

SENATE BILL NO. 246

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/3/00

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to claims against permanent fund dividends to pay certain
2 amounts owed to state agencies and to fees for processing claims against and
3 assignments of permanent fund dividends; and providing for an effective date."

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

5 * **Section 1.** AS 43.23 is amended by adding a new section to read:

6 **Sec. 43.23.072. Claims for amounts owed to certain state agencies.** (a) The
7 procedures in this section are available for use by a state agency for claims to pay for
8 amounts owed to a state agency, except for those covered by AS 43.23.066 -
9 43.23.068.

10 (b) AS 09.38 does not apply to permanent fund dividends taken by a state
11 agency for a claim for payment for money owed to the state agency by an individual
12 under state law. Notwithstanding AS 09.35, execution on a dividend claimed for that
13 payment is accomplished by delivering a certified claim to the Department of Revenue
14 containing the following information:

1 (1) the name and social security number of the individual whose
2 dividend is being claimed; if the state agency does not have access to the individual's
3 social security number for this purpose, the state agency may supply other
4 identification information authorized under regulations to make a claim under
5 AS 43.23.065;

6 (2) the amount the individual owes on the claim for payment;

7 (3) a statement that

8 (A) the state agency making the claim has notified the
9 individual that future permanent fund dividends of the individual will be taken
10 to satisfy the claim for payment;

11 (B) the individual was notified of the right to request a hearing
12 and allowed at least 30 days after the date of the notice described in (A) of this
13 paragraph to request the state agency making the claim for payment to hold a
14 hearing on the claim;

15 (C) the claim for payment has not been contested, or, if
16 contested, the issue has been resolved in favor of the state agency making the
17 claim; and

18 (D) if the claim for payment has been contested and resolved
19 in favor of the state agency making the claim, no appeal is pending, the time
20 limit for filing an appeal has expired, or the appeal has been resolved in favor
21 of the state agency making the claim.

22 (c) Before submitting a claim for payment under this section, the state agency
23 making the claim shall notify the individual if a permanent fund dividend is claimed
24 under (b) of this section. The notice shall be sent to the address provided in the
25 individual's permanent fund dividend application and must provide the following
26 information:

27 (1) the amount of the claim for payment;

28 (2) notice that the permanent fund dividend, or that a portion of the
29 permanent fund dividend that does not exceed the amount of the claim for payment,
30 shall be paid to the state agency making the claim in accordance with priorities
31 established in state law;

1 (3) notification that the individual has a right to request a hearing and
 2 has a specific time after the date that the notice is mailed in which to file with the
 3 state agency making the claim any objection to paying the claim from the individual's
 4 permanent fund dividend.

5 (d) Except as provided in (e) of this section, AS 44.62.330 - 44.62.630 apply
 6 to a hearing requested by an individual under (c) of this section. The hearing available
 7 under this section

8 (1) is limited to issues of identity of the individual and whether an
 9 amount is still owing in the claim for payment; and

10 (2) may be conducted telephonically or in writing.

11 (e) If the state agency making the claim has a notification or hearing procedure
 12 established in statute or regulation, the state agency may instead use that notification
 13 and hearing procedure so long as

14 (1) the procedure provides at least the minimum time frames for notice
 15 specified in (b)(3)(B) of this section for the individual to request a hearing;

16 (2) the notice includes the statements required by (c) of this section;
 17 and

18 (3) the hearing is limited to the issues specified in (d)(1) of this section.

19 (f) A state agency may adopt regulations to implement or interpret this section
 20 by the same procedure under which it adopts regulations for the program for which the
 21 claim for payment is being made.

22 (g) In a claim for payment under this section, the state agency may include
 23 fines, fees, penalties, overpayments, attorneys' fees, costs, and other amounts owed the
 24 state agency under other provisions of state law under which the claim for payment is
 25 being made.

26 (h) In this section, "state agency" means a department, division, office, agency,
 27 or other organizational unit of the executive branch that is authorized by state law to
 28 establish or collect amounts due to a state agency.

29 * **Sec. 2.** AS 43.23.071 is amended to read:

30 **Sec. 43.23.071. Fees for processing claims and assignments.** The department
 31 shall by regulation adopted under AS 44.62 (Administrative Procedure Act) establish

1 fees for processing claims on dividends received by the department under **this chapter**
2 [AS 43.23.065 OR 43.23.067] and for processing assignments of dividends received
3 by the department under AS 43.23.069(b). The fees shall cover the administrative
4 expenses of the department associated with the claims and assignments. Fees shall be
5 deducted from the amount of the dividend remaining after payment of the portion
6 claimed or assigned or, if the entire dividend is claimed or assigned, the fees shall be
7 deducted before the dividend is paid to the creditor or assignee.

8 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 TRANSITION: REGULATIONS. Notwithstanding sec. 5 of this Act, a state agency
11 that is affected by this Act may proceed to adopt regulations necessary to interpret or
12 implement secs. 1 and 2 of this Act. The regulations take effect under AS 44.62
13 (Administrative Procedure Act), but not before the effective date of secs. 1 and 2 of this Act.

14 * **Sec. 4.** Section 3 of this Act takes effect immediately under AS 01.10.070(c).

15 * **Sec. 5.** Sections 1 and 2 of this Act take effect January 1, 2001.