

HOUSE BILL NO. 369

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE HARRIS

Introduced: 2/11/00

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to property exemptions under the Alaska Exemptions Act; and**
2 **providing for an effective date."**

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

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

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

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

10 (b) If property owned by the entirety or in common is used by one or more
11 individual owners or their dependents as their principal residence, each owner is
12 entitled to a homestead exemption of that owner's interest in the property as provided
13 in (a) of this section. [THE AGGREGATE VALUE OF MULTIPLE HOMESTEAD
14 EXEMPTIONS ALLOWABLE WITH RESPECT TO A SINGLE LIVING UNIT

1 MAY NOT EXCEED \$54,000. IF THERE ARE MULTIPLE OWNERS OF
 2 PROPERTY EXEMPT AS A HOMESTEAD, THE VALUE OF THE EXEMPTION
 3 OF EACH INDIVIDUAL OWNER MAY NOT EXCEED THE INDIVIDUAL
 4 OWNER'S PRO RATA PORTION OF \$54,000.]

5 * **Sec. 3.** AS 09.38.010(c) is amended to read:

6 (c) If property that includes a homestead is sold under an execution, the sale
 7 becomes effective upon confirmation by order of the court. The court shall enter the
 8 order of confirmation unless **the sales price under the execution is less than the**
 9 **amount of exemption, or unless,** within **six months** [60 DAYS] after the sale, the
 10 individual repurchases the property under this section or the court extends the time for
 11 confirmation upon the filing of a timely motion by a party in interest. The individual
 12 may repurchase property, including that individual's homestead, at a sale on execution
 13 before confirmation by paying into court the costs of the sale plus the lesser of either
 14 (1) the difference between the highest bid and the amount of the exemption in the
 15 property, or (2) the amount of the creditor's claim. If the individual does not exercise
 16 the repurchase right under this subsection, the clerk of the court shall first remit an
 17 amount determined to be exempt to the individual from the proceeds of sale and the
 18 balance less the cost of the sale to the creditor. For the purpose of collecting an
 19 amount remaining unpaid on a judgment after repurchase of property by an individual
 20 under this subsection, the creditor or the creditor's assignee may not make another levy
 21 on the property repurchased.

22 * **Sec. 4.** AS 09.38.015 is amended by adding a new subsection to read:

23 (e) An association of apartment owners under AS 34.07 and a unit owners'
 24 association established under AS 34.08 are entitled to an exemption of all money that
 25 is kept on deposit in the name of the association in a financial institution authorized
 26 to do business in the state and that has been paid to the association as common
 27 expenses under AS 34.07 or assessments for common expenses under AS 34.08. The
 28 exemption in this subsection may be waived, but the waiver must be in writing.

29 * **Sec. 5.** AS 09.38.017(e)(3) is amended to read:

30 (3) "retirement plan" means

31 **(A)** a retirement plan that is qualified under 26 U.S.C. 401(a),

1 26 U.S.C. 403(a), 26 U.S.C. 403(b), 26 U.S.C. 408, 26 U.S.C. 408A, or 26
 2 U.S.C. 409 (Internal Revenue Code);

3 **(B) a medical savings account under 26 U.S.C. 220; or**

4 **(C) a deferred compensation plan under 26 U.S.C. 457.**

5 * **Sec. 6.** AS 09.38.020 is amended by adding a new subsection to read:

6 (f) In addition to the exemptions allowed under AS 09.38.015(a) and the
 7 exemption for liquid assets under AS 09.38.030, an individual is entitled to an
 8 exemption of cash and other liquid assets up to \$8,075. In this subsection, "liquid
 9 assets" includes deposits, securities, notes, drafts, accrued vacation pay, refunds,
 10 prepayments, and receivables, but does not include property identified under (a) of this
 11 section.

12 * **Sec. 7.** AS 09.38.025(a) is repealed and reenacted to read:

13 (a) Except as provided in this section or AS 09.38.017, an individual is entitled
 14 to an exemption of \$250,000 in the total combined value of the cash surrender value
 15 of all life insurance policies and annuity contracts owned by the individual, unless the
 16 life insurance policies or annuity contracts were entered into for the benefit of a
 17 creditor.

18 * **Sec. 8.** AS 09.38.025 is amended by adding new subsections to read:

19 (c) A beneficiary of a life insurance policy or annuity contract is entitled to
 20 an unlimited exemption of all proceeds of life insurance policies and annuity contracts
 21 that are payable on the death of an insured to the beneficiary, other than those
 22 proceeds that are paid to the insured's estate.

23 (d) If the life insurance policies and annuity contracts of an individual have
 24 accrued dividends and loan values available to the individual that aggregate more than
 25 \$250,000, a creditor of the individual may obtain a court order that requires the
 26 individual or the beneficiary of the policy to pay the creditor and that authorizes the
 27 creditor on the debtor's behalf to obtain payment of the amount of the accrued
 28 dividends and loan values that exceed \$250,000 or the amount of the creditor's claim,
 29 whichever amount is less.

30 * **Sec. 9.** AS 09.38.055 is amended to read:

31 **Sec. 09.38.055. Bankruptcy proceedings.** In a proceeding under 11 U.S.C.

1 (Bankruptcy) only the exemptions under AS 09.38.010, 09.38.015(a) **and (e)**,
 2 09.38.017, 09.38.020, 09.38.025 and 09.38.030 apply.

3 * **Sec. 10.** AS 09.38.060(a) is amended to read:

4 (a) If property, or a part of it, that could have been claimed as [AN EXEMPT
 5 HOMESTEAD UNDER AS 09.38.010,] a burial plot under AS 09.38.015(a)(1), a
 6 health aid under AS 09.38.015(a)(2), or personal property subject to a value limitation
 7 under AS 09.38.020(a)(1) [,] or (2) or **(c)** [09.38.020(c)], has been taken or sold by
 8 condemnation, or has been lost, damaged, or destroyed and the owner has been
 9 indemnified for it, the individual is entitled to an exemption of proceeds that are
 10 traceable for 12 months after the proceeds are received. **If property, or a part of it,**
 11 **that could have been claimed as an exempt homestead under AS 09.38.010 has**
 12 **been voluntarily sold, has been taken or sold by condemnation, or has been**
 13 **damaged or destroyed and the owner indemnified for the damage or destruction,**
 14 **the** [AN] individual is entitled to an exemption of proceeds **of the property,** [FROM
 15 THE VOLUNTARY SALE OF AN EXEMPT HOMESTEAD UNDER AS 09.38.010]
 16 that are traceable for **24** [SIX] months after the proceeds are received. The exemption
 17 of proceeds under this subsection does not entitle the individual to claim an aggregate
 18 exemption in excess of the value limitation otherwise allowable under AS 09.38.010
 19 or 09.38.020.

20 * **Sec. 11.** AS 09.38.115(a) is amended to read:

21 (a) The dollar amounts in this chapter change, as provided in this section,
 22 according to and to the extent of changes in the Consumer Price Index for all Urban
 23 Consumers for the Anchorage Metropolitan Area compiled by the Bureau of Labor
 24 Statistics, United States Department of Labor (the index). The index for January of
 25 **1998 is the reference base index for the dollar amounts in AS 09.38.010(a),**
 26 **09.38.020(f), and 09.38.025(a) and (d), and the index for January of** 1982 is the
 27 reference base index **for the other dollar amounts in this chapter.**

28 * **Sec. 12.** AS 09.38.115(b) is amended to read:

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

1 exemption amount, is 10 percent or more, but

2 (1) the portion of the percentage change in the index in excess of a
 3 multiple of 10 percent is disregarded and the dollar amounts change only in multiples
 4 of 10 percent of the amounts appearing in this chapter on the effective date of this
 5 Act for the dollar amounts in AS 09.38.010, 09.38.020(f), and 09.38.025(a) and (d)
 6 and on August 26, 1982, for the other dollar amounts in this chapter; and

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

9 * **Sec. 13.** AS 09.38 is amended by adding a new section to read:

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

14 * **Sec. 14.** AS 09.38.030(e)(4) is repealed.

15 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section
 16 to read:

17 **TRANSITION.** Notwithstanding AS 09.38.115(b), as amended by sec. 12 of this Act,
 18 the dollar amounts in AS 09.38.010(a), 09.38.020(f), and 09.38.025(a) and (d), as amended
 19 in secs. 1 and 6 - 8 of this Act, do not change in 2000.

20 * **Sec. 16.** This Act takes effect immediately under AS 01.10.070(c).