



LAWS OF ALASKA

1988

Source

CSSB 508(Fin)

Chapter No.

135

AN ACT

Relating to property exemptions for homesteads, for certain retirement plan interests and payments, and for other property.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 8, 1988
Actual Effective Date: September 6, 1988

AN ACT

Relating to property exemptions for homesteads, for certain retirement plan interests and payments, and for other property.

* Section 1. AS 09.38.010(a) is amended to read:

(a) An individual is entitled to an exemption as a homestead of the individual's interest in property in this state used as the principal residence of the [THAT] individual or the dependents of the [THAT] individual, but the value of the homestead exemption may not exceed \$54,000 [\$27,000].

* Sec. 2. AS 09.38.010(b) is amended to read:

(b) If property owned by the entirety or in common is used by one or more individual owners or their dependents as their principal residence, each owner is entitled to a homestead exemption of that owner's interest in the property as provided in (a) of this section. The aggregate value of multiple homestead exemptions allowable with respect to a single living unit may not exceed \$54,000 [\$27,000]. If there are multiple owners of property exempt as a homestead, the value of the exemption of each individual owner may not exceed the [THAT] individual owner's pro rata portion of \$54,000 [\$27,000].

* Sec. 3. AS 09.38 is amended by adding a new section to read:

Sec. 09.38.017. EXEMPTION OF RETIREMENT PLAN INTERESTS AND PAYMENTS. (a) In addition to the exemption under AS 09.38.015(b), the following are exempt from a claim of an individual's creditor:

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(1) the interest of the individual in a retirement plan;
and

(2) the money or other assets payable to the individual from a retirement plan.

(b) The exemptions provided by (a) of this section do not apply to a contribution made by an individual to a retirement plan within 120 days before the individual files for bankruptcy.

(c) The exemptions provided by (a) of this section do not prevent the payment of benefits under a retirement plan to an alternate payee under a qualified domestic relations order. In this subsection, "qualified domestic relations order" has the meaning given in 26 U.S.C. 414(p).

(d) A retirement plan exempt from claims under (a) of this section is conclusively presumed to be a spendthrift trust under this section.

(e) In this section,

(1) "alternate payee" has the meaning given in 26 U.S.C. 414(p)(8);

(2) "individual" means an individual who is a participant in, a beneficiary of, or an alternate payee of a retirement plan;

(3) "retirement plan" means a retirement plan that is qualified under 26 U.S.C. 401(a), 26 U.S.C. 403(a), 26 U.S.C. 403(b), 26 U.S.C. 408, or 26 U.S.C. 409 (Internal Revenue Code).

* Sec. 4. AS 09.38.020 is amended to read:

Sec. 09.38.020. EXEMPTIONS OF PERSONAL PROPERTY SUBJECT TO VALUE LIMITATIONS. (a) An individual is entitled to an exemption in property not to exceed an aggregate value of \$3,000 [\$1,500] chosen by the individual from the following categories of property:

(1) household goods and wearing apparel reasonably

1 necessary for one household;

2 (2) if reasonably held for the personal use of the indi-
3 vidual or a dependent, books and musical instruments; and

4 (3) family portraits and heirlooms of particular senti-
5 mental value to the individual.

6 (b) An individual is entitled to exemption of jewelry, not
7 exceeding \$1,000 [\$500] in aggregate value, if held for the personal
8 use of the individual or a dependent.

9 (c) An individual is entitled to exemption, not exceeding \$2,800
10 [\$1,400] in aggregate value, of implements, professional books, and
11 tools of the trade.

12 (d) An individual is entitled to the exemption of pets to the
13 extent of a value not exceeding \$1,000 [\$500].

14 (e) An individual is entitled to an exemption of one motor
15 vehicle to the extent of a value not exceeding \$3,000 [\$1,500] if the
16 full value of the motor vehicle does not exceed \$20,000 [\$10,000].

17 * Sec. 5. AS 09.38.025(a) is amended to read:

18 (a) Except as provided in this section or AS 09.38.017, an
19 individual is entitled to exemption of unmatured life insurance and
20 annuity contracts owned by the individual. If the contracts have
21 accrued dividends and loan values available to the individual ag-
22 gregating more than \$10,000 [\$5,000], a creditor may obtain a court
23 order requiring the individual debtor to pay the creditor, and author-
24 izing the creditor on the debtor's behalf to obtain payment of, the
25 amount of the accrued dividends and loan values in excess of \$10,000
26 [\$5,000] or the amount of the creditor's claim, whichever is less.

27 * Sec. 6. AS 09.38.030(a) is amended to read:

28 (a) Except as provided in (b) and (c) of this section and
29 AS 09.38.050, an individual debtor is entitled to an exemption of the

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1 individual debtor's weekly net earnings not to exceed \$350 [\$175].
2 The weekly net earnings of an individual are determined by subtracting
3 from the weekly gross earnings all sums required by law or court order
4 to be withheld. The weekly net earnings of an individual paid on a
5 monthly basis are determined by subtracting from the monthly gross
6 earnings of the individual all sums required by law or court order to
7 be withheld and dividing the remainder by 4.3. The weekly net earn-
8 ings of an individual paid on a semi-monthly basis are determined by
9 subtracting from the semi-monthly gross earnings all sums required by
10 law or court order to be withheld and dividing the remainder by 2.17.

11 * Sec. 7. AS 09.38.030(b) is amended to read:

12 (b) An individual who does not receive earnings either weekly,
13 semi-monthly or monthly is entitled to a maximum exemption for the
14 aggregate value of cash and other liquid assets available in any month
15 of \$1,400 [\$700], except as provided in AS 09.38.050. The term "liq-
16 uid assets" includes deposits, securities, notes, drafts, accrued
17 vacation pay, refunds, prepayments, and receivables.

18 * Sec. 8. AS 09.38.030(e) is amended to read:

19 (e) The following property, unless exempt without limitation
20 under AS 09.38.015 or 09.38.017, upon receipt by and while it is in
21 the possession of the individual, shall be treated as earnings, in-
22 come, cash, or other liquid assets under this section:

23 (1) benefits paid by reason of disability, illness, or
24 unemployment;

25 (2) money or property received for alimony or separate
26 maintenance;

27 (3) proceeds of insurance, a judgment, or a settlement, or
28 other rights accruing as a result of bodily injury of the individual
29 or of the wrongful death or bodily injury of another individual of

whom the individual was or is a dependent;

(4) proceeds or benefits paid or payable on the death of an insured, if the individual was the spouse or a dependent of the insured; and

(5) amounts paid under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract, providing benefits by reason of age, illness, disability, or length of service.

* Sec. 9. AS 09.38.050(b) is amended to read:

(b) The exemption amounts under AS 09.38.030 may be increased when the individual submits an affidavit, under penalty of perjury, stating that the individual's earnings alone support the individual's household; by so doing, the maximum part of the individual's aggregate disposable earnings for any week subject to execution may not exceed the amount by which the individual's disposable earnings for that week exceed \$550 [\$275], or, if the individual is claiming an exemption for cash or other liquid assets under AS 09.38.030(b), a maximum amount of \$2,200 [\$1,100] available in a [ANY] month is exempt.

* Sec. 10. AS 09.38.055 is amended to read:

Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under 11 U.S.C. (Bankruptcy) [THE BANKRUPTCY ACT (11 U.S.C.)] only the exemptions under AS 09.38.010, 09.38.015(a), 09.38.017, 09.38.020, 09.38.025 and 09.38.030 apply.

* Sec. 11. AS 09.38.017, added by sec. 3 of this Act, does not apply to the assets of a bankruptcy estate in a proceeding filed under 11 U.S.C. (Bankruptcy) before the effective date of this Act.