an appeal filed as to the particular lot or parcel.

(c) Notwithstanding other provisions in this section, a determination of the assessor as to whether property is taxable under law may be appealed directly to the superior court.

EXPLANATION: Removes the requirement that the board consist of a number over that required for a quorum of the assembly in favor of requiring not less than three members. Requires that an assessment be altered only as a result of an appeal filed as to the lot in question. Allows a determination of the taxability of property (for example, land held by Indians or in trust for Indians may not be taxable at all under federal law) to be appealed to the superior court.

Sec. 29.45.240. TAX ADJUSTMENTS ON PROPERTY AFFECTED BY A NATURAL DISASTER. (a) No change.

(b) No change.

(c) No change.

(d) No change.

(e) In this section "disaster" means a major disaster declared by the President of the United States under the provisions of the Federal Disaster Act of 1950, Title 42, United States Code, sec. 1855-1855g or other federal law, or a disaster declared by the governor under AS 26.23.010-110.

EXPLANATION: Makes provision for special treatment of property affected by a disaster applicable if the governor, as well as the president, declares a disaster.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

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EXPLANATION: Makes provision for special treatment of property affected by a disaster applicable if the governor, as well as the president, declares a disaster.

Sec. 29.45.300. TAX LIABILITY. (a) No change.

(b) Property taxes, together with penalty and interest, are a lien upon the property assessed, and the lien is prior and paramount to all other liens or encumbrances against the property.

EXPLANATION: The change makes it clear that a lien exists on personal as well as real property.

Sec. 29.45.310. ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY DISTRAINT AND SALE. The lien of personal property taxes may be enforced by distraint and sale of the property. The assembly shall provide the procedure for distraint and sale by ordinance. No seizure, levy or distraint is legal unless demand is first made of the person assessed for the amount of the tax, penalty and interest, and no sale is valid unless made at public auction after 15 days notice given by posting or publication. The seizure is made by virtue of a warrant issued by the borough clerk to a peace officer. If the property sold is not sufficient to satisfy the tax, penalty, interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest and costs of sale. If the property is sold for more money than is needed to satisfy the tax, upon presentation of a proper claim, the municipality shall remit the excess to the former record owner. A claim for the excess filed after six months of the date of sale is forever barred.

EXPLANATION: Allows the return of excess money received over the amount needed for the tax when property is sold to satisfy a tax lien.

Sec. 29.45.320. REAL PROPERTY TAX COLLECTION. (a) No change.

(b) If the tax on property described in AS 29.45.080 or on a taxable interest in tax exempt property is not paid when due, a borough may enforce the tax by a personal action against the delinquent taxpayer brought in the district or superior court, in addition to other remedies available to the borough to enforce the lien.

EXPLANTION: The word "taxable" is substituted for "leasehold" so that any interest in tax exempt property which can be taxed can be enforced.

Sec. 29.45.400. REDEMPTION PERIOD. (a) No change.

(b) Repeal.

EXPLANATION: (b) is eliminated so that a person holding a lien on only part of a lot or parcel may no longer redeem just that part. This avoids the problem of splitting lots or parcels into what might be illegal subdivisions.

Sec. 29.45.410. EFFECT. Receipt of redemption money by the borough releases the judgment obtained under AS 29.45.380. The clerk or his designee shall record the redemption and issue a certificate containing a property description, the redemption amount, and the dates of judgment and decree of foreclosure. The clerk or his designee shall collect the recording fee at the time of redemption and shall file the certificate with the record as part of the judgment roll.

EXPLANATION: Changed so that all claims of the borough are not released, i.e., improvement assessments. Redemption releases only the judgement obtained for delinquent taxes.

Sec. 29.45.440. EXPIRATION. (a) At least 30 days before the expiration of the redemption period the clerk or his designee shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration or the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the borough or city immediately in expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the borough or city. The notice is published once a week for four consecutive weeks in a newspaper of general circulation distributed within the borough. If there is no newspaper of general circulation distributed within the borough, the notice is posted in three public places for at least four consecutive weeks. The clerk shall send a copy of the published notice by certified mail to each record owner of property against which a judgement of foreclosure has been taken and, if the assessed value of the property is more than \$100,000, to all holders of mortgages or other liens of record on the property. The notice shall be mailed within five days of the first publication. The mailing shall be sufficient if mailed to the property owner and to the holder of a mortgage or recorded lien at the last address of record. The right of redemption shall expire 30 days after the date of the first publication notice.

(b) No change.

EXPLANATION: Based on recommendation of AAAO; raises assessed value of property which triggers duty of clerk to advise holders of security of judgement of foreclosure. Burden placed on lienholder to protect his interest.

Sec. 29.45.450. DEED TO BOROUGH OR CITY. (a) No change.

(b) Conveyance gives the borough or the city clear title except for prior recorded tax liens of the United States and the state.

(c) No change.

(d) No deed is invalid for irregularities, omissions or defects in the proceedings under this chapter unless the former owner has been misled to his injury. After two years from the date of the deed, its validity is conclusively presumed and any claim of the former owner or other person having an interest in the property is forever barred.

EXPLANATION: (b) changes to clear title except for tax liens. (d) changed to include the interests in property of persons other than the owner within the limitation period. This clears the title.

Sec. 29.45.460. DISPOSITION AND SALE OF FORECLOSED PROPERTIES.

(a) No change.

(b) No change.

(c) The clerk or his designee shall send a copy of the published notice of hearing of an ordinance to consider a determination required by (a) or (b) of this section by certified mail to the former record owner of the parcel of property which is the subject of the ordinance. The notice shall be mailed within five days of its first publication and shall be sufficient if mailed to the last record owner of the property as his name appears on the assessment rolls of the municipality.

(d) No change.

EXPLANATION: Language of (a) inserted into last line of (c) for consistency. No substantive change.

Sec. 29.45.470. REPURCHASE BY RECORD OWNER. (a) The record owner at the time of tax foreclosure of property acquired by a borough or city, or his assigns, may, at any time before the sale or contract of sale of the tax-foreclosed property by the borough or city, repurchase the property. The borough or city shall sell the property for the full amount applicable to the property under the judgment and decree, with interest at the rate of eight percent a year from the date of entry of the judgement of foreclosure to the date of repurchase, delinquent taxes, including penalty and interest assessed and levied as though it had continued in private ownership, and costs of foreclosure and sale, including, but not limited to, costs of publication of notice and any costs associated with the determination of holders of mortgages and other liens of record under Sec. 350 (a) of this chapter.

(b) No change.

EXPLANATION: Makes it clear that penalty and interest on due taxes continue to accumulate until the date of repurchase.

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06 December 1980

Sec. 29.45.470. REPURCHASE BY RECORD OWNER. (a) The record owner at the time of tax foreclosure of property acquired by a borough or city, or his assigns, may, at any time before the sale or contract of sale of the tax-foreclosed property by the borough or city, repurchase the property. The borough or city shall sell the property for the full amount applicable to the property under the judgment and decree, with interest at the rate of eight percent a year from the date of entry of the judgement of foreclosure to the date of repurchase, delinquent taxes, including penalty and interest assessed and levied as though it had continued in private ownership, and costs of foreclosure and sale, including, but not limited to, costs of publication of notice and any costs associated with the determination of holders of mortgages and other liens of record under Sec. 350 (a) of this chapter.

(b) No change.

EXPLANATION: Makes it clear that penalty and interest on due taxes continue to accumulate until the date of repurchase.

Sec. 29.45.545. COMBINING PROPERTY TAX WITH INCORPORATION.

A petition for second class city incorporation may request that a property tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent upon the passage of the property tax proposition. If so, the incorporation proposition fails if the property tax fails.

EXPLANATION: This is a new section similar to the provision in 29.45.630 allowing an incorporation petition to be tied to imposition of a sales tax.

Sec. 29.45.570. SALES AND USE TAX. (a) A borough may levy and collect a sales tax not exceeding six percent on sales, rents, and on services made within the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) No change.

(c) No change.

(d) If the assembly of a home rule or general law borough charges interest on sales taxes not paid when due, the rate of interest may not exceed 15 percent a year upon the delinquent taxes and shall be charged from the due date until paid in full.

(e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales or use tax, and for interest, penalties and administration costs in the event of delinquencies. A lien established under this section has the force, priority and duration of a judgment lien.

EXPLANATION: (a) changed to make it clear that tax can be levied on sales and rents, not just one or the other. (d) interest rate raised from eight to 15 percent. (e) added to allow liens for the collection of sales and use taxes.

Sec. 29.45.590. REFERENDUM, ADOPTION AND MODIFICATION. A new sales tax or an increase in the rate of levy of a sales tax approved by the assembly by ordinance shall not take effect until ratified by a majority of the voters voting on the question at a regular or special election.

EXPLANATION: Simplifies the section and eliminates the provision that propositions may be brought only once a year.

Sec. 29.45.610. POWER OF LEVY. (a) A city within a borough which levies and collects a sales or use tax for areawide functions may levy a sales or use tax upon all sources taxed by the borough in the manner provided for a borough and may provide for a lien to secure payment of the tax as provided for a borough.

(b) A city within a borough which does not levy and collect a sales or use tax for areawide functions may levy and collect a sales or use tax in the manner provided for a borough and may provide for a lien to secure payment of the tax as provided for a borough.

Sec. 29.45.620. POWER OF LEVY AND COLLECTION. Repeal.

EXPLANATION: Material contained in AS 29.45.620 has been combined into AS 29.45.610. The section has been altered to insure that a city may create a lien to secure payment of a sales and use tax as is recommended in AS 29.45.570 for boroughs.

Sec. 29.45.220. HEARING. (a) No change.

(b) No change.

(c) The only grounds for adjustment is proof of unequal, excessive, improper, or under valuation based on facts which are stated in a valid written appeal or ^{proven}~~proved~~ at the appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment.

(d) No change.

(e) Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

(f) The appellant or the assessor may appeal the board's determination to the superior court as provided by rules of court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization.

EXPLANATION: Change in (c) makes it clear that an assessment can be raised as the result of an appeal. Change in (e) to allow for supplementary assessments after June 1. Change in (f) so that appeals to the superior court will be heard on the record rather than de novo, as is now the case.

CHANGE REQUESTED BY AAAO

Sec. 29.45.100. TAX LIMITATIONS. (a) No change.

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding \$1,500 a year for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding \$1,500 a year for each person residing within their boundaries or (2) upon value which, when combined with the value of the property otherwise taxable by the municipality, exceed the product of 225 percent of the average per capita assessed full and true value of property in the state multiplied by the residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner of community and regional affairs based on the latest statistics of the United States bureau of the census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of the property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

EXPLANATION: Change requested by AAAO. No recommendation by the Technical Group.

Walker

Explanation: This section has been clarified as to the fact that a municipality may levy both areawide and nonareawide taxes. Limiting the use of areawide taxes to areawide functions and nonareawide taxes to nonareawide functions makes little sense. It is made clear that taxes may be levied on personal and real property or either.

CHAPTER 45. MUNICIPAL TAXATION

(Chapter 53. MUNICIPAL ASSESSMENT AND TAXATION

Article 1. MUNICIPAL PROPERTY TAX

Sec. 29.45.010. (Sec. 29.53.010.) GENERAL PROPERTY TAX. ~~Home rule~~
A or home rule other than a unified municipality
and general law boroughs may levy (1) an areawide property tax for areawide functions, and (2) a property tax limited to the area outside cities for functions limited to the area outside cities. *(A unified municipality may levy areawide and nonareawide property taxes.)* A property tax if levied must be assessed, levied and collected on real and personal property *or either* as provided in this chapter.

Sec. 29.45.020. (Sec. 29.73.070) TAXPAYER NOTICE. (a) If a municipality levies and collects real *and* personal property taxes, *or either* the governing body shall provide the following notice:

"NOTICE TO TAXPAYER"

No change
For the current fiscal year the (city)(borough) has been allocated the following amount of state aid for school and municipal purposes under the applicable financial assistance Acts:

Do not super

PUBLIC SCHOOL FOUNDATION PROGRAM ASSISTANCE	
(AS 14.17)	\$
STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT (AS 43.18.100)	\$
MUNICIPAL TAX RESOURCE EQUALIZATION ASSISTANCE	
(AS 29.88)	\$
STATE AID FOR MISCELLANEOUS MUNICIPAL SERVICES (AS 29.89)	\$
TOTAL AID	\$

The millage equivalent of this state aid, based on the dollar value of a mill in the municipality during the current assessment year and for the preceding assessment year, is:

*Let's language
and general
property taxes
or either.*

*Note: checked
 Pickson -
 "and" means
 A and B or either
 "or" means
 A or B or both
 Not as Lee Ship suggests
 that muni must take real
 personal apply.*

*Insert
 Lee's*

CHAPTER

MILLAGE EQUIVALENT

PREVIOUS YEAR THIS YEAR

PUBLIC SCHOOL FOUNDATION PROGRAM

ASSISTANCE	MILLS	MILLS
STATE AID FOR RETIREMENT OF		
SCHOOL CONSTRUCTION DEBT	MILLS	MILLS
MUNICIPAL TAX RESOURCE EQUALI-		
ZATION ASSISTANCE	MILLS	MILLS
STATE AID FOR MISCELLANEOUS		
MUNICIPAL SERVICES	MILLS	MILLS
TOTAL MILLAGE EQUIVALENT	MILLS	MILLS

Notice shall be provided

(1) by furnishing a copy of the notice with tax statements mailed for the fiscal year for which aid is received; or

(2) by publishing in a newspaper of general circulation within the municipality a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the municipality's budget.

(b) If the municipality levies and collects only a sales tax, the governing body shall provide a notice substantially in the form set out in (a) of this section. In providing notice under this subsection, the council or assembly shall substitute for the millage equivalency its estimate of the equivalent sales tax rate for each of the categories of financial assistance set out in (a) of this section. Notice shall be provided

(1) by publishing in a newspaper of general circulation within the municipality a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the municipality's budget; or

(2) if there is no newspaper of general circulation in the municipality, by posting a copy of the notice for at least 20 days in at least two public places within the municipality, with posting to occur not later than 45 days after the final adoption of the municipality's budget.

(c) Compliance with the provisions of this section is a prerequisite to receipt of municipal tax resource equalization assistance under AS 29.62 (AS 29.88) and state aid for miscellaneous municipal services under AS 29.62 (AS 29.89). The Department of Community and Regional Affairs shall withhold annual allocations under those chapters until municipal officials demonstrate that the requirements of this section have been met.

Sec. 29.45.030. Required exemptions. (a) The following property is exempt from general taxation:

(1) municipal, state or federally owned property, except that private leaseholds, contracts or other interest in the property shall be taxable to the extent of those interests;

(2) household furniture of the head of a family or a household; ~~not exceeding \$500 in value~~;

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

(4) property of a nonbusiness organization, composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, ~~or the property of the auxiliary of such organization;~~ ^{or its auxiliary};

(5) money on deposit;

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

(7) real property to the extent and subject to the conditions provided in (j) of this section.

(b) "Property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of a bishop, pastor, priest, rabbi, minister or religious order of a recognized religious organization.

(2) a structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education or a nonprofit hospital;

(3) lots ^{or portions of lots} supporting and adjacent to a structure or residence mentioned in (1) or (2) of this subsection which are necessary to convenient use;

(4) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

(c) Property described in (a) or (b) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital or educational groups ~~for classroom space~~. If used by nonprofit educational groups, the property is exempt only if used exclusively for classroom space.

~~(d) A Clerk P (2) 1/1/73~~

(d) No change.

(e) No change

(e) The real property owned and occupied as a permanent place of abode by a resident 65 years of age or over is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560-44.62.570.

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(f) No exemption may be granted under (e) of this section except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought, but during the same year the governing body of the municipality for good cause shown may waive the claimant's failure to make timely application for the exemption for that year and authorize the assessor to accept the application as if timely filed. The claimant must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. If a claimant whose failure to file by January 15 of the assessment year has been waived as provided in this subsection and the application for exemption is approved, the amount of tax which the claimant may have already paid for the assessment year with respect to the property exempted shall be refunded to him. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section.

add
↓

a date
provided
by
ordinance
which is
later
than
November 13

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section. However, reimbursement will be made to a borough or city for revenue lost to it only to the extent that the loss exceeds an exemption which was granted by the borough or city, or which upon proper application by an individual would have been granted by the borough or city, under sec. 25(a) of this chapter.

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(h) Except as provided in (g) of this section, nothing in (e)-(i) of this section affects similar exemptions from property taxes granted by municipalities on September 10, 1972 or prevents municipalities from granting similar exemptions by ordinance as provided in sec. 25 of this chapter.

(i) No change

(i) In (e)-(i) of this section the term "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes.

(j) No change

(j) Two percent of the assessed value of a structure is exempt from taxation if the structure contains a fire protection system approved under AS 19.70.081, in operating condition, and incorporated as a fixture or part of the structure. The exemption granted by this subsection is limited to

(1) an amount equal to two percent of the value of the structure based on the assessment for 1981, if the fire protection system is a fixture of the structure on January 1, 1981; or

(2) an amount equal to two percent of the value of the structure based on the assessment as of January 1 of the year immediately following the installation of the fire protection system if the fire protection system becomes a fixture of the structure after January 1, 1981.

Formerly: AS 29.53.020

Explanation

Comments:

Based on Alaska Association of Assessing Officers (AAAO) recommendation:

(1) Para. (a)(2): deletes \$500 limit on exemption of household furniture;

(2) (b)(3) narrows the language so that only portions of lots necessary to

(2) Para. (c): clarifies that "exclusively for classroom space" limitations on rental income under (c) only applies to rental use by an "educational group" and does not preclude the exemption when the income is derived from use by nonprofit religious, charitable, or hospital groups.

(3) Para. (f): clarifies filing of a claim for exemption is a requirement for only the senior citizen exemption under (e), and not for the other exemptions addressed in the section.

Adds flexibility so that a local government may establish a date later than Jan. 15 for filing for a senior citizen exemption.

Do Not Type

Sec. 29.45.040. (Sec. 29.73.060.) PROPERTY TAX EQUIVALENCY PAYMENTS.

(a) A resident of the state 65 years of age or older who rents a permanent place of abode is eligible for tax equivalency payments from the state through the Department of Community and Regional Affairs.

(b) For purposes of determining payments to eligible persons, the department shall calculate a property tax equivalent percentage for each home rule or general law municipality which levies a general property tax at the rate of one percent per mil. The property tax equivalent percentage applied to the annual rent charged to the applicant equals the property tax equivalency payment payable under this section.

(c) To obtain tax equivalency payments the eligible resident must apply to the department for payment for the preceding year by January 15 of each year on forms and in the manner prescribed by the department. Each applicant shall submit with the application rental receipts or, if rental receipts are not available, other evidence satisfactory to the department for determination of the fact of payment of rent and the amount paid.

(d) If two or more persons occupy a residence as tenants, not all of whom are eligible for tax equivalency payments under this section, the assessor shall determine equitable partial payments to be made to the eligible tenants. However, tax equivalency payments to an eligible applicant may not be reduced because the spouse is less than 65 years of age. If all occupants in a residence are eligible for tax equivalency payments under this section, the occupants shall decide between and among themselves which shall receive payment.

Sec. 29.45.050. Optional exemptions and exclusions.

No change.
(a) Municipalities may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at a regular or special election. An exclusion or exemption authorized by this section may not exceed \$10,000 for any one residence.

(b) Municipalities may by ordinance

(1) classify boats and vessels for purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage; ~~a tax based upon a tonnage valuation shall not exceed \$5 a year for a boat or vessel of less than five net tons and shall not exceed \$15 a year for a boat or vessel of more than five net tons;~~

to \$15 - does not say for administration costs

definition of "personal ppty" to eliminate all examples

(2) classify and exempt from taxation

(A) All or any portion of the household goods and furnishings in actual use by the owner thereof in equipping and outfitting his or her residence or place of abode and not for sale or commercial use, and all personal effects held by any person for his or her exclusive use and benefit and not for sale or commercial use. "Personal effects" shall be construed to mean and include such tangible property as usually and ordinarily attends the person such as wearing apparel, jewelry, toilet articles, and the like ~~the household furniture over \$500 in value and the effects of the head of a family or a householder~~; and

Type → No other changes to this section

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

No other changes

Formerly:

~~AS 29.53.025~~

Comments:

(b)(1) the \$5 and \$15 limitations, a since, with these limits, collecting pays admin. costs.
Modifies and expands existing (a)(2)(A) relating to optional exemption of household furniture and effects, based upon recommendation of AAAO, since assessors currently do not include household furnishings and personal effects of family members.

Explanation

delete
Sec. 29.45.060. Mining claims. The assessed value of an unimproved unpatented mining claim which is not producing, and a nonproducing patented mining claim upon which the improvements originally required for patent have become useless and valueless through depreciation, removal or otherwise, is exempt [fixed at \$200 for each 20 acres or fraction of 20 acres]. If the surface ground of a claim has a separate and independent value for nonmining uses, the real and personal property is assessed at its full and true value.

sec. 29.45.060. Repeal.

Formerly:

AS 29.53.030

Comments:

Administrative costs exceed taxes to be realized from nonproducing mining claims. If surface ground has value, it can be assessed simply as real property.
Deletes \$200 valuation figure. AAAO recommends deletion since administrative costs exceed taxes to be realized in carrying property at \$200 figure on roll.

Explanation:

27 || Sec. 29.45.10. (Sec. 29.53.035.) FARM OR AGRICULTURAL LANDS. (a)
28 || Farm use lands included in a farm unit and not dedicated or being used for
29 || nonfarm purposes shall be assessed on the basis of full and true value for
LA-LF use, and shall not be assessed as if subdivided or used for some other

Do Not Type

Do Not Type

nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use for profit or any combination thereof. To be farm use land, the owner or the lessee must be actively engaged in farming the land, and derive at least 10 per cent of his yearly gross income from the farm use land. The provisions of this section do not apply to land respecting which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner

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wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the farm use land. Failure to make the filing required in this subsection forfeits the exemption.

(d) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 percent of his gross income for the past three years was from farming.

(e) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of this section.

Sec. 29.45.080. (Sec. 29.53.040.) MOBILE HOMES. Mobile homes, trailers, house trailers, trailer coaches and similar property used or intended to be used for residential, office or commercial purposes and attached to the land or connected to water, gas, electric or sewage facilities are classed as real property for tax purposes except where expressly classified as personal property by ordinance. This section does not apply to house trailers and mobile homes which are unoccupied and held for sale by persons engaged in the business of selling mobile homes.

Sec. 29.45.090. (Sec. 29.53.045.) TAX ON OIL AND GAS PRODUCTION AND PIPELINE PROPERTY. (a) A municipality may levy and collect taxes on taxable property taxable under AS 43.56 only by using one of the methods set out in (b) or (c) of this section.

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount

1 of revenue from the total municipal property tax equivalent to \$1,500 a year
2 for each person residing within its boundaries.

3 (c) A municipality may levy and collect a tax on the full and
4 true value of that portion of taxable property taxable under AS 43.56 as
5 assessed by the Department of Revenue which value, when combined with the
6 value of property otherwise taxable by the municipality, does not exceed the
7 product of 225 percent of the average per capita assessed full and true
8 value of property in the state multiplied by the number of residents of the
9 taxing municipality. For purposes of this subsection the average per capita
10 assessed full and true value of property in the state shall be calculated
11 without regard to the assessed value of taxable property under AS 43.58.

12 (d) By February 1 of each assessment year a taxing municipality
13 must inform the Department of Revenue which method of taxation the
14 municipality will use.

15 (e) For purposes of this section, population shall be determined
16 by the commissioner of community and regional affairs based on the latest
17 statistics of the United States Bureau of the Census or on other reliable
18 population data, and shall advise each municipality of its population as so
19 determined by January 15 of each year.

Sec. 29.45.100. Tax limitations.

10 Not
TYPE (a) No municipality may levy and tax for any purpose
in excess of three percent of the assessed valuation of
property within the municipality in any one year.

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property tax?
No change
flag for policy

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding \$1,500 [\$1,000] a year for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding \$1,500 [\$1,000] a year for each person residing within their boundaries or (2) upon value which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner or community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

Formerly: AS 29.53.050

Comments: Technical change requested by AAAO to conform with provisions of AS 29.53.045 (SLA 80)

17
18 Sec. 29.45.110. (Sec. 29.53.055.) NO LIMITATIONS ON TAXES TO PAY
19 BONDS. The limitations provided for in Sec. 45 or 50 of this chapter do no
20 apply to taxes levied or pledged to pay or secure the payment of the
21 principal and interest on bonds. Taxes to pay or secure the payment of
22 principal and interest on bonds may be levied without limitation as to rate
23 or amount, regardless of whether the bonds are in default or in danger of
24 default.

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Sec. 29.45.120. Full and true value. ← No change

(a) The assessor shall ~~value~~ [assess] property at its full and true value as of January 1 of the assessment year, except as provided in this section and sections ~~68~~ [30], 70 [35] and 240 [160] of this chapter. The full and true value is the estimated price which the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer both conversant with the property and with prevailing general price levels.

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(b) Assessment of business inventories may be based on the average monthly method of assessment rather than the value existing on January 1. The method used to assess business inventories shall be prescribed by the borough assembly.

(c) In case of cessation of business during the tax year, the assembly may provide for reassessment of business inventories using the average monthly method of assessment for the tax year rather than the value existing on January 1 of the tax year, and for reduction and refund of taxes. In enacting an ordinance authorized by this section, the assembly may prescribe procedures, restrictions, and conditions of assessing or reassessing business inventories and of remitting or refunding taxes.

Formerly: AS 29.53.060

Comments: Requested by AAAO

14 Sec. 29.53.130. (Sec. 29.53.070.) RETURNS. (a) The assembly may
15 require every person having ownership or control of or an interest in
16 property to submit a return in the form prescribed by the assessor, based on
17 property values existing on January 1, except as otherwise provided in this
18 chapter.

19 (b) The assessor may, by written notice, require a person to
20 provide additional information within 30 days.

21 Sec. 29.45.140. (Sec. 29.53.080.) INDEPENDENT INVESTIGATION. (a) The
22 assessor is not bound to accept a return as correct. He may make an
23 independent investigation of property returned or of taxable property upon
24 which no return has been filed. In either case, the assessor may make his
25 own valuation of the taxable property, which is prima facie evidence.

26 ~~Sec. 29.45.140, INDEPENDENT INVESTIGATION. (a) No change.~~
27 (b) For investigation, the assessor or his agent may enter any
28 premise during reasonable hours and may examine property on the premises.
29 He may examine all property records involved. A person shall, upon request,
furnish to the assessor or his agent every facility and assistance for the

Compliments of . . .



Phone
456-6668

Explanation: 29,45,150

This section was
changed to classify
the misdemeanor to
conform with the
criminal code. It

Class B misdemeanor
carries a possible
fine of \$1,000 and
term of imprisonment
of 90 days, ^{or} ~~more~~ ^{somewhat} more
than existing
law.

Quality Printing — Rubber Stamps

EXPLANATION: It was felt that the assessor ought to be able to seek production of records, as well as to compel entry, whether refused entry or not.

purposes of the investigation. ~~If refused entry,~~ The assessor may seek a court order to compel entry ^{and production of records,}

(c) ^{No charge} ~~An assessor may examine a person on oath. Upon request, the person shall present himself for examination by the assessor.~~

Sec. 29.45.150. (Sec. 29.53.090.) ~~STATEMENT.~~ ^{NO PENALTY} A person who ^{knowingly} fails to file a statement required by ordinance or who knowingly makes a false affidavit to a statement required by a tax ordinance relative to the amount, location, kind or value of property subject to taxation with intent to evade the taxation, is guilty of a ^{class B} misdemeanor. ~~Upon conviction, he is punishable by a fine of not more than \$500, or by imprisonment for not more than 30 days, or by both, together with costs of prosecution.~~

Sec. 29.45.160. (Sec. 29.53.095.) REEVALUATION. A systematic reevaluation of taxable real and personal property undertaken by the assessor, whether of specific areas in which real property is located or of specific classes of real or personal property to be assessed, shall be made only in accordance with a resolution or other act of the assembly directing a systematic reevaluation of all taxable property within the borough over the shortest period of time practicable, as determined by the assembly and fixed in the resolution or other act of the assembly.

Sec. 29.45.170. (Sec. 29.53.100.) ASSESSMENT ROLL. (a) The assessor shall prepare an annual assessment roll. The roll contains

- (1) a description of all taxable property;
- (2) the assessed value of all taxable property;
- (3) the names and addresses of persons with property subject to assessment and taxation.

(b) The assessor may list real property by any description that may be made certain. Real property is assessed to the owner of record as shown in the records of the district recorder, who shall at least monthly provide the assessor a copy of each recorded change of ownership showing the

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name and mailing address of the owner and the name and mailing address of the party recording the change of ownership. Other persons having an interest in the property may be listed on the assessment records with the owner. The person in whose name property is listed as owner is conclusively presumed to be the legal owner of record. If the property owner is unknown, the property may be assessed to "unknown owner." No assessment is invalidated by a mistake, omission or error in the name of the owner, if the property is correctly described.

Sec. 29.45.180. Assessment notice.

(a) The assessor shall give every person named in the assessment roll a notice of assessment, showing the assessed value of his property. On each notice is printed a brief summary of the dates when taxes are payable, delinquent and subject to penalty and interest. ~~and the dates when the board of equalization will sit.~~ *leave in*

No change

(b) Sufficient assessment notice is given if mailed by first class mail 30 days before the equalization hearings. If the address is not known to the assessor, the notice may be addressed to the person at the post office nearest the property. Notice is effective on the date of mailing.

Formerly: AS 29.53.110

Deletes requirement that assessor include in the assessment notice the date the board of equalization will meet since many times assessors at that time do not know the dates at the time the notices are mailed. Based on the recommendation of AAAO.

Sec. 29.45.190. (Sec. 29.53.120.) CORRECTIONS. (a) A person

receiving an assessment notice shall advise the assessor of errors or omissions in the assessment of his property. The assessor may correct errors or omissions in the roll before the board of equalization hearing.

(b) If errors found in the preparation of the assessment roll are adjusted, the assessor shall mail a corrected notice allowing 30 days for appeal to the board.

~~(b) The assessor may correct clerical errors which do not result in an increase or decrease of taxes.~~
Sec. 29.45.200. (Sec. 29.53.130.) APPEAL. (a) A person whose name

appears on the assessment roll or his agent or assigns may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.

Sec. 29.45.210. BOARD OF EQUALIZATION. (a) The assembly sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor, or it may delegate this authority to one or more boards appointed by it. An appointed board may be composed of not less than three persons, who may be members of the assembly or other municipal residents. The assembly shall by ordinance establish the qualifications for membership. ~~and shall adopt rules of conduct~~

(b) The board is governed in its proceedings by ~~rules adopted by ordinance~~ which are general rules of procedure. The board may alter ~~rules of administrative law adopted by ordinance~~ consistent with ~~rules of administrative law adopted by ordinance~~ an assessment ^{of a lot or parcel} only pursuant to an appeal filed as to ~~a particular~~ lot or parcel.

(c) Notwithstanding other provisions in this section, a determination of the assessor as to ~~the~~ whether property is taxable under law may be appealed directly to the Superior Court.

EXPLANATION; Removes the requirement that the board consist of a number over that required for a quorum of the assembly in favor of requiring not less than three members. Requires that an assessment be altered only as a result of an appeal filed as to the lot in question. Allows a determination of the taxability of property (for example, land held by Indians or in trust ^{at all} for Indians may not be taxable/under federal law) to be appealed to the Superior Court.

Sec. 29.45.220. HEARING.

(a) No change

(b) No change

(c) The only grounds for adjustment is proof of unequal, excessive, improper, or under valuation based on facts which are stated in a valid written appeal or proved at the ~~hearing~~ appeal hearing. If a valuation is found to be too low, the board of equalization may raise the assessment.

(d) No change

(e) Except as to supplementary assessments, the assessor shall enter the changes and certify the final assessment roll by June 1.

(f) The appellant or the assessor may appeal the board's determination to the superior court as provided by Rules of Court applicable to appeals from the decisions of administrative agencies. Appeals are heard on the record established at the hearing before the board of equalization.

Explanation: Change in (c) makes it clear that an assessment can be raised as the result of an appeal. Change in (e) to allow for supplementary assessments after June 1. Change in (f) so that appeals to the superior court will be heard on the record rather than de novo, as is now the case.

2 grounds in the form which the board may require. Otherwise, the right of
3 appeal ceases unless the board finds that the taxpayer was unable to comply.

4 (c) The assessor shall notify appellants by mail of the time and
5 place of their hearing.

6 (d) The assessor shall prepare for use by the board a summary of
7 assessment data relating to each assessment which is appealed.

8 (e) A city may appeal an assessment to the board of equalization
9 in the same manner as a taxpayer. Within five days after receipt of the
10 appeal, the assessor shall notify the person whose property assessment is
11 being appealed by the city.

12 Sec. 29.45.210. Board of Equalization. The assembly sits as
a board of equalization for the purpose of hearing any appeal
from determinations of the borough assessor, ~~however~~, may dele-
gate this authority to one or more boards appointed by it for
that purpose. ~~An appointed board may be composed of not less~~
~~than three persons, who may be members of the assembly or~~
~~private individuals, or a combination thereof.~~ ~~The board of~~
~~equalization shall consist of at least that number of members~~
~~of the assembly over and above the number required for a quorum~~
~~to transact business.~~ The board is governed in its proceedings
by such procedures consistent with general rules of administra-
tive law and the laws governing equalization proceedings as may
be adopted by ordinance, including but not limited to quorum
and voting requirements. The assembly shall by ordinance es-
tablish the qualifications for membership and adopt rules
of conduct of the board.

other
municipal
residents.

Add - ~~determinations of assessor~~ questions on ~~may be appealed directly~~ ~~to Superior Court.~~ ~~judgment~~

Formerly: AS 29.53.135

Comments: Change would clarify authority to establish boards
of equalization composed of other than assembly
members and by ordinance to establish qualifica-
tions. Deletion required to allow appointment
of boards of three members or more which number
may be less than number required for quorum
of assembly.

Sec. 29.45.220. Hearing.

(a) If an appellant fails to appear, the board of
equalization may proceed with the hearing in his absence.

(b) The appellant bears the burden of proof.

(c) The only grounds for adjustment is proof of un-
equal ~~excessive~~ or improper valuation based on facts which
are stated in a valid written appeal timely filed ~~and~~ ~~for~~
proved at the hearing.

(d) The board shall certify its actions to the
assessor within seven days.

(e) The assessor shall enter the changes and certify
the final assessment roll by June 1 except as to supple-
mentary assessments.

(f) [an] The appellant and the assessor may appeal the
board's action to the superior court as provided by rules of
court applicable to appeals from the decisions of adminis-
trative agencies. Appeals are heard on and limited to the
record established at the hearing before the board of
equalization. [for, and is entitled to, trial de novo of
the board's action. Either party to the appeal may demand a
jury trial].

change to
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recess can be
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Formerly: AS 29.53.140

Comments:

(1) Para. (c): Based on recommendation of AAAO, substitutes and for or to assure must set forth factual grounds in written appeal and prove at hearing;

(2) para. (e): Based on recommendation of AAAO, clarifies that there may be further proceedings after June 1 in event there are supplementary assessments per former section 29.53.150;

(3) para. (f): deletes provisions regarding trial de novo and jury trial and limits scope of review to substantial evidence rule and clarifies confusion created by Winegardner v. Greater Anchorage Area Borough (534 P.2d 541)

Sec. 29.45.230. Supplementary assessment rolls. The assessor shall include property omitted from the assessment roll on a supplementary roll, using the procedures set out in this chapter for the original roll. Any supplementary roll must be finalized and certified on or before September 1 of the assessment year.

No change to 230

Formerly: AS 29.53.150

Comments:

Recommended by AAAO. State assessor requires for his purposes all proceedings to be completed not later than September 1, including any supplemental assessments.

12 Sec. 29.45.240. (Sec. 29.53.160.) TAX ADJUSTMENTS ON PROPERTY
13 AFFECTED BY A NATURAL DISASTER. (a) *No change* ~~The assembly may provide for~~

14 reassessment and reduction of taxes for property destroyed, damaged, or
15 otherwise reduced in value as a result of a natural disaster.

16 (b) *No change* ~~A reassessment~~ may be made by the assessor only upon the
17 receipt of a sworn statement of the taxpayer that his losses exceed \$1,000.
18 A reduction of taxes may be made only on losses in excess of \$1,000 for the
19 remainder of the year following the disaster. Upon reassessment, the
20 borough shall ~~recompute~~ this tax and refund taxes which have already been
21 paid.

22 (c) *No change* ~~The borough~~ shall make notice of assessment or reassessment
23 and shall hold an equalization hearing as provided in this chapter, except
24 that a notice of appeal is filed with the board of equalization within 10
25 days after notice of assessment is given to the person appealing.
26 Otherwise, the right of appeal ceases unless the board finds that the
27 taxpayer is unable to comply.

28 (d) *No change* ~~In enacting an ordinance or resolution authorized by this~~
29 section, the assembly ~~may~~, consistent with this section, prescribe

Explanation: makes provision for special treatment of property affected by a disaster applicable if governor, as well as the president, declares a disaster.

procedures, restrictions and conditions of assessing or reassessing property and of remitting, refunding or forgiving taxes.

(e) In this section "disaster" means a major disaster declared by the President of the United States under the provisions of the Federal Disaster Act of 1950, Title 42, United States Code, sec. 1855-1855g or other federal law, or a disaster declared by the governor under the Disaster Act of 1950.

Sec. 29.45.250. (Sec. 29.53.170.) TAX LEVY AND RATE. (a) The power granted to the assembly to assess, levy and collect a general property tax shall be exercised by means of ^a general ordinances, but the rate of levy, the date of equalization and the date when taxes become delinquent shall be fixed by resolution.

(b) The assembly shall annually determine the rate of levy ^{on or} before June 15. By July 1 the tax collector shall mail tax statements setting out the levy, dates when taxes are payable and delinquent, and penalties and interest.

Explanation: All the rate of levy, date of equalization, date of delinquency to be fixed by ordinances, as well as by resolution.

Sec. 29.45.260. (Sec. 29.53.180.) RATES OF PENALTY AND INTEREST. (c)

If the taxpayer is required to pay the entire tax on the due date set by the assembly, a penalty not to exceed ²⁰ 10 percent may be added to all delinquent taxes, and interest at the rate of ¹⁵ eight percent a year shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full. If the taxpayer is given the right to pay the tax in two installments

and the first half is not paid when due, the entire tax becomes delinquent and penalty and interest ^{on unpaid installment} accrue ~~as follows~~ from the date the installment becomes due.

(1) if the first half is paid when due, the second half is payable on the due date fixed by the assembly for the second half and if not paid is delinquent after that date;

(2) a penalty not to exceed ²⁰ eight percent shall be added to all taxes delinquent until the due date fixed for payment of the second half, and interest at the rate of ¹⁵ eight percent a year shall be charged on

Explanation: The penalty and interest rates are raised, so that people will not deliberately avoid paying taxes due to the high cost of borrowing from other sources. Penalty and interest on an unpaid installment accrues only from the date the installment is due. (c) is repealed as redundant. Since (a) provides for interest and penalty on all types of taxes, there is no need for special treatment of property taxes the whole of the unpaid taxes, not including penalty, from due date until paid in full;

(3) after the due date for the payment of the second half, total penalty of not more than 10 percent may be added to all delinquent taxes, and interest at the rate of eight percent a year shall accrue upon all unpaid taxes, not including penalties, from due date until date paid in full.

No change
(b) If ~~the assembly~~ imposes a penalty for the nonpayment of property taxes when due, or the late return of personal property assessment forms, the rate of penalty or combined rates of penalty may not exceed 10 percent of the tax due on the property concerned.

repeal.
(c) If the assembly charges interest on property taxes not paid when due, the rate of interest may not exceed eight percent a year upon the delinquent taxes and shall be charged from the due date until paid in full.

ARTICLE 2. ENFORCEMENT OF TAX LIENS

Sec. 29.45.290. (Sec. 29.53.200.) VALIDITY. Certified assessment and tax rolls *Do Not TYPE* are valid and binding on all persons, notwithstanding any defect, error, omission or invalidity in the assessment rolls or proceedings pertaining to the assessment roll.

Sec. 29.45.300. (Sec. 29.53.210.) TAX LIABILITY. (a) The owner of personal property assessed is personally liable for the amount of taxes assessed against his property. The tax, together with penalty and interest, may be collected in a personal action brought in the name of the borough.

(b) *Real* property taxes, together with penalty and interest, are a lien upon the property assessed, and the lien is prior and paramount to all other liens or encumbrances against the property.

Sec. 29.45.310. (Sec. 29.53.220.) ENFORCEMENT OF PERSONAL PROPERTY TAX LIENS BY DISTRAINT AND SALE. The lien of personal property taxes may be enforced by distraint and sale of the property. The assembly shall provide

LA-L 20
Explanation: change
to make clear that a
lien exists on
personal
pty.

If the property is sold, the municipality shall remit the excess paid after six months of the date of sale is forever barred.
 satisfy the tax, upon presentation of a proper claim, the municipality shall remit the excess to the record owner. A claim ~~after~~ on the excess paid after six months of the date of sale is forever barred.
 change to clerk's discretion

Explanation: Allows the return of excess money received over the amount needed to satisfy the tax when the procedure for distraint and sale by ordinance. No seizure, levy or distraint is legal unless demand is first made of the person assessed for the amount of the tax, penalty and interest, and no sale is valid unless made at public auction after 15 days notice given by posting or publication. The seizure is made by virtue of a warrant issued by the borough clerk to a peace officer. If the property sold is not sufficient to satisfy the tax, penalty, interest, and costs of sale, the warrant may authorize the seizure of other personal property sufficient to satisfy the tax, penalty, interest and costs of sale. Any excess shall be returned ~~use lang P. 147~~ remaining after payment shall be returned to the owner.

Sec. 29.45.320. (Sec. 29.53.230.) REAL PROPERTY TAX COLLECTION. (a)

The borough shall enforce delinquent real property tax liens by annual foreclosure, unless otherwise provided by ordinance.

(b) If the tax on property described in ~~Sec. 40 of this chapter~~ or on a ^{taxable} leasehold interest in tax exempt property is not paid when due, a borough may enforce the tax by a personal action against the delinquent taxpayer brought in the district or superior court, in addition to other remedies available to the borough to enforce the lien.

Sec. 29.45.330. (Sec. 29.53.240.) FORECLOSURE LIST. (a) The borough

shall
 (1) annually present a petition for judgment and a certified copy of the foreclosure list for the previous year's delinquent taxes in the superior court for judgment;

(2) publish the foreclosure list for four consecutive weeks in a newspaper of general circulation distributed within the borough or, if there is no newspaper of general circulation distributed within the borough post the list at three public places for at least 30 days;

(3) within 10 days after the first publication or posting, mail to the last known owner of each property as his name and address appear on the list a notice advising of the foreclosure proceeding in which a

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petition for judgment of foreclosure has been filed and describing the property and the amount due as stated on the list.

(b) The list shall be arranged in alphabetical order as to the last name and shall include

- (1) the last known owner;
- (2) the property description as stated on the assessment roll;
- (3) years and amounts of delinquency;
- (4) penalty and interest due;
- (5) a statement that the list is available for public inspection at the clerk's office;
- (6) a statement that the list has been presented to the superior court with a petition for judgment and decree.

(c) Completion of the requirements of (a) of this section constitutes and has the same force and effect as the filing of an individual and separate complaint and service of summons to foreclose a lien against each property described on the foreclosure list.

Sec. 29.45.340. (Sec. 29.53.250.) CLEARING DELINQUENCIES. During the publication or posting of the foreclosure list and up to the time of transfer to the borough a person may pay the taxes, together with the penalty, interest and costs. The collector shall note payment on the foreclosure list.

Sec. 29.45.350. (Sec. 29.53.260.) LIST TO LIENHOLDER. A holder of a mortgage or other lien on real property may request the clerk to send by certified mail notice of a foreclosure list which includes such real property.

Sec. 29.45.360. (Sec. 29.53.270.) GENERAL FORECLOSURE. The borough shall bring one general foreclosure proceeding in rem against the properties included in the list. If the owner is unknown, the property is proceeded

against as belonging to "unknown owner." Tax foreclosure proceedings have priority over all other civil proceedings except board of adjustment appeal as provided in AS 29.33.130(e).

Sec. 29.45.370. (Sec. 29.53.280.) ANSWER AND OBJECTION. A person having an interest in a tract on the foreclosure list may file an answer within 30 days of the date of last publication, specifying his objection. The court shall make its decision in summary proceedings. The foreclosure list is prima facie evidence that the assessment and levy of the tax is valid and that the tax is unpaid.

Sec. 29.45.380. (Sec. 29.53.290.) JUDGEMENT. The court shall in a proper case give judgment and decree that the tax liens be foreclosed. It is a several judgment against and a lien on each parcel.

Sec. 29.45.390. (Sec. 29.53.300.) TRANSFER AND APPEAL. (a) Foreclosed properties are transferred to the borough for the lien amount. When answers are filed the court may enter judgment against and order the transfer to the borough of all other properties on the list pending determination of the matters in controversy. The court shall hear and determine the issues raised by the complaint and answers in the same manner and under the same rules as it hears and determines other actions.

(b) The court clerk shall deliver a certified copy of the judgment and decree to the borough clerk. The certified judgment and decree constitutes a transfer to the borough.

(c) The judgment and decree stops objections to it which could have been presented before judgment and decree.

(d) Appeal from a judgment and decree of foreclosure, or from a final order in the proceeding, may be taken in the manner provided for appeals in civil actions.

Sec. 29.45.400. (Sec. 29.53.310.) REDEMPTION PERIOD. (x) Properties transferred to the borough ^{is} held by the borough for at least one year.

Compliments of...

Phone

455-0000

Insert
29.45.40



Commercial

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The clerk or his designee,
shall collect the recording
fee at the time of
redemption and shall
file the certificate with
the recorder as part of
the judgment roll.

Explanation: Changed so
that all claims of the
borough are not released,
i.e., improvement assessments.
Redemption releases only the
judgment obtained on taxes.
Quality Printing - Rubber Stamps delinquent

(b) ~~Report~~.
→ Explanation: (b) is eliminated so that a person holding a ~~lien~~ holding a lien on only part of a lot or parcel may no longer redeem just that part. This avoids the problem of splitting ~~the~~ lots or parcels into what might be illegal subdivisions.

1 During the redemption period a party having an interest in the property may
2 redeem it by paying the lien amount plus penalties, interest and costs,
3 including all costs incurred under ~~(Sec. 29.53.320.)~~ ^{OK A2 29.45.410(a).} of this chapter. Property
4 redeemed is subject to all taxes, assessments, liens and claims as though it
5 had continued in private ownership. Only the amount applicable under the
6 judgment and decree must be paid in order to redeem the property.

7 (b) A person holding a mortgage or other lien of record covering
8 a part only of a parcel of real property included in the judgment and decree
9 of foreclosure may redeem that part by paying the proportionate amount
10 applicable under the judgment and decree.

11 Sec. 29.45.410. (Sec. 29.53.320.) EFFECT. Receipt of redemption
12 money by the ^{borough} clerk releases all claims of the borough to the property. The
13 clerk ^{in his designee} shall record the redemption and issue a certificate containing a
14 property description, the redemption amount, and the dates of judgment and
15 decree of foreclosure. ^{INSERT} ~~The clerk shall file the certificate with the~~
16 ~~recorder and collect the recording fee from the person redeeming at the time~~
17 ~~of redemption.~~ ^{shall} The court clerk ^{in his designee} shall file the certificate as part of the
18 judgment roll. ^{This avoids releasing other assessments (super liens) or taxes which were been assessed after the time of the judgment}

19 Sec. 29.45.420. (Sec. 29.53.330.) ADDITIONAL LIENS. If a property
20 included in a foreclosure list is removed after payment of delinquencies or
21 redemption by another lienholder, the payment represented by receipt for
22 payment constitutes an additional lien on the property, collectible by the
23 lienholder in the same manner as the original lien.

24 Sec. 29.45.430. (Sec. 29.53.340.) POSSESSION DURING REDEMPTION
25 PERIOD. Foreclosure does not affect the former owner's right to possession
26 during the redemption period. In the event that waste is committed by the
27 former owner, or by anyone acting under his permission or control, the
28 borough may declare an immediate forfeiture of the right to possession.
29

Sec. 29.45.440. Expiration ^{in designee}

(a) At least 30 days before the expiration of the redemption period the clerk shall publish a redemption period expiration notice. The notice shall contain the date of judgment, the date of expiration or the period of redemption and a warning to the effect that all properties ordered sold under the judgment, unless redeemed, shall be deeded to the borough or city immediately in expiration of the period of redemption and that every right or interest of any person in the properties will be forfeited forever to the borough or city. The notice is published once a week for four consecutive weeks in a newspaper of general circulation distributed within the borough. If there is no newspaper of general circulation distributed within the borough, the notice is posted in three public places for at least four consecutive weeks. The clerk shall send a copy of the published notice by certified mail to each record owner of property against which a judgment of foreclosure has been taken and, if the assessed value of the property is more than \$100,000 [\$10,000], to all holders of mortgages or other liens of record on the property. The notice shall be mailed within five days of the first publication. The mailing shall be sufficient if mailed to the property owner and to the holder of a mortgage or recorded lien at the last address of record. The right of redemption shall expire 30 days after the date of the first publication notice.

(b) ^{No change} ~~Costs~~ incurred in the determination of holders of mortgages and other liens of record and costs of publication of notice incurred by a municipality under (a) of this section are a lien on the property and may be recovered by the municipality.

Formerly: AS 29.53.350

Comments:

ET

Based on recommendation of AAAO; raises assessed value of property which triggers duty of clerk to advise holders of security of judgment of foreclosure. Burden placed on lienholder to protect his interest; rather than allowing municipality to be held as lienholder.

26 Sec. 29.45.450. (Sec. 29.53.360.) DEED TO BOROUGH OR CITY. (a) ^{N/D} ~~Change~~

27 Unredeemed properties in the area of the borough outside cities are deeded
28 to the borough by the clerk of the court. Unredeemed properties within a
29 city are deeded to the city subject to the payment by the city of unpaid

→ Explanation: (b) changed to clear title except liens. (d) changed to include the interests of persons other than the owner within the limitation period. This clears the title.

borough taxes and costs of foreclosure levied against the property before foreclosure. The deeds shall be recorded in the recording district in which the property is located.

(b) Conveyance gives the borough or the city clear title except for prior recorded ^{taxe} liens of the United States and the state.

(c) ^{No change} If ~~unredeemed~~ property lies within a city and if the city has ~~no immediate~~ public use for the property but the borough does have an immediate public use, the city shall deed the property to the borough. If ~~unredeemed~~ property lies within the borough outside a city and if the borough does not have an immediate public use for the property but the city does have an immediate public use, the borough shall deed the property to the city.

(d) No deed is invalid for irregularities, omissions or defects ^{in the proceedings under this chapter} unless the former owner has been misled to his injury. After two years from the date of the deed, its validity is conclusively presumed and any claim of the former owner ^{or other person having an interest in the property} is forever barred.

Sec. 29.45.460. (Sec. 29.53.370.) DISPOSITION AND SALE OF FORECLOSED PROPERTIES. (a) ^{No change.} The assembly of a borough or council of a city shall determine by ordinance whether foreclosed property deeded to the municipality under Sec. 360 of this chapter shall be retained by the municipality for a public purpose. The ordinance shall contain the legal description of the property, the address or a general description of the property sufficient to provide the public with notice of its location, and the name of the last record owner of the property as his name appears on the assessment rolls of the municipality.

(b) ^{No change} Tax-foreclosed properties conveyed to a borough or city by tax foreclosure and not required for a public purpose may be sold. Before the sale of tax-foreclosed property held for a public purpose, the assembly or council, by ordinance, shall determine that a public need does not exist.

LA-LTRO ordinance shall contain the information required in (a) of this section.

→ Explanation: language of (a) inserted into last line of (c) for consistency. No substantive change

(c) The clerk ^{or his designee} shall send a copy of the published notice of

hearing of an ordinance to consider a determination required by (a) or (b) of this section by certified mail to the former record owner of the parcel of property which is the subject of the ordinance. The notice shall be mailed within five days of its first publication and shall be sufficient if mailed to the ^{last record owner of the property as his name appears on the assessment rolls of the municipality} property owner at the last address of record. ^{Consistency (a) for} (d) ^{No change} The provisions of (c) of this section do not apply with respect to property which has been held by the municipality for a period of more than 10 years after the close of the redemption period.

Sec. 29.45.470. (Sec. 29.53.375.) REPURCHASE BY RECORD OWNER. (a)

The record owner at the time of tax foreclosure of property acquired by a borough or city, or his assigns, may, at any time before the sale or contract of sale of the tax-foreclosed property by the borough or city, repurchase the property. The borough or city shall sell the property for the full amount applicable to the property under the judgment and decree, with interest at the rate of eight percent a year from the date of entry of the judgment of foreclosure to the date of repurchase, delinquent taxes ^{including penalty and interest} assessed and levied as though it had continued in private ownership, and costs of foreclosure and sale, including, but not limited to, costs of publication of notice and any costs associated with the determination of holders of mortgages and other liens of record under Sec. 350(a) of this chapter.

(b) ^{No change} After adoption of an ordinance providing for the retention of a parcel of tax-foreclosed property by the municipality for a public purpose, the ~~right~~ of the former record owner to repurchase the property ceases.

Explanation: Makes it clear that penalty and interest on due taxes continue to accumulate until the date of repurchase.

Sec. 29.45.480. (Sec. 29.53.380.) PROCEEDS OF TAX SALE.

(a) ^{No change} Upon sale of foreclosed real or personal property the borough or city shall divide the proceeds less cost of collection, between the borough and

1 the city having unpaid taxes against the property. The division is in
2 proportion to the respective municipal taxes against the property at the
3 time of foreclosure.

4 (b) The former record owner of tax-foreclosed real property which
5 has been held by a municipality for less than 10 years after the close of
6 the redemption period and never designated for a public purpose which is
7 sold at a tax-foreclosure sale is entitled to the portion of the proceeds of
8 the sale which exceeds the amount sufficient to satisfy unpaid taxes,
9 delinquent taxes assessed and levied as if the property had continued in
10 private ownership, penalty, interest and costs of property sold, including
11 costs incurred under Sec. 350(a) of this chapter. If the proceeds of the
12 sale of tax-foreclosed property exceed the total of unpaid and delinquent
13 taxes, penalty, interest, and costs, the borough or city shall provide the
14 former owner of the property written notice advising of the amount of the
15 excess and the manner in which a claim for the balance of the proceeds may
16 be submitted. Notice is sufficient under this subsection if mailed to the
17 ~~former owner at his last address of record.~~ *former owner at his last address of record.* Upon presentation of a proper
18 claim, the municipality shall remit the excess to the former record owner. A
19 claim for the excess filed after six months of the date of sale is forever
20 barred.

21 ~~Sec. 29.45.490. (Sec. 29.53.385.)~~ *Ex: Makes it clear that penalty and interest on due taxes continue to accumulate as a charge to the former owner in determining the amount due to the city.* PAYMENT OF TAXES UPON PUBLIC

22 UTILIZATION. If a city or borough holds or takes title to tax-foreclosed
23 property for a public purpose, the city or borough shall satisfy unpaid
24 taxes and assessments against the property held by other municipalities,
25 with accrued ~~interest~~ *NO interest* but without penalty. If the amount required to
26 satisfy the unpaid taxes and assessments exceeds the assessed valuation of
27 the property, the city or borough shall pay the other municipalities the
28 assessed valuation, which shall be divided between the other municipalities
29 in proportion to their respective taxes and assessments against the property
LA-L 20 at the time of foreclosure.

OFFICE OF THE MUNICIPAL ATTORNEY

KETCHIKAN GATEWAY BOROUGH

AND

CITY OF KETCHIKAN

Adopted

334 FRONT STREET

P. O. BOX 7300

KETCHIKAN, ALASKA 99901

(907) 228-3111, EX. 327

November 26, 1980

**James Nordale, Esq.
Borough Attorney
Fairbanks North Star Borough
P. O. Box 1267
Fairbanks, Alaska 99707**

**Re: Liens secured payment of
sales taxes**

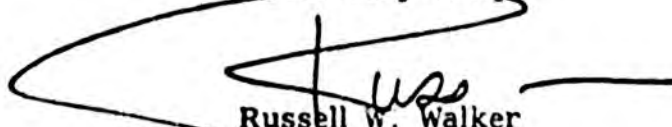
Dear Jim:

In furtherance of our discussion, please find enclosed herewith a proposed amendment to existing sections 29.53.415, .440 and .450 to provide for the creation and recording of a lien on real or personal property to secure the payment of sales taxes, authorizing interest, penalties, and establishing the priority and duration of the lien.

We also enclose a proposed new article to provide for corrections, cancellations and refunds of taxes.

Any comments you have have would be appreciated.

~~Yours very truly,~~


Russell W. Walker
Municipal Attorney

RWW:sf

Enclosure

Explanation: Tax can be levied on sales and rents, not just on one or the other, (c) added to allow liens for the collection of sales and use taxes.

Sec. 29.45.570 (29.53.415). Sales and use tax. (a) A borough may levy and collect a sales tax not exceeding six per cent on sales ~~or~~ rents, and on services made within the borough, and may provide for the creation and recording of a lien on real or personal property to secure the payment of the tax, and for interest, penalties and costs in the event of delinquencies. Such liens shall have the force, effect, priority and duration of a judgment lien. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

split into sub-section applicable to both sales/use taxes

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use or consumption of tangible personal property within the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only upon buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that he has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether in or outside the state.

(d) If the assembly of a home rule or general law borough charges interest on sales taxes not paid when due, the rate of interest may not exceed ~~eight~~ ^{five} per cent a year upon the delinquent taxes and shall be charged from the due date until paid in full.

(e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales or use tax, and for interest, penalties, and administration costs in the event of delinquencies. A lien established under this section has the force, priority and duration of a judgment lien.

Sec. 29.45.610 (29.53.440). Power of levy. A city within a borough which levies and collects sales or use taxes for areawide borough functions may levy sales or use taxes upon all sources taxed by the borough in the manner provided for boroughs, including providing for the creation and recording of a lien on real or personal property to secure the payment thereof, and for interest, penalties and costs in the amount of delinquencies. Such liens shall have the force, effect, priority and duration of a judgment lien.

A city may provide ... use language in (e)

② ~~Strong~~

Ex: changed to conform to 29.45.570 by allowing liens to be established for collection of sales and use taxes.

Do Not Type

Sec. 29.45.620 (29.53.450). Power of levy and collection. Cities within a borough which does not levy and collect sales or use taxes for areawide borough functions may levy and collect sales or use taxes in the manner provided for boroughs including providing for the creation and recording of a lien on real or personal property to secure the payment thereof, and for interest, penalties and costs in the event of delinquencies. Such liens shall have the force, effect, priority and duration of a judgment lien.

Do Not TYPE

rents, and on services made within the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use or consumption of tangible personal property within the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only upon buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that he has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether in or outside the state.

(d) If the assembly of a home rule or general law borough charges interest on sales taxes not paid when due, the rate of interest may not exceed eight percent a year upon the delinquent taxes and shall be charged from the due date until paid in full.

Sec. 29.45.590. (Sec. 29.53.420.) *use Lee's (a)* REFERENDUM, ADOPTION AND

MODIFICATION. (a) The assembly shall hold a referendum vote on the question of enacting a sales tax or increasing the rate of levy of sales taxes.

Borough sales tax propositions may be presented only once in any 12-month period. A sales tax proposition may be submitted to the voters at a regular or special election *called for the purpose* or at a general election of the state.

(b) If the proposition receives a majority of the votes cast, the assembly may enact the sales tax or increase the rate of the sales tax as a levy upon buyers, sellers, or both. The sales tax is collected at the time of sale or at the time of payment in credit transactions and transmitted to the borough.

A new sales tax or an increase in the rate of levy of a sales tax approved by the assembly shall not take effect until ratified by a majority of the voters voting on the question at a regular or special election.

EX: Simplifies the section and eliminates the provision that propositions may be brought only once a year.

~~Sec. 29.45.610. POWER OF LEVY. Repeal.~~

~~Sec. 29.45.620. POWER OF LEVY AND COLLECTION. Repeal~~

~~Sec. 29.45.625.~~

Sec. 29.45.610. POWER OF LEVY. (a) A city within a borough which levies and collects/^asales or use taxes^a for areawide functions may levy a sales or use tax upon all sources taxed by the borough/in the manner provided for^a borough^a and may provide for a lien to secure ~~the~~ payment of the tax as provided for^a borough^a.

(b) A city within a borough which does not levy and collect a sales or use tax for areawide functions may levy and collect a sales or use tax in the manner provided for a borough and may provide for a lien to secure payment of the tax as provided for a borough.

Explanation

Sec. 29.45.620. POWER OF LEVY AND COLLECTION. Repeal.

Explanation: material contained in AS 29.45.620 has been combined into AS 29.45.610. The section has been altered to insure that a city may create a lien to secure payment of a sales and use tax as is recommended in AS 29.45.570 for boroughs.

Do
Not
TYPE

1 Sec. 29.45.510. (Sec. 29.53.390.) REFUND OF TAXES. (a) If a taxpayer
2 pays taxes under protest, he may bring suit in the superior court against
3 the borough for recovery of the taxes. If judgment for recovery is given
4 against the borough, the borough shall refund the amount of the taxes to the
5 taxpayer with interest at eight percent from the date of payment plus costs.

6 (b) If, in payment of taxes legally imposed, a remittance by a
7 taxpayer through error or otherwise exceeds the amount due, and the borough,
8 on audit of the account in question, is satisfied that this is the case, the
9 borough shall refund the excess to the taxpayer with interest at eight
10 percent from the date of payment. A claim for refund filed after one year
11 of the due date of the tax is forever barred.

12 ARTICLE 3. CITY PROPERTY TAX.

13 Sec. 29.45.530. (Sec. 29.53.400.) POWER OF LEVY. Home rule and first
14 class cities within boroughs may levy a general property tax. A property
15 tax, if levied, shall be levied in the manner provided for borough levies in
16 Sec. 170(a) of this chapter and is subject to Secs. 10-25, 50-55 and 310-350
17 of this chapter. The council shall by June 15 of each year present to the
18 borough assembly a statement of the city's rate of levy, unless a different
19 date is agreed upon by the borough and city.

20 Sec. 29.45.540. (Sec. 29.53.410.) LIMITED PROPERTY TAXING POWER FOR
21 SECOND CLASS CITIES. A second class city may by referendum ^{authorize the} levy ^{real} and
22 personal property taxes as provided for first class cities. However, ¹ levy ^{to be}
23 by a second class city may not exceed one-half of one percent of the
24 assessed valuation of the property taxed, except that the limit does not
25 apply to a levy necessary to avoid a default upon payment of principal and
26 interest of bonded or other indebtedness which is secured by a pledge to
27 levy ad valorem or other taxes without limit to meet debt payments.

28 → Sec. 29.45.570. (Sec. 29.53.415.) SALES AND USE TAX. (a) A borough
29 may levy and collect a sales tax not exceeding six percent on sales or

ARTICLE 5. CITY ~~SALES~~ AND USE TAXES

Sec. 29.45.610. (Sec. 29.53.440.) POWER OF LEVY. Cities with
borough which levies and collects sales or use taxes for areawide bor
functions may levy sales or use taxes ~~upon~~ all sources taxed by the b
in the manner provided for boroughs.

Sec. 29.45.620. (Sec. 29.53.450.) POWER OF LEVY AND COLLECTION.
Cities within a borough which does not levy and collect sales or use t
for areawide borough functions may levy and collect sales or use taxes
the manner provided for boroughs.

→ Sec. 29.45.630. (Sec. 29.53.460.) COMBINING SALES TAX WITH
INCORPORATION. A petition for second class city incorporation may requ
that a ~~sales~~ ^{property} tax proposal be placed on the same ballot. The petition mus
state the proposed tax rate. The petition may request that incorporation
dependent upon the passage of the ~~sales~~ ^{property} tax proposition. If so, the
incorporation proposition fails if the ~~sales~~ ^{property} tax fails.

*A similar
Add section to ppty tax section*

*AS 29.45.545
COMBINING PROPERTY
TAX WITH INCORPORATION.*

*EX. New Section similar
to provision in 29.45.630
allowing an incorporation
petition to be
tied to imposition
of a sales tax.*

CHANGE REQUESTED BY AAAO.

Sec. 29.45.110. TAX LIMITATIONS
(a) No change.

property tax?
No change
flag for policy

(b) No municipality, or combination of municipalities occupying the same geographical area, in whole or in part, may levy taxes (1) which will result in tax revenues from all sources exceeding \$1,500 [\$1,000] a year for each person residing within their boundaries or (2) upon values which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. If two or more municipalities occupying the same geographical area, in whole or in part, attempt to levy a tax (1) the combined levy of which would result in tax revenues from all sources exceeding \$1,500 [\$1,000] a year for each person residing within their boundaries or (2) upon value which, when combined with the value of property otherwise taxable by the municipality, exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality, the commissioner of community and regional affairs shall apportion the lawful levy and equitably divide these revenues on the basis of need, services performed and other considerations in the public interest. For the purpose of this subsection, population shall be determined by the commissioner or community and regional affairs based on the latest statistics of the United States Bureau of the Census or on other reliable population data. For purposes of this subsection the average per capita assessed full and true value of property in the state shall be calculated without regard to the assessed value of taxable property under AS 43.58.

Formerly: AS 29.53.050

Comments: ~~Technical change requested by AAAO, to conform with provisions of AS 29.53.045 (SLA 80)~~

No recommendation by Technical Group

Sec. 29.45.110. (Sec. 29.53.055.) NO LIMITATIONS ON TAXES TO PAY

BONDS. The limitations provided for in Sec. 45 or 50 of this chapter do not apply to taxes levied or pledged to pay or secure the payment of the principal and interest on bonds. Taxes to pay or secure the payment of principal and interest on bonds may be levied without limitation as to rate or amount, regardless of whether the bonds are in default or in danger of

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Proofed 12-29

Corrected: Dec 30
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CHAPTER 48. SPECIAL ASSESSMENTS

****Sec. 29.48.010. ASSESSMENT AND PROPOSAL. The governing body may assess against the property of a state or federal governmental unit and private real property benefited all or a portion of the cost of acquiring, installing or constructing capital improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under ^{AS 29.48.020 (a)(8)} ~~Sec. 15(a)(8) of this chapter~~. If a governmental unit other than the state benefited by an improvement refuses to pay the assessment, it shall be denied the benefit of the improvement. An improvement proposal may be initiated by

(1) petition to the governing body of the owners of one-half in value of the property to be benefited or

(2) the governing body.

Sec. 29.48.020. PROCEDURE. ****(a) The governing body may prescribe by ordinance the procedures relating to creating special assessment districts, making local improvements, levying and collecting assessments and financing of the improvements, including and subject to the following:

**** (1) a procedure for filing petitions;

(2) a survey and report by the borough or city executive concerning the need for, desirable extent of, and estimated cost of each proposed local improvement;

(3) a public hearing on the necessity for the local improvement;

**** (4) a resolution or ordinance of the governing body determining to proceed or not to proceed with the proposed local improvement;

(5) a public hearing by the assembly or council on the special assessment roll for the local improvement;

**** (6) published notice of each public hearing required by this section and mailing notice to each ~~legal owner of record~~ ^{owner} of real property within the special assessment district;

1 **** (7) a resolution or ordinance confirming the special asses-
2 sment roll for the local improvement;

3 (8) if protests as to the necessity of a local improvement
4 are made by owners of property which will bear 50 percent or more of the
5 estimated cost of the improvement, the assembly or council may not proceed
6 with the improvement until the objections have been reduced to less than 50
7 percent, except upon approval of not fewer than three-fourths of the ~~assembly~~
8 ~~or council~~ governing body.

9 **** (b) To the extent that the governing body does not prescribe a
10 procedure for special assessments as permitted by this section, the governing
11 body shall comply with the special assessment procedures set out in (AS)
12 29.48.030 - ^{29.48.} 100.

13 ~~Sec.~~ 29.48.030. CREATION OF DISTRICT. **** (a) When an improvement
14 proposal has been filed with the municipal clerk and presented to the governing
15 body, it shall find by resolution or ordinance whether (1) the improvement
16 requested is necessary and should be made, and (2) if by petition, the
17 request has sufficient and proper petitioners. The findings of the governing
18 body are conclusive.

19 (b) If the governing body approves an improvement proposal with
20 the necessary findings, it shall develop a proposed improvement plan including
21 the cost estimate and the percentage of the improvement plan cost to be
22 assessed against the property benefited. This plan is to be filed with the
23 municipal clerk.

24 (c) The governing body shall set a time for public hearing on the
25 improvement plan and the period for filing objections to the plan. The
26 governing body shall publish a notice of the hearing and of the period
27 during which objections may be filed at least once a week for four consecutive
28 weeks in a newspaper of general circulation if distributed within the municipal
29 mail to every record owner of property within the special assessment
district.

1 ****Sec. 29.48.040. RECORD OWNER. The person in whose name property is
2 listed on the municipal property tax roll as owner is conclusively presumed
3 to be the legal owner of record. If the owner is unknown, the assessment
4 roll may designate "unknown owner."

5 ****Sec. 29.48.050. OBJECTIONS AND REVISION. (a) Objections to the improvement^{nt}
6 plan may be filed during a period of 60 days after publication of notice.
7 The governing body may by resolution or ordinance approve the plan and order
8 the improvement subject to the limitation of (b) of this section.

9 (b) If objections are made in writing during the period set for
10 objections by the owners of property bearing one-half or more of the estimated
11 cost of the improvement, the governing body may not proceed with the improvement
12 unless it revises the plan to meet the objections and the objections are
13 reduced to less than 50 per cent. A revised plan shall be approved and
14 adopted as an original plan in accordance with AS 29.48.030.

15 Sec. 29.48.060. ASSESSMENT ROLL. ****(a) At any time after project
16 approval, the governing body shall assess the authorized percentage of the
17 cost against property within the district in proportion to benefit received.

18 **** (b) The special assessment roll shall contain property descriptions,
19 names of record owners and assessment amounts.

20 (c) The assembly or council shall fix a time to hear objections
21 to the roll. The municipal clerk shall send an assessment and hearing
22 notice by mail to each record owner of an assessed tract not less than 15
23 days before the hearing.

24 ****Sec. 29.48.070. HEARING AND SETTLEMENT After the public hearing, the
25 governing body shall correct errors and any inequalities in the roll. If an
26 assessment is increased, a new hearing shall be set and notice mailed,
27 except that a new hearing and notice is not required of all record owners of
28 property subject to the increased assessment consent in writing to the
29 increase. Objections to the increased assessment shall be limited to record

1 owners of property on which the assessment was increased. When the roll is
2 corrected, it shall be confirmed by resolution or ordinance of the governing
3 body.

4 Sec. 29.48.080. PAYMENT. ****(a) The governing body shall fix times
5 of payment, penalty on delinquent payments and the rate of interest on the
6 unpaid balance of the assessment. Payment may be in one sum or by install-
7 ments. If payment is to be in one sum, payment may not be required sooner
8 than 60 days after mailing of the assessment statement. The entire assess-
9 ment may be prepaid without interest or penalty within 30 days after mailing
10 of the assessment statement; and thereafter the assessment may be prepaid in
11 whole or in part with interest to the payment date.

12 **** (b) Within 30 days after fixing the time of payment, the municipal
13 clerk shall mail a statement to the owner of record of each property assessed.
14 The statement designates the property, the assessment amount, method of
15 payment, rate of interest on the unpaid balance of the assessment, the time
16 of delinquency, and penalties on delinquent payments.

17 (c) Within five days after the statements are mailed, the clerk
18 shall publish notice that the statements have been mailed.

19 (d) Assessments are liens upon the property assessed and are
20 prior and paramount to all liens except municipal tax liens. They may be
21 enforced as provided in AS 29.53.200-29.53.390 for enforcement of property
22 tax liens.

23 Sec. 29.48.090. (Sec. 29.63.065.) EXEMPTION. (a) The real property
24 owned and occupied by a resident 65 years of age or over, or the spouse,
25 widow, widower, or minor heir of the original applicant, on which is located
26 only his permanent abode which is a single-family residence, is exempt from
27 (1) special sewer assessments levied by a home rule or general law municipality
28 after September 2, 1975 and (2) special water assessments levied by a home
29 rule or general law municipality after September 2, 1975. Only one exemption
may be granted with respect to the same property, and, if

1 two or more persons are eligible for an exemption with respect to the same
2 property, the parties shall decide between or among themselves which shall
3 receive the benefit of the exemption. No real property may be exempted
4 under this subsection which the municipality determines, after notice and
5 hearing to the parties concerned, has been conveyed to the applicant primarily
6 for the purpose of obtaining the exemption. The determination of the
7 municipality is appealable under AS 44.62.560-44.62.570.

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

12 **** (1) the claimant must file the initial application during
13 the period of time between the date the assessment roll is confirmed and the
14 time of payment fixed by the governing body. Within one year of the date
15 the assessment roll is confirmed the governing body for good cause shown may
16 waive the claimant's failure to make timely initial application for the
17 exemption and authorize the assessor to accept the application as if timely
18 filed.

19 (2) a claimant receiving the exemption must file with the
20 department by March 15 of each subsequent year a separate application proving
21 eligibility as of January 1 in order to retain the exemption. Within the
22 same year the department for good cause shown may waive the claimant's
23 failure to make timely application and approve the application as if timely
24 filed.

25 (3) If an application is filed within the required time
26 under this subsection and is approved by the assembly or council, the
27 exemption shall be allowed in accordance with the provisions of this
28 section. If a waiver under this subsection is granted and the application
29 for exemption approved, the amount of any assessment, penalty or interest

1 which the claimant may have already paid on the assessment shall be refunded
2 to him. The municipality may at any time require proof in the form considered
3 necessary of the right and amount of an exemption claimed under this section.

4 (c) The state shall reimburse a home rule or general law municipality
5 for the sewer and water assessment revenues which it would receive but for
6 the operation of this section. Reimbursement under this subsection is a
7 lien in favor of the state against the property exempted to the extent of
8 the assessment against the property exempted. Upon recordation in the
9 recording office of the district in which the property exempted is located
10 the lien is prior and superior to other liens against the property except
11 for general taxes or other special assessments and may be enforced by lien
12 foreclosure as provided in AS 34.10.070-34.10.220. The lien becomes immediately
13 due and payable

14 (1) upon sale or other transfer of the property except to a
15 spouse, widow, widower, or minor heir; however, if the property is transferred
16 to a minor heir the lien becomes due and payable on the date the minor heir
17 reaches the age of 25 years; or

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

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

23 (d) In this section

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

26 (2) "real property" includes, but is not limited to, mobile
27 homes, whether classified as real or personal property for municipal tax
28 purposes.
29

(3) "minor heir" means a person who, at the time of transfer of the property, has not attained the age of 19 years or who, if he has not attained the age of 22 years, is a full-time student at an educational institution or a member of the armed forces of the United States.

Sec. 29.48.100. REASSESSMENT. (a) The assembly or council shall within one year correct any deficiency in a special assessment found by a court.

(b) Notice and hearing must conform to the initial assessment procedures.

(c) Payments on the initial assessment are credited to the property upon reassessment.

(d) The reassessment becomes a charge upon the property notwithstanding failure to comply with any provision of the assessment procedure.

****Sec. 29.48.105. ALLOWABLE COSTS. (a) Whenever a special assessment district is created, there may be included in the assessments

(1) all of the cost of acquiring, installing, making or constructing the local improvement;

(2) the costs of all engineering and surveying to be done in connection with creating the district or improvement;

(3) the cost of mailing ^{and} publishing of notices;

(4) interest ^{on} ~~in~~ interim financing;

(5) the cost of legal services and other expenses incurred in the formation of the special assessment district;

(6) the cost of completing the improvement and financing the improvement, including the issuance of any bonds.

(b) The total amount of the assessment roll may not exceed actual costs but actual costs may include reasonable estimates of the costs to be incurred in connection with issuance of any bonds.

1 Sec. ~~29.48.110~~. OBJECTION AND APPEAL. (a) The regularity or validity
2 of an assessment may not be contested by a person who did not file with the
3 municipal clerk a written objection to the assessment roll before its confir-
4 mation.

5 (b) The decision of the assembly or council upon an objection may
6 be appealed to the superior court within 30 days of the date of confirmation
7 of the assessment roll.

8 (c) If no objection is filed or an appeal taken within the time
9 provided in this section, the assessment procedure shall be considered
10 regular and valid in all respects.

11 ****Sec. 29.48.115. INTERIM FINANCING. (a) The governing body may provide
12 by resolution or ordinance for the issuance of notes in payment of the costs
13 of any local improvement project, payable out of special assessments for the
14 improvement. The notes shall bear interest at a rate or rates authorized by
15 the resolution or ordinance and shall be redeemed either in cash or bonds
16 for the improvement project.

17 (b) All notes issued against assessments shall be claims against
18 the assessments which are prior and superior to a right, lien or claim of a
19 surety upon the bond given to the municipality to secure the performance of
20 its contract for a local improvement project, to secure the payment of persons
21 who have performed work or furnished materials under the contract.

22 (c) The municipal treasurer may accept notes against special
23 assessments upon conditions prescribed by the governing body in payment of

24 (1) assessments against which the notes were issued in order
25 of priority;

26 (2) judgments rendered against property owners who have
27 become delinquent in the payment of assessments; and

28 (3) certificates of purchase when property has been sold
29 under ~~execution~~ ^X or at tax sale for failure to pay the assessments.

1 Sec. ~~29.48.120.~~ 29.48.120.

SPECIAL ASSESSMENT BONDS.

(a) The assembly or

2 council may by ordinance authorize the issuance and sale of special
3 assessment bonds to pay all or part of the cost of an improvement in a
4 special assessment district. The principal and interest of bonds issued
5 shall be payable solely from the levy of special assessments against the
6 property to be benefited. The assessments shall constitute a sinking fund
7 for the payment of principal and interest on the bonds. The property
8 benefited may be pledged by the assembly or council to secure a payment.

9 (b) Upon default in a payment due on a special assessment bond, a
10 bondholder may enforce payment of principal and interest and costs of
11 collection in a civil action in the same manner and with the same effect as
12 actions for the foreclosure of mortgages on real property. Foreclosure
13 shall be against all property on which assessments are in default. The
14 period for redemption shall be the same as in the case of a mortgage
15 foreclosure on real property.

16 **** (c) Before the governing body may issue special assessment bonds,
17 it shall establish a guarantee fund and appropriate to the fund annually a
18 sum adequate to cover any deficiency in meeting payments of principal and
19 interest of bonds issued by reason of nonpayment of assessments when due.
20 Money received from actions taken against property for nonpayment of
21 assessments shall be credited to the guarantee fund.

✓ DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.010. ASSESSMENT AND PROPOSAL. The ^{governing body} ~~assembly or~~
~~council~~ may assess against the property of a ^{state or federal} governmental unit
and private real property benefited all or a portion of the cost
of acquiring, installing, or constructing [OR IMPROVING] capital
improvements. The state shall pay an assessment levied, except
as otherwise provided by law and subject to its right of protest
under AS 29.48.020(a)(8). If a governmental unit other than the
state benefited by an improvement [ASSESSMENT] refuses to pay the
assessment, it shall be denied the benefit of the improvement.
An improvement proposal may be initiated by
(1) petition to the ^{governing body} ~~assembly or council~~ of the
owners of one-half in value of the property to be benefited or
(2) the ^{governing body} ~~assembly or council~~.

EXPLANATION: This is primarily a technical revision although
the language is broadened to make it clear that all costs of
capital improvements may be paid for by assessments.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.020. PROCEDURE. (a) The ^{governing body} ~~assembly or council~~ may prescribe by ordinance the procedures relating to creating special assessment districts, making local improvements, levying and collecting assessments and financing of the improvements [SPECIAL ASSESSMENT PROCEDURE FOR LOCAL IMPROVEMENTS], including and subject to the following:

(1) a [THE] procedure for filing petitions;
(2) no change;
(3) no change;
(4) a resolution or ordinance of the ^{governing body} ~~assembly or council~~ determining to proceed or not to proceed with the proposed local improvement;

(5) no change;
(6) published notice of each public hearing required by this section and mailing notice to each [LEGAL OWNER OF] record owner of real property within the special assessment district;

(7) a resolution or ordinance confirming the special assessment roll for the local improvement;

(8) no change;

(b) To the extent that [IF] the ^{governing body} ~~assembly or council~~ does not prescribe a procedure for special assessments as permitted by this section, the ^{governing body} ~~assembly or council~~ shall comply with the special assessment procedures set out in AS 29.48.030-100.

EXPLANATION: This is primarily a technical revision except that those items required to be done by resolution under existing law may be done by ordinance.

Sec. 29.48.030. Creation of District. [DECISION AND NOTICE].

(a) When an improvement proposal has been filed with the municipal clerk and presented to the ^{governing body} ~~assembly or council~~, the ~~assembly or council~~ shall find by resolution or ordinance whether (1) the improvement requested [REQUEST] is necessary and should be made, and (2) if by petition, the request has sufficient and proper petitioners. The findings of the ^{governing body} ~~assembly or council~~ are conclusive.

(b) If the ^{governing body} ~~assembly or council~~ ^{an improvement proposal} ~~approves~~ with the necessary findings [PASSES A RESOLUTION APPROVING] ~~an improvement proposal~~, it shall develop a proposed improvement plan including the ^{cost} ~~estimate of total cost~~ ^{and the percentage} ~~and amount~~ of the improvement cost to be assessed against each property benefited. This plan is to be filed with the municipal clerk.

(c) The ^{governing body} ~~assembly or council~~ shall set a time for public hearing on the improvement plan and the period for filing objections to the plan. The ^{governing body} ~~assembly or council~~ shall publish a notice of the hearing and of the period during which objections may be filed at least once a week for four consecutive weeks in a newspaper of general circulation if distributed within the municipality and shall send notice by mail to every record owner of property within the special assessment district.

EXPLANATION: (b) changed to require an estimate of the amount to be assessed to each property rather than an estimate of the percentage of the total cost. (c) requires a period for filing of objections and notice of the period.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.⁴⁰~~68~~.040. RECORD OWNER. The person in whose name property is listed on the municipal property tax roll as owner is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessemnt roll may designate [BE MADE AGAINST] "unknown owner".

EXPLANATION: Technical clean-up. No substantive change.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.050. OBJECTIONS AND REVISION. (a) Objections to the improvement plan may be filed during a period of 60 days [NOT LESS THAN 30 NOR MORE THAN 60 DAYS] after publication of notice [ON A DATE SPECIFIED BY THE ASSEMBLY OR COUNCIL]. The ^{governing body} ~~assembly or council~~ may by resolution or ordinance approve the plan and order [PROCEED WITH] the improvement subject to the limitation of (b) of this section [IF THE OWNERS OF ONE-HALF IN VALUE OF THE PROPERTY TO BE BENEFITED DO NOT OBJECT IN WRITING].

(b) If objections are made in writing during the period set for objections by the owners of property bearing one-half ^{governing body} ~~or more~~ of the estimated cost of the improvement, the ~~assembly or council~~ may not proceed with the improvement unless it revises the plan to meet the objections and the objections are reduced to less than 50 percent. A revised plan shall be approved and adopted as an original plan in accordance with AS 29.48.030.

EXPLANATION: Eliminates option of allowing objections for only 30 days in favor of a 60 day period. Requires objections by property owners under (b) to be in writing.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.060. ASSESSMENT ROLL. (a) At any time after project approval, the ^{governing body} ~~assembly or council~~ shall assess the authorized percentage of the cost against property within the district [TRACTS] in proportion to benefit received. [ASSESSMENTS MAY NOT EXCEED ACTUAL COSTS.]

(b) The special assessment roll shall contain [CONTAINS] property descriptions, names of record owners [OF RECORD] and assessment amounts.

(c) No change.

EXPLANATION: Technical clean-up only. The last line of (a) is deleted as redundant.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.070. HEARING AND SETTLEMENT. After the public hearing, the ^{governing body} ~~assembly or council~~ shall correct errors and any inequalities in the roll. If an assessment is increased, a new hearing shall be set and notice mailed, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objections to the increased assessment shall be limited to record owners of property on which the assessment was increased. When the roll is corrected, it shall be confirmed by resolution or ordinance of the ^{governing body} ~~assembly or council~~. [THE CLERK SHALL SO CERTIFY].

EXPLANATION: Provides an opportunity for a new hearing if assessments are increased. Requires the governing body to confirm a new assessment roll.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.080. PAYMENT. (a) The ^{*governing body*} ~~assembly or council~~ shall fix times of payment, penalty on delinquent payments and the rate of interest on the unpaid balance of the assessment [INSTALLMENTS AND DELINQUENCY OF ASSESSMENTS. PAYMENT MAY NOT BE REQUIRED SOONER THAN 60 DAYS AFTER ASSESSMENT]. Payment may be in one sum or by installments. [BUT A SUM OR INSTALLMENT MAY NOT EXCEED 25 PERCENT OF THE ASSESSED VALUE OF THE PROPERTY AFFECTED.] If payment is to be in one sum, payment may not be required sooner than 60 days after mailing of the assessment statement. The entire assessment may be prepaid without interest or penalty within 30 days after mailing of the assessment statement; and thereafter the assessment may be prepaid in whole or in part with interest to the payment date. [PENALTY AND INTEREST ARE THE SAME AS FOR REAL PROPERTY TAXES.]

(b) Within 30 days after fixing the time of payment, the municipal clerk shall mail a statement to the owner of record of each property assessed. The statement designates the property, the assessment amount, method of payment, rate of interest on the unpaid balance of the assessment, the time of delinquency, and penalties on delinquent payments.

(c) No change.

(d) No change.

EXPLANATION: Removed the limitation that a payment not exceed 25 percent of the value of property. Allows a period of 30 days for payment without interest.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.090. EXEMPTION. (a) No change.

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

(1) the claimant must file the initial application during the period of time between the date the assessment roll is confirmed [CERTIFIED] and the time of payment fixed by the ~~assembly~~ ^{governing body} ~~or council~~. Within one year of the date the assessment roll is confirmed [CERTIFIED] the ~~assembly or council~~ ^{governing body} 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.

The rest of the section is unchanged.

EXPLANATION: Change in (b)(1) to conform to the change in AS 29.48.070 providing that the assessment roll be confirmed by the governing body.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.105. ALLOWABLE COSTS. (a) Whenever a special assessment district is created, there may be included in the assessments

(1) all of the cost of acquiring, installing, making or constructing the local improvement;

(2) the costs of all engineering and surveying to be done in connection with creating the district or improvement;

(3) the cost of mailing and publishing of notices;

(4) interest on interim financing;

(5) the cost of legal services and other expenses incurred in the formation of the special assessment district;

(6) The cost of completing the improvement and financing the improvement, including the issuance of any bonds.

(b) The total amount of the assessment roll may not exceed actual costs but actual costs may include reasonable estimates of the costs to be incurred in connection with issuance of any bonds.

EXPLANATION: This is a new section clarifying which costs may be paid for through assessments.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.115. INTERIM FINANCING. (a) The ^{governing body} ~~assembly or council~~ may provide by resolution or ordinance for the issuance of notes in payment of the costs of any local improvement project, payable out of special assessments for the improvement. The notes shall bear interest at a rate or rates authorized by the resolution or ordinance and shall be redeemed either in cash or bonds for the improvement project.

(b) All notes issued against assessments shall be claims against the assessments which are prior and superior to a right, lien or claim of a surety upon the bond given to the municipality to secure the performance of its contract for a local improvement project or to secure the payment of persons who have performed work or furnished materials under the contract.

(c) The municipal treasurer may accept notes against special assessments upon conditions prescribed by the ^{governing body} ~~assembly or council~~ in payment of

(1) assessments against which the notes were issued in order of priority;

(2) judgments rendered against property owners who have become delinquent in the payment of the assessments; and

(3) certificates of purchase when property has been sold under execution or at tax sale for failure to pay the assessments.

EXPLANATION: This new section has been added at the suggestion of bond counsel because no authorization now exists for interim financing.

DRAFTED CHANGES RECOMMENDED BY THE TECHNICAL COMMITTEE
06 December 1980

Sec. 29.48.120. SPECIAL ASSESSMENT BONDS. (a) No change.

(b) No change.

(c) Before the ^{*governing body*} ~~assembly or council~~ may issue special assessment bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover any deficiency in meeting payments of principal and interest of bonds issued by reason of nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. [INTEREST ON THE GUARANTEE FUNDS SHALL BE A COST OF THE IMPROVEMENT DISTRICT.]

EXPLANATION: It is felt that the last line of (c) makes no sense. Interest ought to be a credit to the district, if anything.

CHAPTER 48. SPECIAL ASSESSMENTS~~(CHAPTER 63. SPECIAL ASSESSMENTS AND SERVICE AREAS)~~~~ARTICLE 1. SPECIAL ASSESSMENTS~~

Sec. 29.48.010. (Sec. 29.63.010.) ASSESSMENT AND PROPOSAL. The assembly or council may assess against the property of a governmental unit and private real property benefited all or a portion of the cost of constructing or improving capital improvements. The state shall pay an assessment levied, except as otherwise provided by law and subject to its right of protest under Sec. 15(a)(8) of this chapter. If a governmental unit other than the state benefited by an assessment refuses to pay the assessment, it shall be denied the benefit of the improvement. An improvement proposal may be initiated by

- (1) petition to the assembly or council of the owners of one-half in value of the property to be benefited or
- (2) the assembly or council.

Sec. 29.48.020. (Sec. 29.63.015.) PROCEDURE. (a) The assembly or council may prescribe by ordinance the complete special assessment procedure for local improvements, including and subject to the following:

- (1) the procedure for filing petition;
- (2) a survey and report by the borough or city executive concerning the need for, desirable extent of, and estimated cost of each proposed local improvement;
- (3) a public hearing on the necessity for the local improvement;
- (4) a resolution of the assembly or council determining to proceed or not to proceed with the proposed local improvement;
- (5) a public hearing by the assembly or council on the special assessment roll for the local improvement;

1 (6) published notice of each public hearing required by this
2 section and mailing notice to each legal owner of record of real property
3 within the special assessment district;

4 (7) a resolution confirming the special assessment roll for
5 the local improvement;

6 *this was O.C. 28* (8) *Shawn here* if protests as to the necessity of a local improvement
7 are made by owners of property which will bear 50 percent or more of the
8 estimated cost of the improvement, the assembly or council may not proceed
9 with the improvement until the objections have been reduced to less than 50
10 percent, except upon approval of not fewer than three-fourths of the
11 assembly or council.

12 (b) If the assembly or council does not prescribe a procedure for
13 special assessments as permitted by this section, the assembly or council
14 shall comply with the special assessment procedures set out in Secs. 20-70
15 of this chapter.

16 Sec. 29.48.030. (Sec. 29.63.020.) DECISION AND NOTICE. (a) When an
17 improvement proposal has been filed with the municipal clerk and presented
18 to the assembly or council, the assembly or council shall find by resolution
19 whether (1) the improvement request is necessary and should be made, and (2)
20 the request has sufficient and proper petitioners. The findings of the
21 assembly or council are conclusive.

22 *O.C.* (b) If the assembly or council passes a resolution approving an
23 improvement proposal with the necessary findings, it shall develop a
24 proposed improvement plan including the cost estimate and the percentage of
25 the improvement plan cost to be assessed against the property benefited.
26 This plan is to be filed with the municipal clerk.

27 *O.C.* (c) The assembly or council shall set a time for public hearing
28 on the improvement plan. The assembly or council shall publish a notice at
29 least once a week for four consecutive weeks in a newspaper of general

circulation if distributed within the municipality and shall send notice by mail to every record owner of property within the special assessment district.

Sec. 29.48.040. (Sec. 29.63.025.) ~~RECORD OWNER.~~ The person in whose name property is listed on the municipal property tax roll as owner is conclusively presumed to be the legal owner of record. If the owner is unknown, the assessment may be made against "unknown owner."

Sec. 29.48.050. (Sec. 29.63.030.) ~~OBJECTIONS AND REVISION.~~ (a) Objections to the improvement plan may be filed not less than 30 nor more than 60 days after publication of notice on a date specified by the assembly or council. The assembly or council may by resolution approve the plan and proceed with the improvement if the owners of one-half in value of the property to be benefited do not object in writing.

(b) If objections are made by the owners of property bearing one-half of the estimated cost of the improvement, the assembly or council may not proceed with the improvement unless it revises the plan to meet the objections and the objections are reduced to less than 50 per cent. A revised plan shall be approved and adopted as an original plan.

Sec. 29.48.060. (Sec. 29.63.040.) ~~ASSESSMENT ROLL.~~ (a) At any time after project approval, the assembly or council shall assess the authorized percentage of the cost against tracts in proportion to benefit received. Assessments may not exceed actual costs.

(b) ~~The special assessment roll contains property descriptions, names of owners of record and assessment amounts.~~

6.f. (c) The assembly or council shall fix a time to hear objections to the roll. The municipal clerk shall send an assessment and hearing notice by mail to each record owner of an assessed tract not less than 15 days before the hearing.

1 Sec. 29.48.070. (Sec. 29.63.050.) HEARING AND SETTLEMENT. After the
2 public hearing, the assembly or council shall correct errors and any
3 inequalities in the roll. When the roll is corrected, the clerk shall so
4 certify.

5 Sec. 29.48.080. (Sec. 29.63.060.) PAYMENT. (a) The assembly or
6 council shall fix times of payment, rate of interest on unpaid installments,
7 and delinquency of assessments. Payment may not be required sooner than 60
8 days after assessment. Payment may be in one sum or by installments, but a
9 sum or installment may not exceed 25 percent of the assessed value of the
10 property affected. Penalty and interest are the same as for real property
11 taxes.

12 (b) Within 30 days after fixing the time of payment, the
13 municipal clerk shall mail a statement to the owner of record of each
14 property assessed. The statement designates the property, the assessment
15 amount, the time of delinquency, and penalties.

16 (c) Within five days after the statements are mailed, the clerk
17 shall publish notice that the statements have been mailed.

18 (d) Assessments are liens upon the property assessed and are
19 prior and paramount to all liens except municipal tax liens. They may be
20 enforced as provided in AS 29.53.200-29.53.390 for enforcement of property
21 tax liens.

22 Sec. 29.48.090. (Sec. 29.63.065.) EXEMPTION. (a) The real property
23 owned and occupied by a resident 65 years of age or over, or the spouse,
24 widow, widower, or minor heir of the original applicant, on which is located
25 only his permanent abode which is a single-family residence, is exempt from
26 (1) special sewer assessments levied by a home rule or general law
27 municipality after September 2, 1975 and (2) special water assessments
28 levied by a home rule or general law municipality after September 2, 1975.
29 Only one exemption may be granted with respect to the same property, and, if

1 two or more persons are eligible for an exemption with respect to the same
2 property, the parties shall decide between or among themselves which shall
3 receive the benefit of the exemption. No real property may be exempted
4 under this subsection which the municipality determines, after notice and
5 hearing to the parties concerned, has been conveyed to the applicant
6 primarily for the purpose of obtaining the exemption. The determination of
7 the municipality is appealable under AS 44.62.560-44.62.570.

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

12 (1) the claimant must file the initial application during
13 the period of time between the date the assessment roll is certified and the
14 time of payment fixed by the assembly or council. Within one year of the
15 date the assessment roll is certified the assembly or council for good cause
16 shown may waive the claimant's failure to make timely initial application
17 for the exemption and authorize the assessor to accept the application as if
18 timely filed.

19 (2) a claimant receiving the exemption must file with the
20 department by March 15 of each subsequent year a separate application proving
21 eligibility as of January 1 in order to retain the exemption. Within the
22 same year the department for good cause shown may waive the claimant's
23 failure to make timely application and approve the application as if timely
24 filed.

25 (3) if an application is filed within the required time
26 under this subsection and is approved by the assembly or council, the
27 exemption shall be allowed in accordance with the provisions of this
28 section. If a waiver under this subsection is granted and the application
29 for exemption approved, the amount of any assessment, penalty or interest