

Introduced by: Johnson
Date: April 16, 1985
Hearing: May 21, 1985
Vote:
Action: Failed Introduction
4-16-85

KENAI PENINSULA BOROUGH .

ORDINANCE 85-24

PROVIDING AMENDMENTS TO THE KENAI PENINSULA BOROUGH SALES TAX ORDINANCE TO END THE LEVYING OF THE TAX ON PAYMENTS FOR RENTAL OF REAL PROPERTY AND ENDING PURCHASER LIABILITY FOR TAXES ACCRUED AND UNPAID BY THE SELLER OF A BUSINESS.

WHEREAS, Chapter 5.18 of the Borough Code provides for the method of levy, collection, and enforcement of the Borough sales tax; and

WHEREAS, the present Chapter 5.18 applies the sales tax to payments for rentals of real property; and

WHEREAS, the Assembly finds that levying of the sales tax on rentals of real property is inequitable due to the difficulty in enforcing the tax on the rental of large numbers of residential dwellings; and

WHEREAS, the present Chapter 5.18 extends the liability for payment of taxes accrued on the account of the operation of a business by a former owner to the purchaser of the business, which the Assembly finds to be an unfair practice;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That KPB 5.18.010 is hereby amended as follows:

5.18.010 Levied--Amount. A. There is levied by the Borough a consumer's sales tax of 2% on all retail sales, on all [RENTS] rentals of personal property, and on all services made or rendered within the borough, measured by the gross sales price of the seller.

Section 2. That KPB 5.18.055 is hereby amended as follows:

5.18.055 Computation--Maximum tax. The tax shall be applied only to the first \$500 of each separate sale, rent or service transaction.

A. The payment of rent[, WHETHER FOR REAL OR] for personal property, in excess of \$500 and for more than one month shall be treated as several separate transactions covering the rental/ lease for one month each.

Section 3. That KPB 5.18.100 is hereby amended as follows:

5.18.100 Seller--Final return required when--Responsibility of purchaser or successor--Publishing names of businesses assumed to have ceased conducting business. A. Not more than 15 days after the sale, lease, or other disposition, or change in ownership interest, other than a transfer of outstanding shares of stock, or upon incorporation of any business registered pursuant to this chapter, the previous owner of the business shall file a final return, identifying the name and address of each person or entity involved in the change, the nature of the change, and the effective date of the change.

B. [ANY PURCHASER OR ENTITY ACQUIRING ANY INTEREST IN A BUSINESS OR IN THE ACCOUNTS RECEIVABLE OF A BUSINESS SHALL BE LIABLE FOR THE PAYMENT OF TAXES, PENALTIES AND INTEREST ACCRUING AND UNPAID TO THE BOROUGH ON ACCOUNT OF THE OPERATION OF THE BUSINESS BY ANY FORMER OWNER, OWNERS OR ASSIGNS; PROVIDED, HOWEVER, THAT THE BOROUGH SHALL FIRST MAKE ALL REASONABLE EFFORTS TO COLLECT THE TAX FROM THE PERSON WHO OWNED THE BUSINESS AT THE TIME THE LIABILITY WAS INCURRED.]

Any purchaser acquiring an ongoing business shall not be held liable for the payment of taxes, penalties and interest accruing and unpaid to the borough on account of the operation of the business by a former owner, owners or assigns. The borough also waives its right to pursue any purchaser under such provisions contained in the "Bulk Sales Transfer Act."

[C. A PROSPECTIVE LESSEE OR PURCHASER OF ANY BUSINESS OR BUSINESS INTEREST MAY INQUIRE AS TO THE OBLIGATION OR TAX STATUS OF ANY BUSINESS UPON PRESENTING TO THE MAYOR A RELEASE OF TAX INFORMATION REQUEST SIGNED BY THE REGISTERED OWNER OF THE BUSINESS. THE LIABILITY OF A PURCHASER OR OTHER ENTITY FOR OUTSTANDING TAXES, PENALTIES AND INTEREST ACCRUED AND UNPAID BY THE FORMER OWNER SHALL BE LIMITED TO AN AMOUNT STATED IN WRITING BY THE BOROUGH IN RESPONSE TO A RELEASE OF INFORMATION REQUEST. THE BOROUGH SHALL HAVE 15 DAYS TO RESPOND TO THE REQUEST.]

Section 4. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS _____ DAY OF _____, 1985.

Marilyn Dimmick, Assembly President

ATTEST:

Borough Clerk

Kenai Peninsula Borough
Ord. 85-24
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