

prisonment. In addition to such criminal liability, any officer having a prisoner in custody who refuses to allow an attorney to visit the prisoner when proper application is made therefor,

shall forfeit and pay to the party aggrieved the sum of Five Hundred Dollars (\$500.00), recoverable in any court of competent jurisdiction.

Approved March 29, 1957

CHAPTER 129

AN ACT

To declare the policy of the Territory of Alaska in connection with temporary industrial tax incentives; to determine which operations shall be eligible to the benefits of this Act; to define the nature, extent and scope of the temporary tax incentives provided for hereunder; to authorize the Board of Administration to grant such temporary tax incentives, to revoke grants in certain cases and to make such rules and regulations as may be necessary for such purposes; and to forbid certain activities and to punish the performance thereof by fine or imprisonment or both and by retroactive revocation of the tax incentive benefits obtained under this Act; repealing Chapter 33, SLA 1953.

(H. B. 186)

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. Exemptions.

(a) Exempted business is exempt from income tax upon its industrial development income derived during the ten years following the date of the commencement of its operations as determined by the Board of Administration or its designee, hereinafter referred to as the Board.

(b) The property of exempted business used in the development, organization, construction, establishment or operation of the activity which gives rise to the exemption as well as personal property devoted to industrial development, shall not be subject to taxes of the Territory or any political subdi-

vision thereof on real and personal property for the periods set forth below and which shall be counted from the first of January of the year in which the exempted business commences its operations whenever said business owns as of that date such property or utilizes property devoted to industrial development, or in cases to the contrary, such periods shall be counted from the first of January of the year following the year in which the exempted business commences the activities that give rise to its exemption.

(1) When the investment in real or personal property is not greater than \$1,000,000 — 5 years.

(2) When such investment ex-

ceeds \$1,000,000 but not \$3,000,000 — 6 years from the whole investment.

(3) When such investment exceeds \$3,000,000 but not \$5,000,000 — 7 years for the whole investment.

(4) When such investment exceeds \$5,000,000 but not \$7,000,000 — 8 years for the whole investment.

(5) When such investment exceeds \$7,000,000 but not \$10,000,000 — 9 years for the whole investment.

(6) When such investment exceeds \$10,000,000 — 10 years for the whole investment.

When an exempt business utilizes real or personal property owned by it as well as property devoted to industrial development income, the preceding schedule shall apply on the investment made on its own property and separately and independently upon the investment made on property devoted to industrial development.

The preceding schedule shall apply first to the original investment. Within 30 days following the end of the fifth year of the exemption, the exempted business shall submit to the Board a sworn statement of the investment made up to that date in real and personal property owned by it. A similar statement shall be prepared and submitted by the owner of property devoted to industrial development. The Board shall verify the correctness of such statement within 60 days following the filing thereof. Once the amounts of such investments have been verified in this manner, the Board shall determine and shall advise the corresponding bene-

ficiary of the period of exemption readjusted which results from the total investment in each of such two classes of property at the end of said period of five years. This procedure of the readjustment shall be repeated, if found necessary, at the end of the seventh year and at the end of the tenth year of the possible duration of the exemption.

(c) Exempted business shall not be subject to license fees, excises or other taxes levied by the Territory or any political subdivision thereof, for a period of ten years from the date when the business begins its operations as certified to by the Board except contributions to the Alaska Unemployment Compensation Fund.

(d) In the case of an exempt business which is a commercial hotel, the exemptions granted under this section shall be limited to 50 percent of the taxes referred to.

(e) In case the exempt business had commenced its operations on or before the filing of the corresponding application for tax exemption, the periods of exemption to which reference is made in paragraphs (a) and (c) hereof shall be counted from the date when the application for tax exemption was filed.

(f) The Board may, in the exercise of sound discretion, grant a partial exemption from the taxes hereinabove specified when the best interest of the Territory or any political subdivision thereof appears to be best served by such partial exemption.

Sec. 2. Definitions. For the purposes of this Act, words and phrases shall have the following meanings, unless other meanings are apparent from the context:

(a) "Industrial development income" shall be:

(1) The net income derived from the production of a manufactured product that gives rise to the exemption of an exempted business under paragraphs 1, 2 and 3 of Section 2(d).

(2) The net income derived under paragraph 4 of Section 2(d).

(3) The net income derived from the operation of hotels under paragraphs 5 and 6 of Section 2(d).

(b) The term "property devoted to industrial development" means:

(1) Real property, including land and improvements, or any portion thereof which has been constructed or installed on or after the effective date of this Act, either by private persons or any government department, political subdivision, agency or instrumentality, to be leased or otherwise placed at the disposal of an exempted business provided and so long as it is used for the development, organization, construction, establishment or operation of an exempted business; provided, that, whenever land is owned by a person other than the person who owns, constructs or installs the improvements thereon, both such land and improvements shall be property devoted to industrial development when leased or otherwise made available to an exempted business for the purposes above indicated.

(2) All equipment or machinery belonging to private persons or a government department, political subdivision, agency or instrumentality, necessary or convenient to and installed or other-

wise used under a contract of lease, use, usufruct or any other kind of contract, by an exempted business; provided whenever the supplier is a private person, such equipment or machinery is made available by a supplier normally engaged in making such machinery and equipment available under terms other than by sale.

(c) "Exempted business" means a business established or proposed to be established in Alaska by a natural or artificial person and which is an eligible business and has been declared exempt by the Board.

The Board may in any case refuse any application, notwithstanding the eligibility of the product or property under any of the preceding provisions, if it shall find, in the light of the facts submitted for consideration in the proceedings provided by this Act, and after the applicant has had the opportunity to make a full presentment with respect to the questions in dispute, that the application is in conflict with the public interest of the Territory of Alaska on the ground that the applicant has not been organized in good faith in view of the type and the reputation of the persons constituting same, the plans and methods for raising funds, the plans and methods of distribution and sale of the product or products to be manufactured, the nature and intended use of such product or products, and any other factors which reasonably indicate a likelihood that the grant of the exemption would be misused to the prejudice of the interest of the people of the Territory of Alaska, and that, consequently, the public interest of the Territory of Alaska would be adversely affected by such grant.

(d) The term "eligible business" shall mean:

(1) Any industrial unit having as its object the production on a commercial scale in Alaska of any manufactured product which was not produced on a commercial scale prior to the effective date of this Act, and for which there were on that date in Alaska no production facilities capable of the production of that manufactured product on a commercial scale.

(2) Any industrial unit established after the effectiveness of this Act, having as its objective the production on a commercial scale in Alaska of any designated article, and which, in the judgment of the Board:

(i) is established in good faith and with a permanent character; and

(ii) produces, or will produce, on a sustained basis, within a reasonable period of time, a substantial amount of one or more designated articles additional to the amount of the same articles theretofore being produced by other industrial units in operation in Alaska; provided, that in determining the amount of the production in Alaska of such articles, the Board shall use the average production in Alaska of such articles for the three calendar years immediately preceding the effective date of this Act.

(3) Any industrial unit established prior to the enactment of this Act, engaged in the production of a designated article in Alaska on a commercial scale provided that,

(i) tax exemption has been granted to a new industrial unit under the terms of this Act, to produce the same designated article, and

(ii) the new industrial unit has begun production on a commercial scale.

(4) Any property devoted to industrial development.

(5) Any tourist hotel operated in Alaska under conditions of sanitation and efficiency acceptable to the Alaska Department of Health.

(6) Any commercial hotel operated in Alaska under conditions of sanitation and efficiency acceptable to the Alaska Department of Health.

(7) The Board may, in the exercise of sound discretion, refuse the tax exemption in any of the cases enumerated in paragraphs (1), (2) and (3) of this subsection (d), if, in its judgment, the commodity produced or to be produced by the applicant will, because of its use or other factors, displace, or, with a substantial advantage by reason of the tax exemption, compete with, commodities produced by industries established in Alaska, or that the exemptions will jeopardize the financial condition of any political subdivision; provided, however, that notwithstanding the foregoing, the Board may grant the tax exemption when, in its judgment, the eligible petitioning industry is of a substantial benefit to the general economy of Alaska on the score of anticipated substantial increases in production to supply markets outside Alaska; or to supply an existing demand in Alaska which

has not been previously supplied in substantial quantities, and in view of the investment, technology and new jobs involved. In granting tax exemption to any industry under such circumstances, the Board may, on petition of an interested party filed prior to the final finding herein provided, grant said exemption to those other existing industries which manufacture such similar commodities which, in its judgment, will stand substantially affected by the substitution or competition to which this paragraph refers.

(8) In the case of an application filed under Section 2(d)(1) of this Act, if the Board determines that a former exemption for the same product, granted under Section 2(d)(1) of this Act, was granted under circumstances likely to give rise later to a substantial question as to whether or not the product should have been considered as a new product within the provisions of said section in view of a further consideration of all available data with respect to production and production facilities and the nature of the differences on which the former exemption was granted, any grant of exemption on such a petition shall be effective for a term which shall expire not later than the latest termination date of any exemption in force with respect to the same product, and shall include the same tax exemption privileges as are provided in such grant in force; provided, however, that nothing herein provided shall prevent the Board from finding that the application is eligible on other grounds.

(e) The term "designated articles" includes any of the following

articles or businesses:

- (1) Lumber
- (2) Plywood
- (3) Chemical grade pulp
- (4) Newsprint
- (5) Ores which have been processed or refined
- (6) Petroleum products
- (7) Handicrafts
- (8) Agricultural products
- (9) Manufactured articles from fur or native skins
- (10) Special fish products such as crab, shrimp, and clams
- (11) Furniture, but not the mere assembly thereof
- (12) Products of slaughtering operations, including the products of packing houses that use the products of slaughtering operation as raw material
- (13) Livestock raising
- (14) Other related articles including industrial power development.

(f) The term "hotel" means any building or group of buildings properly and bona-fide devoted to the furnishings of accommodation of pay, primarily to transient guests, in which no less than fifteen rooms are furnished for accommodation of such guests, and having one or more dining rooms where meals are served to the general public; provided such facilities are operated in Alaska under conditions and standards of sanitation and efficiency acceptable to the Alaska Department of Health. Hotels are divided as follows:

- (1) Tourist Hotels. The term

"tourist hotel" means a hotel operated primarily in the interest of the tourist trade and which shall have as an integral part thereof, within the limits of the hotel site, and in proportion to its maximum accommodation facilities, one or more of the following typical tourist attractions: hiking, game courts, or other outdoor sports, provided the hotel operation is devoted efficiently to serving its guests with such facilities.

(2) Commercial Hotel. The term "commercial hotel" means any hotel as herein defined which is not a tourist hotel.

(g) The term "manufactured product" means not only all products transformed from raw materials into articles of commerce finished by hand or machinery, but any product with respect to which substantial industrial operations are undertaken in Alaska which, in the judgment of the Board, merits treatment as a manufactured product within the scope of this law because of the nature and extent of such operations, or the technology involved, the employment provided, other contribution made or to be made by the operation to the welfare of the Territory of Alaska, or any one or more of such factors; provided, however, that the operation shall be carried out substantially as originally represented by the tax exemption petitioner, except as the tax exemption grant may be otherwise modified by the Board in its discretion upon appropriate petition of the grantee. The Board shall have authority to draft regulations governing the application of the foregoing definition, and such regulations shall have the force of law, and shall be published in one or more newspapers of gen-

eral circulation in Alaska. The production obtained from mining operations shall not be considered a manufactured product unless benefited or otherwise substantially processed in Alaska directly by the producer or by an independent enterprise.

(h) The term "industrial unit" means any plant, factory, machine or machine ensemble having a capacity of performing the major functions involved in the production of a manufactured product on a commercial scale.

(1) A plant, factory, machine or machine ensemble may be considered as a separate industrial unit within the meaning of this Act, even though it may use, in common with other industrial units, certain minor facilities such as, but without limitation, sections of buildings, power plants, warehouses, material conveyors or other minor production facilities.

(2) A plant, factory, machine or machine ensemble may be considered as a separate industrial unit within the scope of this Act, even though it may use, in common with other industrial units, certain major facilities, provided the Board authorizes the use of such facilities in common. The Board may grant such authorization whenever it determines, after consulting with the Commissioner of Mines and the Alaska Resource Development Board, that such use in common is necessary or convenient for the development of the economy and welfare of the Territory of Alaska because:

(i) it will provide in either or both industrial units increased opportunities for work, and

(ii) it will add substantially

to the Territory's net income, and

(iii) it will redound in a substantial investment in equipment, machinery and supplies, comparable to the investment in the original unit, less the value of the facilities to be used in common.

(3) In the cases referred to in paragraphs (1) and (2) of this subdivision, the tax exemption enjoyed by the industrial unit which provides facilities to be used in common by other industrial units, shall not extend over longer periods than those prescribed in Section 1 of this Act with respect to the facilities so being used in common.

Where the industrial unit providing facilities to be used in common by other industrial units pursuant to paragraphs (1) and (2) of this subdivision does not enjoy tax exemption, but such exemption has been obtained by the unit or units using such facilities, the Board may grant tax exemption with regard to such facilities pursuant to the provisions of this Act; provided, however, that the tax exemption in this case shall be limited to a part of the value of such facilities and of the compensation received for their use, in proportion to the use made of such facilities by the industrial unit or units enjoying tax exemption, the determinant factors of such use being, among others, space occupied, time and nature of use, and importance it bears on the industrial unit or units using such facilities.

(i) The term "production on a commercial scale" means production for sale in the market in the normal course of business in quantities and

at prices which justify the operation of an industrial unit as a going business.

(j) The other terms employed herein, unless otherwise specifically provided, shall have the same meaning as in a similar context in the tax laws in force in Alaska and the regulations issued thereunder.

Sec. 3. Distributions.

(a) The distributions of dividends and profits by a corporation or partnership that is an exempted business, if made within 15 years of the commencement of operations of such exempted business, and if made from industrial development income derived during the first seven years of its operations covered by the exemption, shall be exempt from income tax in the same proportion in which such industrial development income is exempt from taxes in favor of the exempted business in accordance with the provisions of Section 1 of this Act.

(b) Any distribution of dividends made by a corporation exempted hereunder from payment of taxes shall be considered as made from gains or profits exempted from taxes under this Act, provided on the date of distribution the latter does not exceed the undistributed balance of such gains or profits.

In the cases of corporations which, on the effective date of their tax exemption hereunder, have accumulated a surplus, dividend distributions made on and after said date shall be considered as made from the undistributed balance of said surplus, but after the latter is exhausted by virtue of such distributions the provisions of the preceding paragraph shall be applicable.

(c) No profit or loss shall be rec-

ognized if the shares of a tax-exempt corporation, which have been acquired through purchase or otherwise, are sold or exchanged on or before the termination date of the tax exemption granted to the corporation.

Profit or loss shall be recognized if the shares of a tax-exempt corporation which have been acquired by purchase or otherwise, are sold or exchanged after the corporation's exemption termination date. The profit derived from the sale or other disposition of such shares shall be the surplus of the amount received in such sale or disposition over the base established by subdivision (d) of this section, and the loss shall be the excess of said base over the amount received, but shall be recognized up to the limit provided by the Territorial Income Tax Act in force on the date when the transaction takes place.

(d) To determine the profit or loss derived from the sale or other disposition, made after the exemption termination date, of shares of a tax-exempt corporation, which shares have been acquired through purchase or otherwise before the corporation's exemption termination date, the larger of the following bases shall be used:

(1) The value of such share on the exemption termination date according to the books of the corporation less the amount of any tax-exempt distributions received on said shares after said date, or

(2) The cost of said shares, less the amount of any tax-exempt distributions received on same before and after the exemption termination date.

Businesses. If on or before the expiration of tax exemption of any exempted business any property, including money, is received by a domestic or foreign corporation (herein called the transferee) on complete liquidation of such exempted business (herein called the transferor) no income tax shall be assessed on or be paid by the transferor or the transferee with respect to such liquidations, only if—

(a) The transferee was on the date of adoption of the liquidation plan, and has continued to be at all times, until the receipt of the property pursuant to said plan, the owner of at least 80 percent of the total combined voting power of all classes of voting stock, and the owner of at least 80 percent of all other classes of stock (except non-voting stock which is limited and preferred as to dividends); and

(b) All the said property was received by the transferee pursuant to the said liquidation plan, on or prior to the exemption termination date; and

(c) The distribution in liquidation by the transferor, whether at one time or from time to time, was made by the transferor in complete cancellation or redemption of all of its capital stock.

No income tax shall be assessed on or be paid by the transferor, whether or not the transferee assumes any liabilities or obligations of the transferor or receives such property subject to any liability or obligation of the transferor.

If the exemption of a transferor corporation hereunder shall be terminated prior to the exemption termination date, a sum equal to the earned surplus of the transferor corporation as of the end of

the fiscal year of the corporation in which the termination becomes effective, may be transferred by the transferor to the transferee under the circumstances described hereinbefore under (a) and (c), at any time thereafter without assessment of income tax on the transferor or on the transferee, except in the cases of mandatory revocation under Sections 5(b) and 7 of this Act when no tax-free liquidation shall be allowed in accordance with the provisions of this Section 4.

After the expiration of the exemption of the transferor, a sum equal to the capital and the earned surplus of the transferor as of said date, may be transferred by the transferor to the transferee under the circumstances described under the foregoing (a) and (c), at any time thereafter, without assessment of income tax therefor on the transferor or the transferee.

By "earned surplus" of the transferor shall be understood the earned surplus according to the books of the transferor, determined in accordance with generally-accepted accounting principles, but the amount thereof shall not be larger, save by the amount of the income tax exemption and all other tax exemptions granted hereunder to the transferor, than the amount in case the transferor had in fact been subject to tax under the income tax provisions and all other tax laws in force during the exemption period.

In the event of a liquidation under the circumstances described in this Section, the base of the property to the transferee on subsequent disposition by the transferee and the base for allowance for depreciation or depletion, shall be the adjusted base of the property,

pursuant to the provisions of the Income Tax Law in force, plus an amount equal to the earned surplus of the transferor at the beginning of the liquidation. Such surplus shall be allocated to the several properties subject to depreciation or depletion transferred in accordance with their respective adjusted bases at the beginning of the liquidation.

Sec. 5. Administration.

(a) **Applications.** Any natural or artificial person who has established or proposes to establish in Alaska an eligible business, may apply to the Board for the benefits of this Act. The grants of tax exemption under this Act shall be considered in the nature of a contract between the grantee and the Territory of Alaska. The Board may include in grants of tax exemption hereunder such terms and conditions as in its judgment will further the purposes of industrial development of this Act.

(b) Authority of Board to appoint Director.

(1) The Board is hereby granted authority to appoint a Director of Industrial Tax Exemptions.

(2) The Director shall appoint the personnel necessary to carry out the provisions of this Act. The Director shall make arrangements for such public hearings as he may deem necessary and shall require of all applicants for tax exemption the presentation of such evidence as will justify the exemption applied for. The Director or any other person whom the Board may designate shall hear the evidence presented in relation to any application for tax exemption; shall have power (A) to summon witnesses and take

their testimony as to the facts alleged or in any way related to the tax exemption applied for, and (B) to administer an oath to any person or persons testifying before him; and shall make a report to the Board on the evidence adduced, together with his recommendations in the matter.

(3) The Board shall draft such rules and regulations as it may deem necessary to carry out the purposes of this Act, which rules and regulations shall, upon their promulgation, have the force of law, and shall be published in one or more newspapers of general circulation in Alaska.

(c) **Administrative finality.** All decisions and findings of the Board under this Act shall be final and no judicial or administrative appeal or other proceeding shall lie against the same unless otherwise specifically provided.

(d) **Revocation of tax exemption.** The Board, after permitting the person to whom the exemption has been granted to appear and be heard before it or before any person appointed for such purpose, who shall report his conclusions and recommendations to the Board, and upon the recommendations of the Director, may or shall revoke any tax exemption granted hereunder, as hereinafter provided:

(1) **Permissive revocation.** The Board may decree such revocation in the following cases:

(A) When the person to whom the exemption has been granted fails to comply with any of the obligations imposed on him by this Act, by the regulations promulgated hereunder, or by the terms of the declaration of exemption;

(B) When the person to whom the exemption has been granted either does not commence or fails to complete the construction of the installations necessary for the production of the manufactured products which he proposes to produce or fails to commence such production, within the periods fixed for such purposes in the grant of exemption, which periods may be extended by the Board whenever, in its judgment, just cause exists therefor, provided that no period shall be originally fixed in excess of 3 years from the date of the exemption grant for the commencement of operations; and

(C) When the person to whom the exemption has been granted discontinues production on a commercial scale or operations in any business eligible under paragraphs (1), (2), (3), (5) or (6) of Section 2(d) for more than thirty (30) days without the authorization of the Board. The Board shall authorize such discontinuances for periods of more than thirty (30) days when they are the result of causes beyond the control of such person.

The permissive revocation shall be effective from the date when the grantee of the tax exemption incurred in the fault on which the order of revocation is predicated.

(2) **Mandatory revocation.** A tax exemption granted hereunder shall be revoked by the Board if it was obtained by falsely or fraudulently representing the nature of the product or products manufactured or cultivated or to be manufactured or cultivated or

the nature and extent of the manufacturing or production processes performed or to be performed in Alaska or by falsely or fraudulently representing that property is or was to be devoted to industrial development or by falsely or fraudulently representing any other facts or circumstances upon which the exemption grant was predicated in whole or in part. In the event of such revocation, all net income previously reported as industrial development income as well as all distribution therefrom shall be subject to normal tax and surtax and the taxpayer shall be deemed to have filed a false or fraudulent return with intent to evade tax, and, therefore, subject to the penal provisions of the income tax laws in force in Alaska. The tax due in such case as well as any other taxes theretofore exempted and unpaid shall become due and shall be assessed and collected in accordance with the provisions of the tax laws in force.

Nothing herein previously provided shall affect the tax exemptions granted with respect to property devoted to industrial development which has been leased or in any other manner used by a business whose exemption has been cancelled mandatorily, either under the preceding provisions or under the provisions of Section 7 hereof, unless it is shown that the lease of utilization was not undertaken in good faith, that is, that at the time when such property was leased or otherwise made available to the exempted business, the owner or owners thereof had knowledge of the facts that subsequently caused the mandatory cancellation.

(e) **Reports.**

(1) Exemption application reports. Before deciding on any application for exemption, the Board shall first consider the reports on each application which shall be submitted to it by the Director of the Alaska Resource Development Board, the Commissioner of Mines, the Commissioner of Agriculture, and such other executive heads of the Territorial Government as the Board may deem proper. Such reports shall be made by the said government executives within the term the Board may, in its discretion, fix for the filing of such reports. In the event that any report is not submitted by any of said government executives within the time so fixed by the Board, the Board may dispense with the report of such executive and act upon the application for exemption.

(2) Other reports. Any natural or artificial person covered by the benefits of this Act shall be under obligation to present to the Board, within 75 days after the close of the grantee's fiscal year, a complete list and a correct valuation of all real and personal property declared tax-exempt under the provisions hereof, and which said person possesses in his own right or has in his possession on January 1st of each year; to file annually with the Tax Commissioner, pursuant to the Income Tax Law in force, but independently of the amount of his gross or net income, a separate income tax return, in addition to that which he may otherwise be under obligation to file in relation to the operations of the industry the object of the exemption; to keep, separately, the accounting records relative to the exempted

business; to keep such records, make such sworn statements, present such declarations, and comply with such rules and regulations as the Board may prescribe for the enforcement or other fulfillment of the purposes hereof and as the Tax Commissioner may prescribe in connection with the levy and collection of all kinds of taxes.

Sec. 6. Transfer of an Exempted Business.

(a) **General rule.** If a tax exemption grant or shares of stock or any partnership participation in an exempted business are transferred without the prior written approval of the Board, the exemption shall be forfeited, except in the cases specified in subsection (b).

(b) **Exemptions.** The following transfers shall be permitted:

(1) A transfer of the assets of a decedent to his estate or a transfer by bequest or inheritance;

(2) an exchange within the provisions of Section 4 hereof;

(3) a transfer of share of stock or any partnership participation when such transfer does not directly or indirectly result in a change in control of the exempted business, applying the rules of stock ownership provided by the income tax laws then in force;

(4) a transfer of shares of stock of a corporation owning or conducting an exempted business which occurs after the Board has determined that any and all transfers of shares of stock of such corporation shall be permitted without the prior written approval of the Board, which

determination the Board may make after considering the extent to which availability of investment capital may depend on the existence of securities which are freely transferable, the nature of the exempted business and its importance to the industrial development of Alaska, the integrity and financial standing of the stockholders, and the paid-in capitalization and number of stockholders that the corporation expects to have at the time of the commencement of operations of the exempted business; provided, that, before making a determination of this nature the Board shall consider the reports on each such case which shall be submitted to it by the Alaska Resources Development Board, the Commissioner of Mines, the Commissioner of Agriculture, and such other executive heads of the Territorial Government as the Board may deem proper;

(5) a pledge or hypothecation entered into in the normal course of business, solely for the purpose of creating security for bonafide indebtedness;

(6) a transfer by operation of law or court order to a trustee in bankruptcy or a receiver.

(c) **Notice.** Every corporation owning or conducting an exempted business shall give written notice to the Board of each transfer of record of shares of stock of such corporation not later than 30 days after such transfer. Written notice shall be given to the Board by any interested party of each transfer of any partnership participation exempted business, not later than 30 days after such transfer.

Sec. 7. Denial of Tax Exemption

to Successors of Predecessor Exempted Businesses.

(a) **Denial or forfeiture of exemption in certain cases.** No person shall be entitled to any tax exemption under this Act if:

(1) A predecessor exempted business, as defined in paragraph (b) of this section, is dissolved, liquidated, or otherwise ceases to operate prior to the filing by such person of an application for tax exemption, or shall, at any time after the filing of such application but prior to the close of the tax exemption period otherwise applicable to such person, be dissolved, liquidated, or otherwise ceases to operate for more than six (6) consecutive months for any cause except strikes, war, action of a government or the elements, or other cause beyond the control of such predecessor exempted business; or if

(2) at any time after the filing of such application but prior to the close of the tax exemption period otherwise applicable to such person, the annual production, output, or the operations of a predecessor exempted business shall be diminished for any cause except strikes, war, action of a government or the elements, or other cause beyond the control of such predecessor exempted business, by 25 percent or more as compared with its average annual production, output, or operations during the three-year period ending with the close of the taxable year of such predecessor exempted business preceding the filing of such application for tax exemption, or for such part of such period as may be applicable; or if

(3) such person, through the

industrial unit or hotel established or to be established, utilizes or shall utilize physical facilities including, but without limitation, land, buildings, machinery, equipment, inventory or supplies having a value of \$5,000 or more previously utilized by a predecessor exempted business; provided, however, that this subsection shall not apply in cases where the Board determines that the use of the physical facilities previously utilized by a predecessor exempted business will be in the best interest of the Territory of Alaska in view of the nature of the facilities, the investment, the number of workers and employees involved, and the amount of the payroll.

(b) **Definition.** For the purpose of this section, a predecessor exempted business shall mean any business which:

(1) Is enjoying or has enjoyed tax exemption; and

(2) which, as the source of its industrial development income, produced a manufactured product or conducted hotel operations substantially similar to the manufactured product or hotel operations to be produced or conducted by the person filing the subsequent application for tax exemption; and

(3) which, for the purpose of applying subsection (a)(1) and (a)(2) but not subsection (a)(3) above, is or was owned to the extent of 10% or more of its outstanding stock or any other proprietary interest by such person filing the subsequent application for tax exemption or by any of its stockholders or proprietors owning stock or other proprietary interest to the extent of 10% or

more. For the purposes of this subsection, the ownership of stock or any other proprietary interest shall be determined in the manner provided by the rules concerning the ownership of stock of corporations or of participation in partnerships under the income tax laws in force in Alaska.

(c) **Disclosure of facts.** The Board shall require every applicant for tax exemption to make full disclosure, under oath, of facts required or appropriate to determine whether or not the applicant's operations or proposed operations shall be in violation of the preceding provisions of this section; furthermore, every grant of tax exemption under this Act shall require that at no time during the life of the grant shall the grantee violate such preceding provisions.

(d) **Penalties.** Any person or persons who shall intentionally commit or attempt to commit, on their own behalf or on behalf of any other person or persons, a breach of the provisions of this section, shall be guilty of a felony, and, upon conviction shall be subject to a fine of not more than \$1,000.00, or imprisonment for not more than five (5) years, or both, together with the costs of prosecution; furthermore, any tax exemption previously granted to any one or more of such persons shall be subject to mandatory revocation by the Board, following for such purposes the procedure established by Section 5(d) (2) of this Act; all net income theretofore reported or earned as industrial development income by such person or persons whether or not distributed and the distributions therefrom shall be subject to normal tax and surtax as of the date or dates when such taxes were

otherwise due and payable; similarly, all other taxes exempted pursuant to Section 1 hereof shall become due and payable as of the date or dates when, but for such tax exemption they would have become due and payable; all such taxes shall be assessed and collected in accordance with the provisions of the tax laws in force.

(e) **Cases of facilities used in common.** The provisions of subdivision (a)(3) of this section shall not apply to cases where facilities are used in common by two or more industrial units pursuant to the provisions of subdivision (h)(3) of Section 2 of this Act.

Sec. 8. Appeals. Any grantee adversely affected or aggrieved by any action taken by the Board revoking and/or cancelling a tax exemption grant under the foregoing Sections 5(d)(2) and 7, shall be entitled to judicial review thereof by filing an appeal with the District Court within 30 days after final decision or adjudication by the Board.

Pending judicial review the Board is authorized, where it finds that justice so requires, to postpone the effective date of any action taken by it upon such conditions as may be required and to the extent necessary to prevent irreparable injury. Where such postponement is applied for and denied, the reviewing court may issue all necessary and appropriate process to postpone the effective date of any action taken by the Board or to preserve the status or rights of the parties pending conclusion of the review proceedings, after bond is given in favor of and acceptable to the Tax Commissioner and before him, in the amount of the taxes theretofore exempted and unpaid plus interest and penalties, and interest

computed for a period of one year at the rate of 6 percent per annum.

Sec. 9. Effective Date; Termination. Applications for tax exemptions under the provisions of this Act will be received by the Board until midnight of June 30, 1967; after such date no further applications for tax exemptions as herein provided will be admitted for consideration.

Sec. 10. Short Title. The short title of this Act shall be "The Alaska Industrial Incentive Act of 1957."

Sec. 11. Repealer. Chapter 33, SLA 1953 is hereby repealed; but all exemptions granted in whole or in part, and all classifications hereto-

fore made under the provisions of Section 6, Chapter 10, SLA 1949, and Chapter 33, SLA 1953, shall remain in full force and effect upon the terms and for the periods granted, and shall be binding upon the Territory, and all cities, municipalities, school districts, public utility districts and other taxing units in which the property which is the subject of classification or exemption is situated. The exemptions so granted or classifications so made shall apply to all taxes levied and assessed by the city, municipality, school district, public utility district, Territory or other taxing units where the property is situated, as fully as though they had been granted or made under the provisions of this Act.

Approved March 29, 1957

CHAPTER 130

AN ACT

Relating to the incorporation, annexation, and dissolution of public utility districts; amending Secs. 49-2-3, 49-2-5, 49-2-6, and 49-2-8, ACLA 1949; amending Sec. 49-2-13, ACLA 1949 as amended by Ch. 97, SLA 1953 and Ch. 171, SLA 1955, and declaring an emergency."

(H. B. 202)

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. Sec. 49-2-3, ACLA 1949 is hereby amended to read as follows:

Sec. 49-2-3. Manner of Incorporation: Petition: Number of Signatures and Contents: Order for Election: Posting Copy of Order. The manner of incorporation of Public Utility Districts

shall be as follows: A petition praying for such incorporation shall first be presented to the U. S. Commissioner, as ex officio justice of the peace of the Territory of Alaska, in the recording precinct in which the proposed Public Utility District is located. Such petition must be signed by at least sixty (60) citizens of the United States, over the age of twenty-one (21) years, who have