

**SENATE BILL NO. 353**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Introduced: 4/9/98

Referred: Labor and Commerce, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to property exemptions; and providing for an effective date."

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

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

4 (a) An individual is entitled to an exemption as a homestead of the individual's  
5 interest in property in this state used as the principal residence of the individual or the  
6 dependents of the individual, but the value of the homestead exemption may not  
7 exceed \$250,000 for an individual, except that, if the individual is married and the  
8 residence is the principal residence of the individual and the individual's spouse,  
9 the exemption may not exceed \$500,000 [\$54,000].

10 \* **Sec. 2.** AS 09.38.015 is amended by adding a new subsection to read:

11 (e) An association of apartment owners under AS 34.07 and a common interest  
12 community under AS 34.08, including a condominium under AS 34.08 and a  
13 cooperative under AS 34.08, are entitled to an exemption of all amounts that are kept  
14 on deposit in the name of the association or community with a banking institution  
15 authorized to do business in the state and that have been paid to the association or

1 community in the form of dues or special assessments from the owners of the units  
 2 constituting the association or community. The exemption in this subsection may be  
 3 waived by an association or community in writing on behalf of a creditor.

4 \* **Sec. 3.** AS 09.38.017(e)(3) is amended to read:

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

8 \* **Sec. 4.** AS 09.38.025(a) is amended to read:

9 (a) Except as provided in this section or AS 09.38.017, an individual is entitled  
 10 to exemption of [UNMATURED LIFE INSURANCE AND] annuity contracts owned  
 11 by the individual **unless the annuity contract was acquired for the benefit of a**  
 12 **creditor. If the accrued cash surrender value of all of an individual's annuity**  
 13 [THE] contracts **aggregates** [HAVE ACCRUED DIVIDENDS AND LOAN VALUES  
 14 AVAILABLE TO THE INDIVIDUAL AGGREGATING] more than **\$100,000**  
 15 [\$10,000], a creditor may obtain a court order requiring the individual debtor to pay  
 16 the creditor, and authorizing the creditor on the debtor's behalf to obtain payment of,  
 17 the amount of the **cash surrender value** [ACCRUED DIVIDENDS AND LOAN  
 18 VALUES] in excess of **\$100,000** [\$10,000] or the amount of the creditor's claim,  
 19 whichever is less.

20 \* **Sec. 5.** AS 09.38.025 is amended by adding a new subsection to read:

21 (c) Except as provided in this section or AS 09.38.017, an individual is entitled  
 22 to an exemption for the cash surrender value of a life insurance policy that is owned  
 23 by the individual and that insures the life of the individual who owns the policy, unless  
 24 the policy was acquired for the benefit of a creditor.

25 \* **Sec. 6.** AS 09.38.055 is amended to read:

26 **Sec. 09.38.055. Bankruptcy proceedings.** In a proceeding under 11 U.S.C.  
 27 (Bankruptcy) only the exemptions under AS 09.38.010, 09.38.015(a) **and (e)**,  
 28 09.38.017, 09.38.020, 09.38.025, and 09.38.030 apply.

29 \* **Sec. 7.** AS 09.38.060(a) is amended to read:

30 (a) If property, or a part of it, that could have been claimed as [AN EXEMPT  
 31 HOMESTEAD UNDER AS 09.38.010,] a burial plot under AS 09.38.015(a)(1), a

1 health aid under AS 09.38.015(a)(2), or personal property subject to a value limitation  
 2 under AS 09.38.020(a)(1) [,] or (2) or 09.38.020(c) [,] has been taken or sold by  
 3 condemnation, or has been lost, damaged, or destroyed and the owner has been  
 4 indemnified for it, the individual is entitled to an exemption of proceeds that are  
 5 traceable for 12 months after the proceeds are received. [AN INDIVIDUAL IS  
 6 ENTITLED TO AN EXEMPTION OF PROCEEDS FROM THE VOLUNTARY  
 7 SALE OF AN EXEMPT HOMESTEAD UNDER AS 09.38.010 THAT ARE  
 8 TRACEABLE FOR SIX MONTHS AFTER THE PROCEEDS ARE RECEIVED.]  
 9 The exemption of proceeds under this subsection does not entitle the individual to  
 10 claim an aggregate exemption in excess of the value limitation otherwise allowable  
 11 under **AS 09.38.020** [AS 09.38.010 OR 09.38.020].

12 \* **Sec. 8.** AS 09.38.060 is amended by adding a new subsection to read:

13 (c) If property, or part of it, could have been claimed as an exempt homestead  
 14 under AS 09.38.010, the individual is entitled to an exemption of the sales,  
 15 condemnation, damage, or other proceeds of the property for 24 months after the  
 16 proceeds are received. The exemption of proceeds under this subsection does not  
 17 entitle the individual to claim an exemption in excess of the value limitation otherwise  
 18 allowable under AS 09.38.010.

19 \* **Sec. 9.** AS 09.38.115(a) is amended to read:

20 (a) The dollar amounts in this chapter change, as provided in this section,  
 21 according to and to the extent of changes in the Consumer Price Index for all Urban  
 22 Consumers for the Anchorage Metropolitan Area compiled by the Bureau of Labor  
 23 Statistics, United States Department of Labor (the index). The index for **January of**  
 24 **1998 is the reference base index for the dollar amounts in AS 09.38.010(a) and**  
 25 **09.38.025(a), and the index for** January of 1982 is the reference base index **for the**  
 26 **other dollar amounts in this chapter.**

27 \* **Sec. 10.** AS 09.38.115(b) is amended to read:

28 (b) The dollar amounts change on October 1 of each even-numbered year if  
 29 the percentage of change, calculated to the nearest whole percentage point, between  
 30 the index for January of that year and the most recent index used to change the  
 31 exemption amount, is 10 percent or more, but

1 (1) the portion of the percentage change in the index in excess of a  
 2 multiple of 10 percent is disregarded and the dollar amounts change only in multiples  
 3 of 10 percent of the amounts appearing in this chapter on **the effective date of this**  
 4 **Act for the dollar amounts in AS 09.38.010(a) and 09.38.025(a), and on** August 26,  
 5 **1982, for the other dollar amounts in this chapter;** and

6 (2) the dollar amounts do not change if the amounts required by this  
 7 section are those currently in effect as a result of earlier application of this section.

8 \* **Sec. 11.** AS 09.38 is amended by adding a new section to read:

9 **Sec. 09.38.130. Treatment of certain trusts.** A trust is treated as an  
 10 individual when applying the provisions of this chapter if the trust is created by an  
 11 individual, the trust is revocable by the individual creating the trust, or the income of  
 12 the trust is taxable to the individual under the grantor trust rules of 26 U.S.C. 671 -  
 13 678.

14 \* **Sec. 12.** AS 09.38.010(b) is repealed.

15 \* **Sec. 13. APPLICABILITY.** In AS 09.38.017(e)(3), as amended by sec. 3 of this Act,  
 16 the reference to a retirement plan that qualifies under 26 U.S.C. 408A means a retirement plan  
 17 that is established under 26 U.S.C. 408A on or after January 1, 1998.

18 \* **Sec. 14. TRANSITION.** Notwithstanding AS 09.38.115(b), as amended by sec. 10 of  
 19 this Act, the dollar amounts in AS 09.38.010(a) and 09.38.025(a), as amended by this Act, do  
 20 not change in 1998.

21 \* **Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).