

**CS FOR HOUSE BILL NO. 369(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/30/00

Referred: Rules

Sponsor(s): REPRESENTATIVE HARRIS

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to property exemptions under the Alaska Exemptions Act,  
2 including removal of the provisions for adjusting the dollar amounts by referring  
3 to the consumer price index; and providing for an effective date."

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

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

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

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

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

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

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

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

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

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

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

31 (3) "retirement plan" means

1                    (A) a retirement plan that is qualified under 26 U.S.C. 401(a),  
 2                    26 U.S.C. 403(a), 26 U.S.C. 403(b), 26 U.S.C. 408, 26 U.S.C. 408A, or 26  
 3                    U.S.C. 409 (Internal Revenue Code);

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

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

6 \* **Sec. 6.** AS 09.38.020 is amended to read:

7                    **Sec. 09.38.020. Exemptions of personal property subject to value**  
 8                    **limitations.** (a) An individual is entitled to an exemption in property not to exceed  
 9                    an aggregate value of \$3,600 [\$3,000] chosen by the individual from the following  
 10                    categories of property:

11                    (1) household goods and wearing apparel reasonably necessary for one  
 12                    household;

13                    (2) if reasonably held for the personal use of the individual or a  
 14                    dependent, books and musical instruments; and

15                    (3) family portraits and heirlooms of particular sentimental value to the  
 16                    individual.

17                    (b) An individual is entitled to exemption of jewelry, not exceeding \$1,200  
 18                    [\$1,000] in aggregate value, if held for the personal use of the individual or a  
 19                    dependent.

20                    (c) An individual is entitled to exemption, not exceeding \$3,360 [\$2,800] in  
 21                    aggregate value, of implements, professional books, and tools of the trade.

22                    (d) An individual is entitled to the exemption of pets to the extent of a value  
 23                    not exceeding \$1,200 [\$1,000].

24                    (e) An individual is entitled to an exemption of one motor vehicle to the extent  
 25                    of a value not exceeding \$3,600 [\$3,000] if the full value of the motor vehicle does  
 26                    not exceed \$24,000 [\$20,000].

27 \* **Sec. 7.** AS 09.38.020 is amended by adding a new subsection to read:

28                    (f) In addition to the exemptions allowed under AS 09.38.015(a) and the  
 29                    exemption for liquid assets under AS 09.38.030, an individual is entitled to an  
 30                    exemption of cash and other liquid assets up to \$8,075. In this subsection, "liquid  
 31                    assets" includes deposits, securities, notes, drafts, accrued vacation pay, refunds,

1       prepayments, and receivables, but does not include property identified under (a) of this  
2       section.

3       \* **Sec. 8.** AS 09.38.025(a) is repealed and reenacted to read:

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

9       \* **Sec. 9.** AS 09.38.025 is amended by adding new subsections to read:

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

14              (d) If the life insurance policies and annuity contracts of an individual have  
15       accrued dividends and loan values available to the individual that aggregate more than  
16       \$250,000, a creditor of the individual may obtain a court order that requires the  
17       individual or the beneficiary of the policy to pay the creditor and that authorizes the  
18       creditor on the debtor's behalf to obtain payment of the amount of the accrued  
19       dividends and loan values that exceed \$250,000 or the amount of the creditor's claim,  
20       whichever amount is less.

21       \* **Sec. 10.** AS 09.38.030(a) is amended to read:

22              (a) Except as provided in (b), (c), (f), and (h) of this section and  
23       AS 09.38.050, an individual debtor is entitled to an exemption of the individual  
24       debtor's weekly net earnings not to exceed \$420 [\$350]. The weekly net earnings of  
25       an individual are determined by subtracting from the weekly gross earnings all sums  
26       required by law or court order to be withheld. The weekly net earnings of an  
27       individual paid on a monthly basis are determined by subtracting from the monthly  
28       gross earnings of the individual all sums required by law or court order to be withheld  
29       and dividing the remainder by 4.3. The weekly net earnings of an individual paid on  
30       a semi-monthly basis are determined by subtracting from the semi-monthly gross  
31       earnings all sums required by law or court order to be withheld and dividing the

1 remainder by 2.17.

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

3 (b) An individual who does not receive earnings either weekly, semi-monthly,  
4 or monthly is entitled to a maximum exemption for the aggregate value of cash and  
5 other liquid assets available in any month of **\$1,680** [\$1,400], except as provided in  
6 (f) and (h) of this section and in AS 09.38.050. **In this subsection,** [THE TERM]  
7 "liquid assets" includes deposits, securities, notes, drafts, accrued vacation pay, refunds,  
8 prepayments, and receivables, but does not include permanent fund dividends before  
9 or after receipt by the individual.

10 \* **Sec. 12.** AS 09.38.050(b) is amended to read:

11 (b) The exemption amounts under AS 09.38.030 may be increased when the  
12 individual submits an affidavit, under penalty of perjury, stating that the individual's  
13 earnings alone support the individual's household; by so doing, the maximum part of  
14 the individual's aggregate disposable earnings for any week subject to execution may  
15 not exceed the amount by which the individual's disposable earnings for that week  
16 exceed **\$660** [\$550], or, if the individual is claiming an exemption for cash or other  
17 liquid assets under AS 09.38.030(b), a maximum amount of **\$2,640** [\$2,200] available  
18 in a month is exempt.

19 \* **Sec. 13.** AS 09.38.055 is amended to read:

20 **Sec. 09.38.055. Bankruptcy proceedings.** In a proceeding under 11 U.S.C.  
21 (Bankruptcy) only the exemptions under AS 09.38.010, 09.38.015(a) **and (e)**,  
22 09.38.017, 09.38.020, 09.38.025 and 09.38.030 apply.

23 \* **Sec. 14.** AS 09.38.060(a) is amended to read:

24 (a) If property, or a part of it, that could have been claimed as [AN EXEMPT  
25 HOMESTEAD UNDER AS 09.38.010,] a burial plot under AS 09.38.015(a)(1), a  
26 health aid under AS 09.38.015(a)(2), or personal property subject to a value limitation  
27 under AS 09.38.020(a)(1) [,] or (2) or **(c)** [09.38.020(c)], has been taken or sold by  
28 condemnation, or has been lost, damaged, or destroyed and the owner has been  
29 indemnified for it, the individual is entitled to an exemption of proceeds that are  
30 traceable for 12 months after the proceeds are received. **If property, or a part of it,**  
31 **that could have been claimed as an exempt homestead under AS 09.38.010 has**

1 been voluntarily sold, has been taken or sold by condemnation, or has been  
 2 damaged or destroyed and the owner indemnified for the damage or destruction,  
 3 the [AN] individual is entitled to an exemption of proceeds of the property, [FROM  
 4 THE VOLUNTARY SALE OF AN EXEMPT HOMESTEAD UNDER AS 09.38.010]  
 5 that are traceable for 24 [SIX] months after the proceeds are received. The exemption  
 6 of proceeds under this subsection does not entitle the individual to claim an aggregate  
 7 exemption in excess of the value limitation otherwise allowable under AS 09.38.010  
 8 or 09.38.020.

9 \* **Sec. 15.** AS 09.38.065(a) is amended to read:

10 (a) Notwithstanding other provisions of this chapter,

11 (1) a creditor may make a levy against exempt property of any kind to  
 12 enforce a claim for

13 (A) child support;

14 (B) unpaid earnings of up to one month's compensation or the  
 15 full-time equivalent of one month's compensation for personal services of an  
 16 employee; or

17 (C) state or local taxes;

18 (2) a creditor may make a levy against exempt property to enforce a  
 19 claim for

20 (A) the purchase price of the property or a loan made for the  
 21 express purpose of enabling an individual to purchase the property and used for  
 22 that purpose;

23 (B) labor or materials furnished to make, repair, improve,  
 24 preserve, store, or transport the property; and

25 (C) a special assessment imposed to defray costs of a public  
 26 improvement benefiting the property; and

27 (3) a creditor may make a levy against exempt property of any kind to  
 28 enforce the claim of a crime victim if the claim arises from criminal conduct of the  
 29 debtor that results in a felony conviction, except that the debtor is entitled to an  
 30 exemption in property

31 (A) not to exceed an aggregate value of \$3,600 [\$3,000] chosen

1 by the debtor from the following categories of property:

2 (i) household goods and wearing apparel reasonably  
3 necessary for one household;

4 (ii) books and musical instruments, if reasonably held  
5 for the personal use of the debtor or a dependent of the debtor; and

6 (iii) family portraits and heirlooms of particular  
7 sentimental value to the debtor; and

8 (B) not to exceed an aggregate value of \$3,360 [\$2,800] of the  
9 debtor's implements, professional books, and tools of the trade.

10 \* **Sec. 16.** AS 09.38 is amended by adding a new section to read:

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

15 \* **Sec. 17.** AS 09.38.030(e)(4) and 09.38.115 are repealed.

16 \* **Sec. 18.** This Act takes effect immediately under AS 01.10.070(c).